

On Human Bondage

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On Human Bondage: After *Slavery and Social Death*

Edited by John Bodel and Walter Scheidel

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After Slavery and Social Death

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John Bodel and Walter Scheidel

WILEY Blackwell

This edition first published 2017
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Registered Office

John Wiley & Sons, Ltd, The Atrium, Southern Gate, Chichester, West Sussex, PO19 8SQ, UK

Editorial Offices

350 Main Street, Malden, MA 02148-5020, USA

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Library of Congress Cataloging-in-Publication Data

Names: Bodell, John P., 1957– editor. | Scheidel, Walter, 1966– editor. |
Brown University, host institution.

Title: On human bondage : after slavery and social death / edited by John Bodell and Walter Scheidel.

Description: Chichester, West Sussex ; Malden, MA : John Wiley & Sons Inc., 2016. |

Papers from a conference, “Being Nobody?”, held at Brown University. |

Includes bibliographical references and index.

Identifiers: LCCN 2016022486 | ISBN 9781119162483 (cloth) |

ISBN 9781119162520 (epub) | ISBN 9781119162506 (Adobe PDF)

Subjects: LCSH: Slavery–History–Congresses. | Slaves–Social conditions–Congresses. |

Patterson, Orlando, 1940– Slavery and social death–Congresses.

Classification: LCC HT861 .O64 2016 | DDC 306.3/6209–dc23

LC record available at <https://lcn.loc.gov/2016022486>

A catalogue record for this book is available from the British Library.

Cover image: Sadeugra/Gettyimages

Set in 10/13pt Galliard by SPi Global, Pondicherry, India

Contents

List of Figures and Tables	vii
Notes on Contributors	viii
Preface	xii
Introduction	1
<i>John Bodel and Walter Scheidel</i>	
1 Slavery and Personhood in the Neo-Assyrian Empire <i>Heather D. Baker</i>	15
2 Orlando Patterson, Property, and Ancient Slavery: The Definitional Problem Revisited <i>David M. Lewis</i>	31
3 Slaves or Serfs?: Patterson on the Thetes and Helots of Ancient Greece <i>Peter Hunt</i>	55
4 Death and Social Death in Ancient Rome <i>John Bodel</i>	81
5 Freedom, Slavery, and Female Sexual Honor in Antiquity <i>Kyle Harper</i>	109
6 Becoming Almost Somebody: Manumission and its Complications in the Early Han Empire <i>Anthony Barbieri-Low</i>	122
7 Ottoman Elite Enslavement and “Social Death” <i>Ehud R. Toledano</i>	136
8 The Locked Box in <i>Slavery and Social Death</i> <i>Indrani Chatterjee</i>	151
9 Honor and Dishonor in the Slavery of Colonial Brazil <i>Junia Ferreira Furtado</i>	167

10	(Child) Slavery in Africa as Social Death?: Responses Past and Present <i>Sandra E. Greene</i>	193
11	Slavery and Freedom in Small-Scale Societies <i>Catherine M. Cameron</i>	210
12	Rituals of Enslavement and Markers of Servitude: Orlando Patterson in the American Tropics <i>Fernando Santos-Granero</i>	226
13	Slavery from Rome to Medieval Europe and Beyond: Words, Things, and Genomes <i>Michael McCormick</i>	249
14	Revisiting Slavery, Property, and Social Death <i>Orlando Patterson</i>	265
	Index	297

List of Figures and Tables

Figures

4.1	Funerary stele of M. Publius Satyr from Capua representing two togate figures and the sale of a slave at auction.	86
4.2	Tombstone of an infant boy, Sextus Rufius Achilleus, from Rome.	88
4.3	Schema of van Gennep's rites of passage with Patterson's stages of slavery compared with the corresponding stages of dying.	90
12.1	Kalinago high-ranking woman, 1600s.	233
12.2	Conibo warrior with captive woman, mid-1800s.	236
12.3	Chamacoco slave woman, early 1800s.	239
13.1	The frequency of the words "slavery" and "emancipation" in English-language books published between 1800 and 2000 CE, included in Google Books Ngram Viewer: http://books.google.com/ngrams . Smoothing of three years.	255
13.2	The frequency of the words "slavery" and "emancipation" in English-language books published between 1800 and 1900 CE, included in Google Books Ngram Viewer: http://books.google.com/ngrams . No smoothing.	255

Tables

10.1	Enslaved African children purchased by the North German Missionary Society, including age and origin, 1863.	204
13.1	Twenty words that co-occur most frequently with <i>mancipium</i> in 4754 texts printed in Migne 1844–1864.	253

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Preface

This volume has grown out of two meetings devoted to the impact of Orlando Patterson's cross-cultural work on slavery. At a conference held at Brown University on April 13–15, 2012, under the title "Being Nobody? Understanding Slavery Thirty Years after *Slavery and Social Death*," 13 scholars were asked to engage with the key concepts of social death and natal alienation under slavery. On this occasion, Patterson delivered a keynote lecture that was in some ways a sequel to his 1991 book on the history of freedom. Much was gained from this meeting: while many of the contributions found their way into the present collection, this event also highlighted the need for further case studies to ensure more global coverage. At a smaller workshop at the University of Colorado at Boulder on September 29, 2013, several other colleagues joined our project. That meeting very fittingly piggy-backed on a larger conference on slave societies in history organized by Catherine Cameron and Noel Lenski, an event that touched on another core theme of Patterson's work. We are grateful to them for their support in organizing the subsidiary workshop that was more narrowly focused on Patterson's own concepts.

The subtitle of our volume is ambivalent by design: like the conference from which it originated, it marks the retrospective nature of its assessment of Patterson's contribution three decades on; furthermore, one prominent theme, as it emerges from several contributors' critiques of Patterson's original formulation, is on what comes after enslavement and social death by way of the reformation of social identity and the integration of slaves and ex-slaves into society. Not by design, on the other hand, is the absence from our volume of a contribution on the reception of Patterson's ideas in studies of slavery in America. There has been no lack of good work done in this area, much of which is cited by our contributors, and we regret this gap in our coverage, which a late cancellation by a speaker originally scheduled for the conference at Brown left us in the end unable to fill. Others will notice other areas not covered: our goal was not to be comprehensive but to offer a sufficient range of types of slave society to test the universality of Patterson's ideas.

Our conference at Brown was made possible by the generous support of a variety of sponsors at Brown University: the Program in Early Cultures, the Colver Lectureship Fund, the Office of the Dean of the Faculty, the Cogut Center for the Humanities, the Joukowsky Institute for Archaeology and the Ancient World, and the Departments of Africana Studies, Anthropology, Classics, East Asian Studies,

Egyptology and Assyriology, History, Portuguese and Brazilian Studies, Religious Studies, and Sociology. The Department of Classics at Stanford University provided additional funding to make this event possible and subsequently funded the workshop at Boulder. We are grateful to all our sponsors for their support; to the students enrolled at Brown in spring 2012 in a course on Slavery in the Ancient World, who considered Patterson's ideas against the realities of ancient Mediterranean slavery; and to Tara Mulder, who compiled the index and provided invaluable editorial assistance during the final stages.

JB
WS

Introduction

JOHN BODEL AND WALTER SCHEIDEL

In 1982, Orlando Patterson published his landmark comparative study, *Slavery and Social Death*. It quickly became a classic. His conceptualization of the experience of enslavement as a form of “social death” has been widely adopted by historians of slavery. Patterson’s novel definition of the institution of slavery that focuses on the social condition of slaves rather than on their status as property has likewise attracted much attention. To the present day, his study has remained unparalleled in its ambition to establish globally valid categories for our understanding of slavery by processing information from sixty-six slave-owning societies from around the world and over 4000 years of history. A generation after Patterson’s breakthrough achievement, our volume is meant to take stock of how well his principal ideas have stood the test of time and to test them through a number of more specialized case studies. Given the prominence of Patterson’s contribution, critical engagement of this kind has long been overdue.

Patterson’s approach emphasizes the coercive nature of slavery and its consequences both for the slaves themselves and for their owners:

Slavery is one of the most extreme forms of the relation of domination, approaching the limits of total power from the viewpoint of the master, and of total powerlessness from the viewpoint of the slave. (Patterson 1982: 1)

From this perspective, the violent compulsion, natal alienation, and generalized dishonoring of the slave form the three principal constituent elements of slavery,

resulting in a state of exclusion Patterson calls “social death.” Violent action – whether latent or exercised – serves as the physical means of enslavement. Patterson notes that the status of the slave is derived from, or at least construed as being derived from, representing a functional substitute for actual death:

Perhaps the most distinctive attribute of the slave’s powerlessness was that it always originated (or was conceived of having originated) as a substitute for death, usually violent death. (Patterson 1982: 5)

“Social death” is inflicted and sustained by two “symbolic instruments” of domination. One of them, what Patterson labels “natal alienation,” is conceived of as the severing of prior social ties and claims. It underpins the “definition of the slave, however recruited, as a socially dead person... Alienated from all ‘rights’ or claims of birth, he ceased to belong in his own right to any legitimate social order” (Patterson 1982: 5).

The slave was thus “denied all claims on ... his parents and living blood relations,” as well as on ancestors more generally. The latent permanence of slavery is regarded as a corollary of natal alienation (Patterson 1982: 5, 9).

The pervasive dishonoring of the slave is the other symbolic instrument:

The slave ... could have no honor because he had no power and no independent social existence, hence no public worth. (Patterson 1982: 10)

These three elements combine in the famous and often-quoted definition:

Slavery is the permanent, violent domination of natively alienated and generally dishonored persons.¹

Patterson’s vision of the condition of slavery has much in common with Claude Meillassoux’s definition of slaves as “unborn and reprieved from death.” The “de-socialization” of enslaved persons turns them into aliens who were considered “socially dead” or “non-born,” shorn of existing social links. Their “de-personalization” interferes with their capacity to establish new ties, while their “de-civilization” reinforces their dependence on their owners rather than on the collective (Meillassoux 1991: 99–115). However, while Meillassoux stresses the material consequences of this alienation, thought to render slaves totally exploitable, Patterson focuses more on its ideological dimension and social repercussions (Miller 1989: 473–475). In a similar vein, Alain Testart joins the properties of slaves’ “fundamental exclusion from society” and their exploitability as the two key definitional components of slave status (Testart 2001: 23–25).

Criticism of Patterson’s work has focused on questions of substance, method, and perspective. Substantive disagreements have been rare and mostly centered on his rejection of conventional definitions of slavery as a relationship of property, an issue addressed by Baker (Chapter 1) and Lewis (Chapter 2) and reprised by

Patterson (Chapter 14) in this volume.² Others have questioned the notion of natal alienation as a defining characteristic of slavery, noting the common hardships to which dependent laborers in general are subjected and the lack of a denial of recognized ties to ancestors and family as a distinguishing feature among them (Tenney 2011: 13–31). Not surprisingly, historians wedded to entrenched ideals of disciplinary expertise, cultural contextualization, and attention to detail have sometimes resisted the sociologist Patterson’s willingness to survey diverse bodies of information through the lens of secondary scholarship and to elide real-life complexities by coding variables in generic fashion (e.g. Fellman 1984: 329; Finkelman 1985: 508, 511; Franklin 1983: 214). This kind of criticism, however valid on its own terms, disregards the inevitable trade-off between specialist knowledge and breadth of vision: unless we are prepared to dismiss out of hand the very feasibility of world history, compromises must be made. In the context of narrowly circumscribed case studies, it would not even be possible to ask meaningful questions about broader patterns, let alone to try to answer them.³

In terms of perspective, it has repeatedly been pointed out that Patterson effectively privileges the vantage point of the slave-owner at the expense of that of the slave.⁴ To some extent this is a logical corollary of any global survey: hegemonic norms and ideals are inherently more suitable objects of cross-cultural comparison than lived experiences – of slaves and their owners alike. Moreover, in Joseph Miller’s view it is precisely Patterson’s emphasis on the enslaved that tends to subvert his ostensible focus on masterful domination: “By devotedly and brilliantly celebrating the agency of the enslaved, Patterson’s book as a whole disproves his own defining quality of domination; this definition is thus the perspective of the masters, not of the enslaved, and more an ideological assertion than historical behavior” (Miller 2012: 33).

Thus, Patterson’s emphasis on ideal-typical concepts such as “natal alienation” and “social death” need not be taken to encompass the existential condition of slaves (Brown 2009). They embody owners’ desire to dominate, the strategies they employed to control their slaves, the “symbolic instruments” invoked by Patterson (Patterson 1982: 8; see also Miller 2012: 32). As David Turley aptly specifies, the notion of “social death” subsumes “their theoretical defenselessness, a product of their virtual non-possession of any rights that had to be observed” (Turley 2000 3; see also Flaig 2009: 21). As eminent a scholar of slavery as David Brion Davis stresses the normative character of servile status: “At least in theory and in law, the slave has no legitimate, independent being, no place in the cosmos except as an instrument of his or her master’s will” (Davis 2006: 31). That slaves frequently retained memories of their ancestral culture, cherished kinship, and more generally resisted the degradations of slavery in myriad ways is irrelevant to the fact that “natal alienation” and “social death” imposed on them a burden that was highly specific to slavery. Patterson’s description of this burden is characteristically precise:

Slaves differed from other human beings in that they were not allowed freely to integrate the experience of their ancestors into their lives, to inform their understanding of

social reality with the inherited meanings of their natural forebears, or to anchor the living present in any conscious community of memory. That they reached back for the past, as they reached out for the related living, there can be no doubt. Unlike other persons, doing so meant struggling with penetrating the iron curtain of the master, his community, his laws, his policemen or patrollers, and his heritage.... When we say that the slave was natively alienated and ceased to belong independently to any formally recognized community, this does not mean that he or she did not experience or share informal social relations. A large number of works have demonstrated that slaves in both ancient and modern times had strong social ties among themselves. The important point, however, is that these relationships were never recognized as legitimate or binding. (Patterson 1982: 5–6)

“Never recognized” by the slave-owning society, that is, whose norms ensured the “alienation of the slave from all formal, legally enforceable ties of ‘blood,’ and from any attachment to groups or localities other than those chosen for him by the master” (Patterson 1982: 7). At the same time, for Patterson there can be no doubt that owners’ exercise of violent domination, natal alienation, and generalized dishonoring constraints was met with the “irrepressible yearning for dignity and recognition” and “passionate zeal for dignity and freedom” of their slaves (Patterson 1982: 101):

There is absolutely no evidence from the long and dismal annals of slavery to suggest that any group of slaves ever internalized the conception of degradation held by their masters. (Patterson 1982: 97)

Unlike Patterson’s ideal-typical notions of “social death,” his reconstruction of the mechanisms providing for the eventual assimilation and integration of slaves into the captor societies – of what one might perhaps label “social rebirth” – has elicited less disagreement.⁵ As Miller points out, this frequent process rendered slaves “not socially inert but only liminal,” putting them on a trajectory toward a new socially contextualized existence. The significance of this transition for our understanding of slavery is acknowledged by Patterson, who, like Miller, invokes the language and conceptual framework of cultural anthropology to characterize it:

In cultural terms enslavement, slavery, and manumission were symbolically interpreted as three phases in an extended rite of passage. Enslavement was separation (or symbolic execution), slavery was a liminal state of social death, and manumission was symbolic rebirth. (Patterson 1982: 293)

The process, however, was self-perpetuating and recursive.

Freedman status was not an end to the process of marginalization but merely the end of the beginning – the end of one phase, slavery, which itself had several stages. Freedman status began a new phase: the ex-slave was still a marginal, but the process was now moving toward demarginalization socially, and disalienation in personal terms. (Patterson 1982: 249)

For Patterson, “social rebirth” was a chimera, merely the continuation of slavery by another name. The reconfiguration of the triadic gift-exchange relationship effected by the master’s gift to the slave of manumission and the ex-slave’s obligation of gratitude only initiated “a new dialectic of domination and dependence” (Patterson 1982: 294). Integration into society – and, for individuals, rebirth into a newly contextualized identity (disalienation) – came, if it came at all, only after several generations. Exceptions to this pattern, “true of virtually all slave-owning societies,” in which the stigma of slavery was immediately erased, are by nature exceptional.⁶ Indeed, so closely linked are the processes of enslavement and manumission that:

It is not possible to understand what slavery is all about until we understand it as a process including the act of manumission and its consequence. Enslavement, slavery, and manumission are not merely related events; they are one and the same process in different phases. To separate one from the other in an imposed schema is as gross an error as the attempt of the biologist to classify as distinct entities larva, chrysalis, and imago. (Patterson 1982: 296)

Exceptions of the opposite sort – societies that lacked any possibility for “rebirth” – are thus particularly worthy of attention.⁷

The case studies in our volume address several of these issues. One of Patterson’s aims in exploring slavery as a form of domination rather than a matter of property was to demonstrate the consistent workings of the institution not only in the five large scale slave societies (all central to the development of Europe and European culture) that have dominated scholarly discussion to this day but across the sixty-six slave-holding societies identified in Murdock and White’s Standard Cross-Cultural Sample of 186 human societies around the world.⁸ Accordingly, our contributors assess the utility of Patterson’s ideas for elucidating not only the ancient large scale slave societies of classical Greece and Rome (Chapters 2–5) and the modern ones of Brazil (Chapter 9) and the Caribbean (Chapter 12) but also a range of more “marginal” slave societies in Asia (Chapters 1, 6, 7, 8), Africa (Chapter 10), and the New World (Chapter 11), ranging in date from the first half of the first millennium BCE (Chapter 1) through classical and late antiquity in the west (Chapters 2–5) and Han China in the east (Chapter 6) to medieval (Chapter 13) and early modern Europe (Chapter 7); the pre-colonial worlds of South Asia (Chapter 8), the American tropics (Chapter 12), and continental North America (Chapter 11); and colonial era Brazil (Chapter 9) and Africa (Chapter 10).

The second chapter confronts Patterson’s most fundamental premise – that slavery is best understood as a relationship of power – most directly. In it David Lewis challenges Patterson’s controversial dismissal of property-based definitions of the institution and argues that Patterson’s idiosyncratic understanding of property blurs the distinction between rights arising from ownership and those arising

from contractual relations. More conventional concepts of property in contemporary legal theory, according to Lewis, mesh better with slave law in two ancient societies, the Neo-Babylonian empire (700–300 BCE) and classical Athens (500–300 BCE). Lewis argues that most of the constituent elements of Patterson’s iconic definition of slavery – permanence, violence, and alienation – may be interpreted as direct consequences of the property rights exercised by slave-owners. In substantive terms, therefore, Patterson’s approach can readily be reconciled with standard legal perspectives. Lewis’s contribution moves us closer to a fusion of legal and social definitions of slavery.⁹

Two contributors explore slavery in small scale societies. An indispensable element of any cross-cultural perspective, as Patterson recognized, it has rarely received adequate attention in critiques of his work. Deriving from two different worlds and separated by two millennia, the slaving practices of the Amerindian peoples of North America and Neo-Assyrian Babylonians reveal divergently opposite perceptions of enslaved peoples as outsiders without recognized familial connections. In both cultures social organization was framed around households, which might (but need not) be constituted by kinship relations, but the position of slaves vis-à-vis the household structures varied not only between the two cultures but within the slave societies of both.

Heather Baker emphasizes the relative quality of servility in the Mesopotamian world of the early first millennium BCE and the range of dependent statuses embraced by the most common terms for “slave” (Chapter 1). The mass deportation and forced resettlement of conquered peoples during the Neo-Assyrian period (c. 900–600 BCE) provided a ready source of involuntary labor for public works, but the great majority of the captives working under servile conditions became Assyrian subjects and were settled and helped to become self-supporting. Manumission is not attested in any Neo-Assyrian source, which suggests that for those whose servitude was owed to purchase or birth into slavery, death and escape were the only ways out. Family ties among slaves were probably the prerogative of the master, but social and practical considerations influenced slave owners to support slave unions. Integration into society was not possible except through domestic slavery. Natal alienation was therefore not inevitable, and, in a society built around households as institutions, “social death” was reserved for those outside the structures that embraced household dependents.

By contrast, Catherine Cameron, in her review of indigenous practices of slavery in North America before the period of intensive European contact, endorses the concept of “social death,” noting that slaves were normally considered outsiders, owing to their exclusion from the kin groups that constituted the framework of household organization (Chapter 11). Social “rebirth” was only sometimes feasible: while some groups offered little opportunity for re-integration, others were open to the eventual incorporation of slaves into local kin groups, albeit often in inferior positions.

Like Baker, Peter Hunt in his study of dependent groups in archaic and early classical Greece (800–400 BCE) notes that key features of Patterson’s constituent

elements (dishonor, domination, permanence, and violence) do not distinguish slavery from other forms of oppression (Chapter 3). Furthermore, the concept of natal alienation (which does set slavery apart) normally encompasses the same groups of persons as are circumscribed by traditional property-based definitions of the institution. The condition in archaic Greece of dependent groups such as thetes, who seem to have claimed recognized familial connections (indicated in part by patronymics in personal names), and helots, whose status is debated but who seem to have enjoyed comparatively stable lives within families and communities, more closely resembles that of rural peasants or even serfs than of chattel slaves. A definition of serfdom as “peasantry bound to the soil” better characterizes the condition of helots than either Patterson’s or traditional property-based definitions of slavery. Failing to discriminate among degrees and modes of servitude in the ancient world renders Patterson’s criteria of social death and natal alienation only partially relevant to interpreting dependent servitude in early Greece.

Ehud Toledano likewise finds Patterson’s characterization of slavery of the Ottoman empire (c. 1400–1900) inappropriately indiscriminate in grouping together with agricultural slaves elite groups such as the *kul*, *mamluk*, and *gulam*, who were not violently dominated, enjoyed recognized kinship relations in families constituted both biogenetically and culturally, and were not generally dishonored (Chapter 7). Drawing from the dyadic and symbiotic relationship of master and slave suggested by Patterson’s metaphor of parasitism, Toledano proposes as more illuminating of Ottoman society an alternative conception of slavery as an involuntary relationship of mutual dependence between unequal partners, in which attachment to a household encompassed the enslaved within the network of kinship and patronal relations that bound the society together. In this, Ottoman society resembles the household-based societies of Neo-Assyrian Mesopotamians (Chapter 1) and indigenous North Americans (Chapter 11). Emphasizing the slave–master dynamic as one of mutuality in opposition rather than a contest of wills enables us to recognize the concept of social death as a polarizing abstraction that conceals a more complex relationship of reciprocal accommodation.

Indrani Chatterjee similarly challenges Patterson’s model with regard to slavery in pre-modern India, which has rarely been studied from the perspective of “social death” (Chapter 8). Arguing that natal alienation and the generalized dishonoring of slaves were a belated product of British colonialism, Chatterjee emphasizes ancient provisions for the heritability of slaves’ property, a custom at variance with notions of formal kinlessness. She draws attention instead to pre-modern Indian property regimes – the “locked box” of property law in the subcontinent – informed by Buddhist, Hindu, and Sufi beliefs that produced more complex outcomes, most notably modes of joint ownership. In her view, these traditions signal a stronger concern with balancing the honor of free and slave than Patterson’s taxonomy allows for.

Two of our contributors assess the concepts of social death and dishonor as they applied especially to female slaves. In a survey that spans a millennium of ancient Greek and Roman culture (c. 500 BCE – 500 CE), Kyle Harper investigates the

nexus of freedom and female sexual honor in a male-dominated world (Chapter 5). The semantic conflation, for women, of “free” and “sexually respectable” reflects the inverse relationship, the dishonored status of sexually exploitable female slaves, a position illustrated by the Greco-Roman practice of slave prostitution. This analysis reinforces Patterson’s linkage of slavery and dishonor and adds a gender-specific nuance to the control of masters over their slaves’ bodies.

Addressing the issue from the opposite perspective, Junia Furtado takes on the challenge of exploring the lived experience of female slaves in their struggle to regain honor and exercise some control over their lives (Chapter 9). The area of conflict between owners’ conceptions of domination and the aspirations and accomplishments of current and former slaves is a natural testing ground for Patterson’s model, and Furtado enters it with carefully developed case studies of slave women and freedwomen in eighteenth-century Brazil who owned slaves, earned income as concubines or service providers, and purchased their freedom more frequently than did their male counterparts. Both her chapter and Chatterjee’s (Chapter 8) flesh out Patterson’s contention that transcendence of “social death” demanded struggle, which was driven by what he recognized as slaves’ “irrepressible yearning for dignity and recognition” (Patterson 1982: 101).

Two other contributors take on the question of social death as it related to the “rebirth” and integration into society of ex-slaves in two early empires located at opposite ends of the Eurasian continent at similar stages of their imperial development.

John Bodel explores the implications of Patterson’s characterization of slavery as “institutionalized liminality” for the idea of “social death” as it applies to slavery in ancient Roman society of the classical period (c. 100 BCE – 300 CE) (Chapter 4). The essence of the contradiction inherent in Patterson’s metaphor and his conception of slavery as part of the three-stage process of recruitment, enslavement, and manumission is crystalized in Roman culture in the deaths of slaves and how they were perceived and managed. According to Bodel, the commemorative funerary practices of Roman slaves and ex-slaves, fostered by the slave-owning class, refute the notion that Romans regarded slavery as a form of “social death.” Rather, Roman practice regarding the deaths of slaves reflects a conception of slavery itself as a part of a process. Ideologically, Romans conceived of the condition of slavery as a term sentence and likened slaves who died before manumission to children who perished before they reached adulthood. Three myths involving slaves, overcoming death, and passing into new states illustrate more accurately than Patterson’s idea of social death the Roman conception of slavery as a transitional stage of life leading to manumission and rebirth into a new life.

Anthony Barbieri-Low deals with the same conception of manumission as resurrection at the opposite end of the Eurasian landmass, in early China. Drawing on newly published documents from the beginning of the Han period (c. 200 BCE), he identifies a remarkable capacity for re-integration in the legal provision that the slaves of heirless masters were to be freed and to succeed them, even though former slaves were classified among a degraded class of persons. Another edict

ordered the freeing of persons who had sold themselves into slavery at a time of crisis. From one of the new sets of statutes it emerges that manumitted slaves and others “released” from a degraded status (*shùrén*) were able to own land and to constitute legal households. Despite these unusual features of early Han slavery, Barbieri-Low stresses the close match between this previously unknown evidence and Patterson’s cross-cultural findings, especially the use of manumission to encourage obedience and productivity, the role of freedmen as dependent clients, and the freedman’s continued obligation to perform services for the master.

Finally, two of our contributors demonstrate the continuing viability of Patterson’s model for illustrating the “symbolic instruments” through which masters sought to control their slaves and the psychic defenses slaves activated against them by refining and elaborating Patterson’s conceptions of natal alienation and social death as they apply to special categories of slaves in the tropical Americas and sub-Saharan Africa.

Sandra Greene’s pioneering study of the experience of child slavery in nineteenth-century Africa reveals critical nuance in its deployment of insights from the study of emotions and child psychology to illustrate the particular circumstances under which enslaved children suffered the emotional devastation of natal alienation (Chapter 10). On the one hand, entrenched beliefs that spiritual forces moved together with the living and that enslavement by itself was incapable of severing connections with one’s ancestors interfered with natal alienation as envisioned by Patterson, sometimes to the extent that slave-owners were expected to acknowledge these spiritual presences. On the other, enslaved children appear to have felt the ruptures of social death very deeply and on occasion to have reasserted their agency by resorting to suicidal behavior: owners’ attempts to inflict “social death” might lead to its physical counterpart. Yet Greene also notes slave children’s desire to reconnect with their natal groups and reject identities tied to their new masters.

Fernando Santos-Granero adopts the “social death” approach to great effect in his study of the strategies of natal alienation and dishonoring in three tropical American societies that kept slaves on a large scale (Chapter 12). He identifies linguistic and bodily markers, including ritual torture, that stigmatized war-captives as alien, less-than-human, and generally inferior beings. Under slavery, these persons were caught in a state of limbo, severed from their native backgrounds but not (yet) integrated into their captor societies. A “civilizing” process could lead to re-integration, in keeping with Patterson’s model, but the physical markers of servitude, which identified slaves as social hybrids, inferior persons integrated into society as subordinates, imparted to slaves what Patterson aptly calls “the liminal status of the institutionalized outsider” (Patterson 1982: 46). The link between body modification and linguistic labeling common among tropical American slave societies recalls the association of female corporeal integrity with personal liberty in classical Greco-Roman society, as discussed by Harper (Chapter 5).

The penultimate chapter points to novel ways of looking at slavery. When Patterson’s book came out more than three decades ago, his sociological approach of global comparative study was unfamiliar to students of slavery and made a

profound impression on the field. Even though formal analysis along these lines has remained rare, the recent rise of world history as a field of teaching and research has rendered global perspectives less exceptional.¹⁰ Equally rare in the fraught field of slavery studies was Patterson's appeal to a socio-biological metaphor of parasitism to characterize the mutual dependency of master and slave, which drew analogy from life sciences without entering the discredited territory of biogenetic determinism.

Today, advances in the study of human genomics have made the vocabulary of cellular chemistry as familiar as that of evolutionary biology was to an earlier generation. Michael McCormick suggests that the time has thus come for a more transdisciplinary approach to investigating the human past, one grounded in the natural, life, information, and (one might add) linguistic sciences, and embracing the possibilities of Big Data, properly aggregated and queried, to illuminate the evolving perceptions and realities of slavery in Europe across the six centuries (c. 400–1000 CE) that witnessed the earliest phase of its post-classical formation (Chapter 13). Recent gains in digitized technologies across disciplines have enabled and will continue to facilitate ever more refined interrogation of large databanks of words (illustrating changes in linguistic usage over time), things (the material traces of the slave trade and the lived experiences of slaves), and “genomes” (a shorthand reference for a variety of bio-archeological approaches, including population-based osteological analysis of human remains as well as genomic studies), that collectively will soon allow us to trace broad population movements and evolving perceptions of slavery across Europe and beyond.

Perhaps the greatest value such studies may hold for evaluating the concept of “social death” is in their latent demonstration of the ubiquity of slavery in the history of Europe and the stark contrast between Patterson's sociological concept of “natal alienation,” which operated systemically but individually, and the thoroughly miscegenated bloodlines of the European, North African, and Western Asian populations of medieval Europe, both slave and free, and their modern descendants. While this contribution takes us far beyond the debate about the themes of slaves' “social death” and “rebirth” that forms the focus of our collection, it is true to Patterson's passion for methodological and conceptual innovation. This makes it a fitting contribution to a volume dedicated to his inspiring work.

Orlando Patterson attended the conference at Brown and graciously agreed to reflect on the thirteen contributions offered in response to his work. In the final chapter of the volume he comments on major themes brought out in the essays and elaborates and advances his own thinking in four areas: concepts of property as they relate to slavery; the diverse workings of these concepts, particularly a “bundle-of-rights” view of property, in slave-holding societies ranging in type from the highly personalistic to the highly materialistic; the special connections between women and slavery; and the metaphors of social death and rebirth as reflecting a dynamic conception of slavery and manumission. The discussion concludes with a consideration of the apostle Paul's development of the symbolic imagery of slavery, death, and rebirth into the foundational metaphor of the Christian faith and thus a cornerstone of European thought.

On balance, the contributors' essays, and Patterson's response to them, seem more to refine and to reaffirm than to refute many of his central ideas. Some of Patterson's sharpest points have been blunted by counter-example, but others have been honed by provocation into more precise and nuanced instruments of analysis. Patterson's famous definition of slavery as "the permanent, violent domination of natively alienated and generally dishonored persons" (Patterson 1982: 13) comes under particular scrutiny, and each of its component elements is challenged on grounds of historical inaccuracy or conceptual incongruity. Least controversial is the notion that violent domination underlies originary enslavement and so is innate in the condition of slavery itself, although Toledano finds the concept inappropriate to the condition of *kuls* and *mamluks* in Ottoman society (Chapter 7). The permanence of the condition of slavery is questioned directly by Bodel (Chapter 4) and indirectly and implicitly by Barbieri-Low (Chapter 6) and Furtado (Chapter 9), who explore various modes and capacities for reintegration of ex-slaves in Han Chinese and colonial Brazilian society. The lion's share of attention, however, is devoted to the concepts of dishonor and natal alienation.

Several contributors (notably Toledano, Chatterjee, and Furtado) challenge the notion that dishonor is an essential element of the slave condition, finding more nuanced correlations of both honor and dishonor with slavery in pre-colonial South Asia and colonial Minas Gerais in Brazil (Chapters 8 and 9) and little evidence of it at all among the elite slaves of the Ottoman empire (Chapter 7). Others (notably Harper, Cameron, and Santos-Granero) see dishonor as central to the devaluation of slaves in Greco-Roman antiquity (Chapter 5) and the small scale societies of North America (Chapter 11) and the American tropics (Chapter 12). If these discrepancies suggest that generalized dishonor may not be intrinsic to the condition of slavery, the question naturally arises under what circumstances it becomes important in defining servile status and why in some cultures dishonor is inherent in the servile condition whereas in others more calibrated gradations of honor and dishonor prevail. Future investigations in this area may shed further light on this still obscure aspect of slaving practices.

Natal alienation was perhaps the most innovative and successful of Patterson's conceptual insights, capturing in a single concise phrase the panoply of ways slave-owners sought to enforce the genetic isolation of their slaves. Its stark conceptual clarity exposed it to criticism, however, and in the years following publication of Patterson's study an ensuing flood of misplaced counter-examples threatened to wash away Patterson's crucial insistence on the distinction between human feelings and societal recognition of relationships as legitimate and binding. Mindful of that distinction, several contributors have chipped away at the foundations of the concept, noting, for example, how special categories of slaves enjoyed recognized familial ties and parentage within their cultures (so Baker, in Chapter 1, on Mesopotamian homeborn slaves; Hunt, in Chapter 3, on thetes and helots in ancient Greece; Toledano, in Chapter 7, on Ottoman *kuls* and *mamluks*), or that some non-western property regimes provided for the heritability of a slave's property (Chatterjee, in Chapter 8), or arguing that cultural values and social pressures,

as well as economic self-interest, counterbalanced the legal claims of a master to absolute control over his human property and exercised a normative influence on behavior (Bodel, in Chapter 4). Patterson's reply (in Chapter 14) to the first two objections is that the special categories identified do not properly qualify as slaves and to the third that rigorous analysis of hard data, comparative study, and demographic theory provide a more accurate picture of social reality than do literary sources.

In these two responses, as throughout his substantive reflections on the contributors' evaluation of his work, Patterson illustrates two tensions inherent in the epistemological divide that separates sociologists and historians, a category to which a majority of our contributors belongs. The first, well recognized if too seldom productively exploited, is between abstract ideals and contextualized situations, or between historical processes and hypothetical abstractions; put simply, where sociologists generalize, historians particularize. In this volume, it may be suggested, confrontation with the well-chosen particulars of his historicizing critics has spurred Patterson not only to defend but to amplify and further elaborate his views, with the result that the discussion has been advanced.

The second concerns method, specifically the role of taxonomy in analysis. As befits a sociologist, Patterson relies heavily on precise categorization of a wide range of disparate practices, and the formulation of a universal definition of slavery that will encompass all the relevant behaviors is essential to his purpose. Hence the emphasis in *Slavery and Social Death* on the three constituent elements said to constitute the essence of the institution and the form of his response to critics who find little evidence of dishonoring or natal alienation in certain slave cultures: "There comes a time when a cigar is no longer a cigar" (Chapter 14: 227). Failure to meet the stated criteria of definition results in exclusion from the category. Historians, by contrast, are drawn to situational contingencies and distinctive peculiarities of behavior or practice in specific cultures, and their approach to understanding institutions is oriented toward investigating change over time. Joseph Miller has recently called for a more contextualized approach to the study of slavery world-wide, one less centered on the dyadic relationship of master and slave (whether the relationship is conceived of primarily as one of domination or as a matter of property) and more attentive to the contexts that shaped the behavior of slavers and the enslaved alike; slavery, in his view, is best approached as a set of historicized human strategies rather than an abstract institution (Miller 2012: 1–35).¹¹

Our contributors set out to assess the cogency of Patterson's analysis, and more particularly his definition of slavery on its own terms within their areas of specialist expertise. In doing so, many have engaged in the new historicist approach to slavery advocated by Miller, with the result that slavery emerges from these pages in all its diversity as a variable and evolutionary practice. Other essays aimed more squarely at the conceptual underpinnings of Patterson's elegant formulations have prompted refinement and elaboration of the core terms of definition. On no topic addressed has the last word been said. Thirty-five years after its publication, Patterson's remarkable study continues to inspire and to provoke debate.

Notes

- 1 Patterson 1982: 13 (italics in original); re-stated in Patterson 1991: 9–10.
- 2 Critics include Finkelman 1985: 509; Davis 2006: 32; and Bales 2012: 369–372. Note also McCormick, in this volume (Chapter 13, Table 13.1): “in the minds of the Church fathers, medieval writers, and authors of legal documents, ‘slave’ (*mancipium*) evokes property.”
- 3 See Heinen 1988: 263–264 for a defense of Patterson’s eclectic research strategy.
- 4 For example, Dew 1985: 420; Franklin 1983: 215; or more recently Brown 2009: 1233. See also, in this volume, Baker (Chapter 1), Hunt (Chapter 3), and Lewis (Chapter 2), who argues that Patterson’s concept of natal alienation reflects a slave’s perspective on the social results of the ownership of their persons. The title of our conference at Brown, “Being Nobody?”, implicitly invited consideration of Patterson’s ideas from the perspective of the enslaved.
- 5 Some who endorse Patterson’s concept of social death prefer the term “resurrection”: see Mason 2003; Miller 2012: 22–23.
- 6 Patterson 1982: 248–250, endorsing Kopytoff and Miers’ (1977) distinctions of intergenerational and intragenerational mobility for different aspects of an ex-slave’s condition, according to the slave’s legal status, affective marginality, and worldly success within the society and noting as exceptional the cases of Somali slaves freed by the sultan for noteworthy acts or of Roman slaves awarded fictive freeborn status (*ingenuitas*) by imperial edict (249).
- 7 Miller 2012: 22 describes the common absence of re-socialization in New World slavery as a “truncation of an otherwise uniform process.” See also Baker, in this volume (Chapter 1, notes 24–25), on the apparent absence of manumission in slavery of the Neo-Assyrian period, and Cameron (Chapter 11) on the variable possibilities for social “rebirth” and integration within native American slave societies.
- 8 See Patterson 1982: ix–xi. The distinguishing of (only) five “genuine” slave societies is principally associated with M. I. Finley, who first expounded his criteria in Finley 1968. For a historiography of the concept, see Higman 2001.
- 9 Allain and Bales 2012: 11 reconcile legal and social definitions of slavery similarly; for them slavery can be recognized when “control tantamount to possession is achieved through violence.” See also Bodel, in this volume (Chapter 4: 82), on the Roman concept of *dominium*.
- 10 A more recent study by Patterson himself remains the main exception (Patterson 2008). But see now also Flaig 2009 and Zeuske 2013 for more qualitative global surveys.
- 11 Similarly, Berlin 2010 traces the ever-evolving development of African American culture through alternating periods of rootedness and four great “migrations” of African Americans over the past 300 years.

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Slavery and Personhood in the Neo-Assyrian Empire¹

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Introduction

In a brief letter that may be dated c. 672–69 BCE, the chief exorcist Adad-šumu-ušur wrote to the Assyrian king (Esarhaddon) concerning an untested drug, “Let us make those slaves drink first, and let the crown prince drink only afterwards” (SAA 10 191: 11–r. 1). The scenario is one that might plausibly be envisaged for any pre-modern court society. The letter sheds little light on the actual conditions of palace slaves during the Neo-Assyrian period, and yet the basic idea of the slave as a person inferior even to the point of being entirely dispensable is one that will be familiar to students of slavery in all periods of history. Yet, the topic of Neo-Assyrian slavery has received relatively little attention from scholars in comparison with other periods of the region’s history, especially the (admittedly better documented) Ur III and Neo-Babylonian eras. The present article examines the nature and function of slavery in Neo-Assyrian society in the light of Orlando Patterson’s characterization of slavery as “the permanent, violent domination of natively alienated and generally dishonored persons,” put forward in his seminal book, *Slavery and Social Death* (Patterson 1982: 13).

In recent studies of slavery in the Ancient Near East, Orlando Patterson’s work has often been cited, and the breadth and vision of his scholarship have been rightly acknowledged, but only rarely have his ideas been engaged with in any depth.² The reasons for this lie, I think, mainly in the nature of our sources. We are dealing primarily with cuneiform legal and administrative documents, therefore studies of

slavery have tended to be dominated by discussion of slaves' legal status and the extent to which this can be distinguished from that of other low-status dependent groups, and with their role in the society and economy. The legal-historical approach has played a central role in the discussion, and cross-cultural comparison is problematic. Recent studies of Near Eastern slavery have noted the difficulty of approaching the subject from a more theoretical standpoint (Culbertson 2011: 3), or from a perspective aligned with current interests in issues such as the realities of the slave experience (Seri 2011: 50). Personal stories as such are difficult – in fact, usually impossible – to recover. We lack the narrative accounts of the classical authors: narrative, such as it is, is largely restricted to the royal inscriptions but these are hardly ever concerned with slavery (except in a metaphorical sense, in relation to royal power). Literary compositions such as “The Dialogue of Pessimism,” which involves a slave and his master, are interesting but can hardly be taken as a reflection of actual conditions of slavery.³ The only time we come close to hearing the voice of a Mesopotamian slave is in the relatively few Neo-Babylonian records of court proceedings that deal with legal actions brought by slaves (or ex-slaves) who wished to challenge their conditions of servitude or those of their offspring.⁴ These factors have made it difficult for scholars of Mesopotamian slavery to engage in cross-cultural comparison.

Despite the link that has often been made between the Orient and slavery, in particular by the influential ancient historian Moses Finley, it has long been accepted among scholars of the Ancient Near East that slavery played a restricted part in Mesopotamian society at all periods, and that the state did not rely on slavery to any significant extent to fulfil its needs for labor.⁵ Having said that, there were at all times various categories of dependent peoples who, while not necessarily slaves, were certainly not free either.⁶ These groups could be quite large, though they still made up only a small sector of the overall population: accurate quantification is problematic, if not impossible. The native terminology concerning these different groups is notoriously difficult to elucidate with precision: a single word can be used to refer to many different conditions of servitude and dependency, including – but not limited to – slavery. Thus, it is not for nothing that the words of the late Govert van Driel are often cited in studies of Near Eastern slavery. According to him, the term *urdu* is “a word which may designate everybody from the lowest slave to the most exalted servant of the king, and even the king himself in relation to the gods” (van Driel 1970: 174). The Mesopotamian world-view, then, held that everyone, including the king himself, was subject to a higher authority and this relationship of subordination was expressed using the term for a common slave, *urdu*. Yet cutting across these nested hierarchical relationships implicit in the use of the word *urdu*, in practice a clear distinction was appreciated between free men, who (in theory at least) enjoyed autonomy based on economic self-sufficiency and who were liable to render military or labor service and other obligations to the state, and those in a condition of servitude, who depended on their master for food and other necessities and who were not liable for state conscription or labor service (Von Dassow 2011: 212).

The notion of the “chattel slave” has played a central role in discussions of Ancient Near Eastern slavery, because at various periods slave-sale documents feature prominently among the relevant sources. In spite of Patterson’s argument against defining slavery in terms of property, this approach has persisted (and is likely to continue to do so) because it presents us with a neatly circumscribed group of people whom we can confidently judge to have really been slaves, in contrast to others of contested status who occupied the grey areas near the bottom end of the social scale in various conditions of dependency. These issues will be discussed below in relation to the Neo-Assyrian material.

A further reason for the relative silence within Ancient Near Eastern studies with regard to *Slavery and Social Death* is the fact that in the three decades since the book was published only rather few studies have attempted to address wider-ranging issues surrounding slavery in Mesopotamia. This dearth of attention has changed quite recently, with the appearance of two significant publications. The first is an innovative demographic study of servile laborers in the central Babylonian city of Nippur during the fourteenth and thirteenth centuries BCE, as documented in administrative rosters kept by the city administration (Tenney 2011a). The second major recent publication comprises the proceedings of a symposium held at the Oriental Institute in Chicago in March 2010 with the theme “Slaves and Households in the Near East” (Culbertson 2011). A few words about these two volumes are warranted.

In his study Tenney uses the term “servile” to describe the large public workforce of Kassite-period Nippur, thus avoiding the label “slave” since the civil status of these workers remains quite uncertain. In fact, very occasionally individuals are described in his text corpus by the conventional Babylonian terms for slave (*ardu* and *andū*, for male and female, respectively), but this restricted usage suggests that other members of the workforce were *not* considered to be slaves by those who wrote the documents, and it is unclear why only a few workers should be singled out in this way.⁷ Nevertheless, all of the workers appear to have been subject to common conditions, in particular, abnormal population stress, relative poverty, and working under duress (Tenney 2011a: 135). In his study Tenney rejects Patterson’s defining characteristic of a slave as a socially dead person deprived of all natal ties, on the grounds that the Nippur servile laborers were allowed to marry and have families, and also they sometimes identified themselves by patronyms (Tenney 2011a: 130–131, n. 219). However, this may be imposing too literal an interpretation on Patterson’s characterization, since Patterson himself stresses that slaves in both ancient and modern societies “had strong social ties among themselves. The important point, however, is that these relationships were never recognized as legitimate or binding” (Patterson 1982: 6). There is no doubt that in ancient Mesopotamia slaves, like other members of society, typically formed families, and that in the case of slaves these families always formed part of the larger household (whether private or institutional) to which they were attached (see below). When we encounter cuneiform texts dealing with slave-holding on any scale, the slaves are frequently enumerated in family groups. As to the application

of Patterson's idea of "natal alienation," then, the crux lies in the nature of the relationship of domination between master and slave; that is, did the master have the absolute right to dissolve the familial ties that bound his slave? This, in turn, raises the question of whether the slave had any possibility of defending the integrity of his own household against his master's attempts to subvert it. The extant sources are, predictably, rather silent on these matters, but it seems likely that the master's domination was complete and that he could dispose of his slaves as he wished, regardless of their family ties.⁸

In her introduction to the Oriental Institute Symposium volume, Culbertson considers slaves to be "one social group that was always, and by definition, attached to a household or institution" (Culbertson 2011: 13). This household attachment is not taken to be a defining characteristic of Ancient Near Eastern slavery, but rather it is used as a means of focusing on "the dynamics of enslaved peoples in their immediate contexts" (Culbertson 2011: 2).

Culbertson stresses, as others have done, that the concept of complete individual freedom is anachronistic; rather, "The construction of societies into households and institutions suggests that most persons, not only slaves, were woven into hierarchies and subject to other entities, ranking vertically up to the king or emperor, who themselves were subject to divine authority" (Culbertson 2011: 13). In concluding her introduction to the volume, Culbertson remarks:

However, one advantage of the household approach to slaves is clear: by situating slavery within the context of household – whether household is understood as a domestic estate, state institution, or temple – we view slaves more directly in history. As members of households, slaves were not at the margins of history and society, but belong to historical and social processes. Even though slavery was never the dominant source of labor in the Near East, it was always a complex of social apparatuses that managed relationships of economic or social obligation and debt, integrated outsiders into social establishments such as households, and shifted trajectories of upward and downward mobility for those who endured the predicament of enslavement. (Culbertson 2011: 14)

This approach is potentially productive because we are dealing with a society whose institutions, both private and public, tended to be organized along household lines. And yet there remains the intractable problem of distinguishing slaves from other servile, dependent classes.

The Neo-Assyrian Period: Introductory Remarks

The Neo-Assyrian Empire spanned the period from around 911 BCE down to the fall of Nineveh in 612 BCE. For its time, it was the greatest territorial state the world had known, encompassing much of the Near East and including Egypt for a time in the seventh century BCE. One of the well-known characteristics of the Neo-Assyrian empire is its reliance on mass deportation, that is, the forced resettlement

of conquered peoples in other parts of the empire, often far away from their land of origin.⁹ These deportees were a vital source of labor, both in the heart of the empire and in the provinces, in city and in countryside. They formed an important component of the workforce employed on large-scale public building projects, and were instrumental in the intensification and expansion of cultivation that was needed for the supply of the rapidly growing cities. The successful integration of vast numbers of these people into the Assyrian state is no doubt a major reason why the system had no need to rely on slave labor to any significant degree.

The Neo-Assyrian written documentation includes legal contracts from private family archives as well as from the so-called “State Archives” found in the palaces of Nineveh, which served as the imperial capital from the late eighth century down to the final collapse of Assyria. It also includes administrative documents and letters, many of which were actually found in various palaces in the major cities at the heart of the empire. These archives from the royal palaces deal, to varying degrees, with affairs at the imperial center – especially concerning the royal court – as well as with provincial administration. We also have royal inscriptions that provide information especially about military campaigns and royal building projects. Before discussing some of the dynamics of slavery in greater detail, I shall first consider aspects of the ideology relating to slavery in the Neo-Assyrian period as reflected in the written sources.

The Ideological Dimension of Assyrian Slavery

To gain any kind of insight into contemporary ideology surrounding slavery, we have to turn to the royal inscriptions, which, of course, were composed with a view to legitimizing and celebrating the Assyrian king’s power. Nevertheless, it is worth having a look at some relevant material from this text genre. One passage of particular interest is found in a so-called “Letter to (the god) Aššur,” a text that describes the campaign by king Esarhaddon (680–669 BCE) to the land of Šubria in the Upper Tigris region in the year 673. The passage runs as follows:

He [the Šubrian ruler] heard my royal message, which burns my enemy like a flame, and he doubled over at the hips; he tore off his royal garment and clothed his body with sackcloth, the garment of a sinner. His appearance became miserable and he became like a slave and counted himself among his servants. With entreaty, prayer, expressions of humility, kneeling against the wall of his city, he was bitterly crying “woe,” beseeching my lordship with open hands, (and) saying “Aḫulap!” again and again to the heroic Aššur, my lord, and the praise of my heroism. (RINAP 4 81, no. 33 i 1–7)

Here the enemy ruler’s debasement is explicitly associated with the condition of slavery. There is a dual aspect to this: he adopts the position of a slave vis-à-vis the Assyrian king Esarhaddon, to whom he appeals, but by his behavior and appearance

he also reduces himself to the level of his own slaves, thereby negating his status as ruler and relinquishing his claim to kingship. Thus the slave and the (legitimate) ruler (Esarhaddon) – representing the extreme ends of the social scale – are juxtaposed, and the enemy ruler is seen as manifestly unsuited to the exercise of kingship. His behavior is intended to invoke mercy, but in fact all he succeeds in attracting is contempt.

The same text contains a further, extraordinary (but unfortunately quite damaged) passage later on. It reports how the Šubrian ruler fashioned a statue, clothed it in sackcloth (explicitly called “the garment of a sinner” in the passage cited above), placed it in fetters “as befitted slavery” (*simat urdūti*), made it hold a grindstone for milling, and applied to it a skin of red gold as a replica of (real) skin. He then gave it to his two sons to present to Esarhaddon in order to induce pity and save his life (RINAP 4 83, no. 33 ii 18–23).¹⁰ The Šubrian ruler’s sons are quoted as enjoining Esarhaddon to put the crimes and disobedience (of their father) on the *asakku*-demon, that is, a demon that symbolized cosmic disorder (Wiggerman 1992: 162).¹¹ Since in mythology the *asakku* was vanquished by the god Ninurta, this passage belongs with others that depict Esarhaddon in terms of Ninurta battling victoriously with his enemies.¹² If I understand the text correctly at this point, the statue was intended to take upon itself the crimes and disobedience of the Šubrian ruler, leaving him free to submit to Esarhaddon and be spared, or so he hoped. The ploy did not work: Esarhaddon poured scorn on the Šubrian king and accused him of shutting the stable door after the horse had bolted (his actual words were “you are putting in drainpipes after the rain!”).

This fascinating text gives us some idea about the prevailing ideological values attached to slavery: it was a debased condition, associated with sin and humility, and with a certain manner of dress (“sackcloth,” Akkadian *bašāmu*) and items of bondage. The grindstone placed in the statue’s hand symbolizes hard, repetitive labor: milling was a task that we know was often carried out by prisoners. This composition presents us with a vivid image of how the king Esarhaddon supposedly conceived of the state of slavery, bringing us as close to the concept of “social death” as the contemporary Mesopotamian sources permit. However, we are dealing here with royal rhetoric, heavily interlaced with mythology relating to the god Ninurta. The problem, then, lies in determining the extent to which this picture can be reconciled with the reality of slavery as experienced in daily life, or indeed if the two can be reconciled at all. The contemporary legal and administrative documents and letters shed little light on this issue, although there is one extant court record that offers a rare, albeit terse, insight into social attitudes towards slavery. According to this tablet two men bring a lawsuit on behalf of their brother (or colleague); their complaint is (unusually) presented verbatim: “Why do you tread down our brother in slavery?”¹³ They are then recorded as paying a sum of silver to redeem the man from his fetters, in return for which he has to serve them for three years and [x] months (a common occurrence when a debt was paid off by a third party).

The Sources of Slaves

At this period slaves could be acquired or could enter the state of slavery by four principal routes: (1) purchase or other means of transfer between individuals or institutions; (2) being born into slavery; (3) through debt bondage; and (4) being captured as a prisoner-of-war. These routes to enslavement correspond quite closely to the sources of servile laborers that Tenney (2011a: 122–129) identified for Kassite-period Nippur.

Purchase of slaves

Slaves could be bought, either from another slave-owner or from a merchant. The merchants typically specialized in supplying slaves from abroad, especially Anatolia (Radner 1997: 227–230), and merchants in general tended to be associated with the palace (Radner 1999: 101–103). We also have cases of people selling members of their own family;¹⁴ this is presumably an indicator of economic hardship, although background information on the circumstances is typically absent.¹⁵ Transfer of slaves within the family is also attested, for example, through inheritance or dowry.¹⁶ When known officials feature as the buyer of slaves, it raises the question of whether they are acting in a private or an official capacity (or indeed whether such a distinction is meaningful).¹⁷

House-born slaves

References to slave marriages and to slave families make it clear that slaves could be born within the household to which their parents were attached. Two Assyrian terms, *unzarḫu* and *ša šīme*, have been understood as “house-born slave” and “bought slave,” respectively. Although Radner (1997: 205) considered *unzarḫu* to be the counterpart of *ša šīmi*, it should be stressed that *ša šīmi* is attested in a private context but *unzarḫu* is not; rather, all attestations of *unzarḫu* have the royal court as their background. This raises a number of possibilities: (1) that house-born slaves tended not to be sold outside of the household; (2) that if they were sold, then a different term was used (e.g. *urdu*, *amtu*); (3) that the term *unzarḫu* refers to a restricted group of slaves associated with the royal court, and that is why it does not feature in the sale contracts. Otherwise, we find quite frequent references to family groups of slaves, which makes it clear that slaves were not normally detached from their immediate kin, although this certainly could happen.¹⁸ In fact, slave-owners could actively foster the creation of slave families: in a number of documents (e.g. SAA 14 nos. 34, 37 and 38) an Assyrian official is attested to be buying a female slave as a wife for one of his male slaves (Radner 1997: 169–171). The slave-owner was presumably acting in his own interests, to maintain or increase his stock of slaves by facilitating the production of slave offspring and to encourage

social harmony within his own household. With respect to this latter point, it is worth noting Tenney's finding that very nearly all of the servile laborers in Kassite-period Nippur who managed to escape were males without family ties (Tenney 2011b: 141–142); he concludes from this that family responsibilities were a strong deterrent to flight.

Enslavement via debt bondage

A debtor or a dependent of his could become the slave of his creditor if the debt was not repaid on time. In theory this state of slavery was temporary, that is, it would be terminated by repayment of the debt, but this must often have proved impossible. Sometimes the debt was paid off by a third party, whom the debtor then had to serve, normally for the rest of his life (Radner 2001: 280–284). Security for debt is a related issue: in this case the debtor placed one or more people at the disposal of the creditor until the debt was repaid. These pledged people were normally dependents of the debtor – typically women and children – but occasionally slaves were handed over. It is not always easy to determine whether a person given as debt security was originally free or a slave. In the case of non-slaves given as security, there remained the possibility of permanent enslavement if the debt were not paid off.

Captives taken as prisoner-of-war or booty

Some captives were certainly enslaved, but the extent of this seems to have been rather limited. In his comprehensive study of mass deportation, Oded considered three likely routes via which captives became enslaved (Oded 1979: 110–115). In the first place, they could be incorporated into the permanent (and sometimes mobile) labor forces in order to provide manpower for public works around the empire. For example, an inscription of Esarhaddon records, “At that time, by means of the prisoners from the lands that I had conquered with the help of the god Aššur, my lord, I repaired (and) renovated the dilapidated parts of the ruined wall, city gates, (and) palaces, which are in Kalhu” (RINAP 4 159, no. 78: 37–38). In the second place, captives could be distributed among the personnel, both civilian and military. In these cases the royal inscriptions often state that the captives were distributed “like locusts” or “like sheep.” This imagery, no doubt intended to reinforce the impression of great numbers, has a dehumanizing effect (though such comparisons are found in relation to non-human booty, so they are also a more general feature of royal rhetoric). In the third place, captives could be allocated to the temple in order to boost the workforce that supported it. Despite Oded's characterization of these scenarios as enslavement, it is difficult if not impossible to trace what happened to the captives once they had taken up the place allocated to them in Neo-Assyrian society, and it's questionable whether all or even many of them were actually considered to be slaves, even though many no doubt ended up working

under servile conditions.¹⁹ It remains difficult to determine what – if anything – distinguished these people from the majority of deportees, who simply became Assyrian subjects and were effectively assimilated into the Neo-Assyrian state.

There is likely to have been some differentiation among captives according to their level of skills and/or their former status: these factors would have influenced their subsequent position, both in terms of the household or institution to which they were allocated, and in terms of their standing within that household thereafter.²⁰ It is clear that skilled foreign captives, who might include the palace personnel of defeated kings, were highly valued by the Assyrians. For example, an inscription of Sennacherib records how he plundered the palace personnel of the Babylonian king Marduk-apla-iddina:

I rushed to Babylon and entered the palace of Marduk-apla-iddina (II) (Merodach-baladan) to take charge of the possessions and property therein. I opened his treasury and brought out gold, silver, gold (and) silver utensils, precious stones, beds, arm-chairs, a processional carriage, royal paraphernalia of his with gold (and) silver mountings, all kinds of possessions (and) property without number, a substantial treasure, (together with) his wife, his palace women, female stewards, eunuchs, courtiers, attendants, male singers, female singers, palace servants who cheered up his princely mind, all of the craftsmen, as many as there were, (and) his palace attendants, and I counted (them) as booty. (RINAP 3/1 34, no. 1: 30–33)

Such people would most likely have been deployed in Sennacherib's own palace or in the households of high-ranking members of his entourage,²¹ as is clear from a similar passage in the inscription of Esarhaddon that I discussed above:

With regard to ... [...], a group of charioteers, a group of cavalry, commanders of ..., officials, [engin]eers, troops, light troops, shield bearers, scouts, farmers, shepherds, (and) orchard keepers – [I add]ed (them) in great numbers to the massive fo[r]ces of the god Aššur and to the guard of the former kings, my ancestors, and I filled Assyria in its entirety like a quiver. I distributed the re[st of them] like sheep and goats among my palaces, my nobles, the entourage of my palace, and [the citizens of Ninev]eh, Calah, Kalzu [and] Arbela" (RINAP 4 84, no. 33 iii 16'–22').

These people had no say in their fate, but again it remains completely open as to whether any of them actually became enslaved. Personally I doubt that many of them were. Above all else, the Assyrian king wanted a labor force that was both loyal and productive because he was interested in generating revenue. Thus, we have a number of letters from the royal correspondence in which the king berates officials for failing to supply deportees with what they needed. His concern for the welfare of these displaced persons reflects a desire that they should be settled and become self-supporting as quickly as possible. However, there is also an element of the king representing himself as shepherd of his people, a well-known strand of the prevailing imperial culture and ideology that united all Assyrian subjects, regardless of their origins (Parpola 2007: 264).

Exit from slavery

Manumission does not feature in the Neo-Assyrian documentation, raising the question of whether this is because manumission did not happen, or because it is simply not reflected in the surviving sources. It may be significant that there is no Neo-Assyrian equivalent to the Neo-Babylonian term for a “tablet of free status” (i.e. a manumission document) (*tuppi mār-bānūti*), nor is there any counterpart to the Neo-Babylonian words for a “freedman” (*zakū*) or “freedwoman” (*zakītu*) (see Kleber 2011: 101–102). It was possible to redeem a person (whether slave or free) who had been taken into debt bondage by repaying the sum owed, but in cases of permanent slavery death or escape appear to have been the only means of exit. In fact, these two outcomes are envisaged in the slave sale documents, some of which contain a clause indemnifying the buyer against the flight or death of the slave.²²

Terminology and Definitions

The various Neo-Assyrian terms for “slave” and the text types in which they occur have recently been treated in detail by Karen Radner;²³ for reasons of space, I shall confine my discussion here to the most common term, *urdu*. In spite of Radner’s nuanced exposition and close contextual analysis of the terminology, there is one significant respect in which her interpretation of the term *urdu* differs markedly from the alternative interpretation put forward by other scholars in recent years. As I noted at the beginning of this chapter, the word *urdu* can denote relationships of subordination, including, but not limited to, slavery. This potentially poses a problem of interpretation when it comes to an individual who is not the object of a sale but who is nevertheless designated as an *urdu* of another party, typically in the format “*urdu* of so-and-so” or “*urdu* of x-official” (where the official is often high-ranking). It is also quite common for people in this category to be designated by a specific office or profession in addition to *urdu*. Many such individuals feature as witnesses to legal documents, and some also occur as principal parties to transactions. The question of whether these people should be interpreted as “genuine” slaves, or simply as subordinates or employees of the other individual or official, is critical to understanding the conditions of Neo-Assyrian slavery, in particular, the slave’s agency. Radner (1997: 220–222, 225) assumes that such people *were* slaves and that therefore slaves could conclude legal transactions and serve as witnesses. Ahmad and Postgate (2007), on the other hand, adopt a considerably more minimalist position in their discussion of some men who sell their sisters, according to two of the texts that they edit. These men are designated “slave of” the Palace Herald or of a certain Marduk-šaduni (no. 7), and “slave of the Queen” (no. 20), respectively. They remark, “These sellers can hardly be chattel slaves or they would not have held the rights of legal ownership of their relative, and it seems likely that the use of ʾR [= logographic writing of *urdu*]

here expresses only the relationship of members of staff to their ‘boss’...” (Ahmad and Postgate 2007: ix). In support of their interpretation, some of the *urdu*s attested in this role as another individual’s employee also bear offices or professions themselves. While (chattel) slaves could practice a profession, such as “baker,” there are other instances of *urdu*s bearing offices that are most unlikely to have been held by true slaves, in particular, military positions such as “chariot driver.”²⁴ It seems only reasonable to conclude that these *urdu*s were indeed employees or subordinates, rather than true slaves, and for this reason the minimalist position of Ahmad and Postgate seems to me preferable to that of Radner. This brings us back to the observation made above, that we are on much firmer ground when dealing with those slaves whom we know to have been bought and sold in the “regular” sale contracts.

The Social Order

The metaphorical use of *urdu*, operating at multiple levels to denote an individual’s relationship to his superior (and the king’s relationship to his god), can be considered to reflect the social hierarchy, with the king at the top of the earthly order and the slave at the very bottom. As noted above, this nuanced usage of *urdu* was not confined to Assyria, but had a long history within Mesopotamia. In terms of how society and the administration worked, the implications are that the higher one moved up the social hierarchy, the more subordinates (*urdu*s) accrued to an official, reflecting his status and power. In concrete terms, then, we might expect a rough correlation with the size of the official’s household, measured by the number of personnel attached to it. All this aligns nicely with Nicholas Postgate’s argument that the Neo-Assyrian term *bēt bēlē* (“masters’ house”) signified the bureau or department for which an individual worked, from the point of view of that employee (Postgate 2007: 353–358). The term *bēlu* (“master,” “lord”) is the counterpart to *urdu* in that it could denote a slave-owner on the one hand, or an employer or superior on the other. This brings us back to the importance of the household, since the *bēlu* would typically have been the head of a household, whether domestic or institutional (or a combination of the two, as is likely in the case of officials’ bureaux). Thus the terminology relating to slavery – and to subordination in general – is intimately bound up with the ways in which the administrative apparatus and its workings were represented in writing by Assyrian officials, reflecting what Postgate (2007) has called the “invisible hierarchy.” In his view, the Assyrian administration was not bureaucratic but rather “depended on a sense of institutional loyalty and personal interaction up and down the system” (Postgate 2007: 358). In this context the social relationships embodied in the term *urdu* were a cornerstone of the system. Similarly, in the political sphere *urdu* was used to denote someone who was loyal (or disloyal) to the king, including not only Assyrian subjects but also allies and vassal rulers.

The notion of honor, as elucidated by Patterson (1982: 77–101), is no doubt integral to this conceptualization of the social order, though this aspect is – somewhat predictably – elusive, given the nature of the sources and the dearth of narrative. Again, the Esarhaddon inscription discussed above is illustrative: the Šubrian ruler put on the “garment of a sinner” as part of his self-imposed descent into slavery, all the while praising the king’s heroism. Among the more mundane sources, however, it is difficult to isolate a concept of honor. It certainly played a part in the rhetorical strategies employed by officials when writing to their colleagues and superiors, in line with the modes of personal interaction discussed above. As far as slaves are concerned, though, the everyday sources shed no direct light on their dishonored state.

Conclusions

In the foregoing paragraphs I have discussed some key issues relating to the study of slavery in the Neo-Assyrian period. Cross-cultural comparison remains a challenge, thanks to the problem of definition that is exacerbated by the use of partially overlapping and (to us) ill-defined and even obscure terms, and by the multiplicity of categories of low-status personnel with varying conditions of dependency, whose status remains uncertain. Orlando Patterson’s conceptualization of slavery as “the permanent, violent domination of natively alienated and generally dishonored persons” is one that resonates with the characterization of slavery presented in the royal inscription of king Esarhaddon that I drew on above. I suspect that this particular passage reflects an ideologically extreme attitude toward slavery in the sense that it tells us more about how the ruler wished to portray the plight of his defeated enemy than about the actual conditions of Assyrian slaves.²⁵ This is not to imply that the reality of slavery was necessarily more benign, but simply to point out that it served the king’s purpose to highlight the extreme: unfortunately, we lack the voice of the slave that might serve as a corrective. As for the question of natal alienation, the written evidence is sparse but it does seem likely that slaves (and perhaps other groups, such as low-status deportees) could be deprived of their social and family ties if that is what their master wished. It may well be that their lack of rights in this respect marked them out from other sectors of society, though there were compelling social and practical reasons for slave-owners to support and maintain slave families, and perhaps also social constraints operated to protect them.

Notes

- 1 The research presented here was conducted within the framework of the project “Royal Institutional Households in First Millennium BCE Mesopotamia,” led by the author at the University of Vienna and funded by the Austrian Science Fund (FWF grant S 10802-G18) as part of the National Research Network “Imperium and Officium: Comparative Studies in Ancient Bureaucracy and Officialdom.” For the abbreviations used in citing documents, see the list at the beginning of the References.

- 2 A similar observation has been made for ancient history (Lewis, Chapter 2 in this volume).
- 3 Edition: Lambert 1960: 139–49. The slave responds approvingly to each successive plan put forward by his master, even when the latest plan runs completely counter to the preceding one. In the end, the slave breaks with this pattern to propose that only death is the desired outcome, and when his master threatens to kill him first, the slave responds that his master would not outlive him even by three days. The poem has been read as underlining the master’s dependency on the slave; see, e.g. Nemet-Nejat 2013: 78–79.
- 4 A number of the Neo-Babylonian judicial records discussed by Wunsch involve slaves. Her first dossier (1997/98: 62–67) centers around the status of children born to a woman who was formerly a slave; the court determined that the children born before her manumission document was drawn up remained slaves, while the son who was born later was not a slave and could not therefore be sold. Note also the case of Barik-il, discussed by David Lewis (this volume, Chapter 2: 40) based on the tablet *Nbn.* 1113, according to which the slave claimed that he had been manumitted but could not prove it.
- 5 See already Oppenheim 1964: 74–75, who wrote that the Mesopotamian slave population “was at all times rather small and in private hands.” For an important exploration of the Ancient Near Eastern concept of freedom, debunking the view that all subjects were by definition unfree, see Von Dassow 2011.
- 6 For example, the Neo-Babylonian *širkus* (“temple oblates”) recently studied by Kleber 2011.
- 7 Though given that one of the means of entrance into this servile workforce was through the purchase of slaves by the city governor (Tenney 2011a: 123), perhaps the terms *urdu* and *andu* were used to distinguish those acquired in this way, just as the Assyrians later used the term *ša šime* “bought (slave)” (see below).
- 8 There are some hints as to the forced break-up of slave families in the Neo-Assyrian documentation (see below).
- 9 The classic study of mass deportation remains that of Oded 1979. On the assimilation of foreigners into the Assyrian state and the effects of this process on the composition of society, especially the elite, see Parpola 2007.
- 10 There are clear parallels here with the fashioning of prophylactic figurines during the performance of apotropaic rituals; see Wiggerman 1992 on the combined textual and archaeological evidence.
- 11 The *asakku*-demon features elsewhere in the text: the account of the Assyrian conquest of Uppumu, capital city of the Šubrian ruler, begins with a date, 21 Ulūlu (month six), which is described as “an evil day, a bad day, the birth(day) of the *asakku*-demon” (RINAP 4 33 ii 3). On that day the Šubrians sprinkled the Assyrian siege ramp with naphtha and set fire to it, but on the instigation of the god Marduk the north wind blew the flames back onto the city and burnt its wall, thus enabling the Assyrians to take the city.
- 12 See Maul 1998: 74 on this topos in Neo-Assyrian royal inscriptions; on Esarhaddon as Ninurta, defender of the divine world order, see Parpola 2001: 185–186 and Annus 2002: 99–100.
- 13 ...*a-ta-a* PAB-*u-ni* / *a-na* ÌR-*a-nu-te ta-kab-ba-as-šú* (Jas 1996: 31–33, no. 16: 6–7).
- 14 For example, in SAA 14 38 a woman is sold by her two brothers and two sons to Kakkullānu as a wife for his slave Urdu-Nabû. The woman is described in l. 8 as the

- “slave” of her four sellers who are also her close kin. This raises questions about the status of her sons.
- 15 On the sale of relations see Postgate 1976: 26.
 - 16 Inheritance: SAAB 9 71; VAT 20363. Dowry: 11 persons including two bakers, a fuller, and a hat-maker are given to Ba’alti-iabati by her father in SAA 14 155 (627* BCE).
 - 17 See, for example, the apposite comments of Ahmad and Postgate (2007: ix–xi) regarding the dossier of the palace scribe Nabû-tuklatū’a (active c. 800–765 BCE) excavated in the North-West Palace at Kalhu.
 - 18 Fales (2009–2010: 174), reviewing Galil’s 2007 book *The Lower Stratum Families in the Neo-Assyrian Period*, raises the possibility that children could be separated from their parents in Neo-Assyrian slave sales, and that sometimes slave women and their children could be sold separately from their husbands. He also suggests that there may have been “forced demographic selection” of young girls (Fales 2009–2010: 181). However, other reviews have expressed caution regarding use of the statistics presented in Galil’s study; see Radner 2008 and Baker 2009. Further evaluation of the data is advisable, especially in the light of Tenney’s (2011a) analysis of the demographic data on the servile population of Kassite-period Nippur.
 - 19 In the case of one slave sale document, a woman and her daughter are described as “booty from Elam which the king gave to (the city) Assur” (VAT 9755, edited by Faist 2009), but such explicit statements are extremely rare.
 - 20 Cf. Toledano 2011: 87–88, who observes that Ottoman slaves of the eighteenth century or later enjoyed more or less favorable conditions, depending on the status of the household to which they were attached and its proximity to the imperial center. His model takes into account the tasks of the enslaved, the stratum of the slavers, the location (core or periphery), type of habitat (urban, village, or nomad), gender (male, female, or eunuch), and ethnicity. Owing to the nature of the sources at our disposal we are far from being able to build up such a detailed picture for the Assyrian empire, yet Toledano’s study provides a possible framework for interpretation.
 - 21 The distribution of human booty in this way should be viewed also within the context of gift-giving at court, since it was a means of demonstrating royal favor toward the elite who would in turn have passed on some of the benefits to their own subordinates.
 - 22 A typical clause runs: ÚŠ ZÁḪ *ina* UGU EN.MEŠ-šú, “(If) he dies (or) flees, the responsibility is upon his owners” (SAA 14 108 r. 3, dated 637* BCE). An alternative clause protects the buyer against the slave developing epilepsy within 100 days. On the formulation of the sales of persons, see Postgate 1976: 25–28.
 - 23 Radner 1997: 202–248. The various categories of palace slaves and their roles are discussed in the doctoral thesis of Melanie Groß 2014.
 - 24 For example, the witnesses to SAA 6 1, a slave sale document dated in 742, include nine men who are described as *urdānu* (LÚ.ARAD.MEŠ, r. 17) of the chief eunuch. Among them are a chariot driver, Aššur-šallim-ahhe (r. 11–12), and a “third man (on a chariot),” Sin-iddina (r. 12).
 - 25 For example, although the statue allegedly made by the Šubrian king is placed in fetters “as befitted slavery,” the textual sources attest to the use of fetters for enemy captives and criminals but not normally for slaves. See, for example, the passages cited in CAD B 254–255 s.v. *birītu* 4. The court record cited above (Jas 1996: 31–33, no. 16) is an exception and it cannot be entirely excluded that its reference to redeeming the man from fetters is a metaphorical rather than a literal representation of his condition.

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Orlando Patterson, Property, and Ancient Slavery: The Definitional Problem Revisited

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Taxonomic debates once loomed at the forefront of studies of ancient slavery, and the definition of slavery and classification of what were often held to be unusual statuses (such as the helots of Sparta, the Hellenistic *laoi*, or the late Roman *coloni*) the subject of heated discussion (see in particular Finley 1980, Finley *et al.* 1981; de Ste. Croix 1981). In the past thirty years, however, these questions have aroused less interest among ancient historians, who have paid more attention to other areas of investigation, among them demography, slave agency, and the practical operation of slave economies (cf. the remarks of Hodkinson 2008: 286–289). Orlando Patterson's *Slavery and Social Death* (1982), with its radical claim that slavery should not be defined in terms of property, thus appeared at a time when ancient historians were moving away from the classificatory debates that had preoccupied the likes of M. I. Finley and G. E. M. de Ste. Croix; the result has been that Patterson's stimulating claims have generated less debate among ancient historians than would have been the case had they been published a decade earlier.

This fact should not lead us to underestimate the influence of Patterson's work in studies of ancient slavery, which has been substantial, especially in British and American scholarship.¹ A multitude of scholars follow his definition.² This warm reception that Patterson's book has received among ancient historians is surely deserved: not only is its ambition and scope remarkable, his views also regularly challenge received wisdom and repeatedly display penetrating insights. But unfortunately, those ancient historians who follow Patterson's definition tend to mark their allegiance to his approach in footnotes, and leave it at that; the debate that

Patterson set in motion has generated little critical engagement among ancient historians. What criticism there has been of Patterson's definition has mostly followed the same format.³ This chapter therefore aims to take up the challenge laid by Patterson regarding the definition of slavery. It will engage critically with his claims, and suggests that despite the many merits of *Slavery and Social Death*, the definition given in its opening chapters needs to be re-thought. This chapter takes two different ancient societies as comparative test cases to highlight the utility of different approaches to defining slavery: classical Athens, and Babylonia during the seventh through fourth centuries BCE.

The "Property Definition" and Patterson's Critique

Until the appearance of *Slavery and Social Death*, scholars generally defined slavery in terms of property and ownership: the slave was an article of property (the object of the relationship) held in ownership (the relationship itself) by his or her master (the subject of the relationship). This definition had a distinguished pedigree, going back to antiquity: for example, Aristotle defined the slave as an "animate (lit. 'en-souled') piece of property" (*ho doulos ktêma ti empsykhon*: Aristotle, *Politics* 1253b32), and Florentinus (*Digest* 1.5.4) stated that slavery is "an institution of the common law of peoples by which a person is put into the ownership of somebody else, contrary to nature" (*servitus est constitutio iuris gentium, qua quis dominio alieno contra naturam subicitur*). There were, of course, variations on this theme, such as the definition of a slave common in Soviet scholarship as "a person deprived of the means of production and subject to extra-economic coercion (...) merely a thing belonging to his master" (Dandamaev 1984: 72; Diakonoff 1981: 15). But this still took the property relation as its definitional kernel. Perhaps the most well-known definition formulated in terms of property is that promulgated by the League of Nations in 1926, which defined slavery as "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised" (see Allain 2008). By and large, definitions formulated along these lines served perfectly well over the years, and scholars did not feel the need to probe more deeply into the concepts of "property" or "ownership" themselves. It was this approach that Patterson attacked in 1982.

In the opening pages of *Slavery and Social Death*, Patterson sets out his reasons for rejecting property as the basis for a definition of slavery:

My objection to these definitions is not that I do not consider slaves to be property objects. The problem, rather, is that to define slavery only as the treatment of human beings as property fails as a definition, since it does not really specify any distinct category of persons. Proprietary claims and powers are made with respect to many persons who are clearly not slaves. Indeed, any person, beggar or king, can be the object of a property relation. Slaves are no different in this respect. (Patterson 1982: 21)

According to Patterson, the notion of property is too inclusive and open-ended to “specify a distinct category of persons.” But what exactly does Patterson mean when he writes about the term “property”? The answer can be found on the next page of *Slavery and Social Death*,

If we do not accept the Roman and civil law conception of absolute ownership, then ownership, stripped of its social and emotional rhetoric, is simply another name for property; *it can only mean claims and powers vis-à-vis other persons with respect to a given thing, person or action. This is what a master possesses with respect to his slave; it is also exactly what a person possesses with respect to his or her spouse, child, employee or land.* (Patterson 1982: 22, my italics)

Property, in Patterson’s view, amounts to “claims and powers vis-à-vis other persons with respect to a given thing, person or action.” He provides several examples to illustrate the open-endedness of the concept of property that render it useless as the basis of a definition. We may look at two such examples in order to see the concrete implications of Patterson’s reasoning.

First is his claim that an American husband is part of the property of his wife. “We never express it in this way, of course, for it sounds quite ghastly. Nevertheless, in actual and sociological terms a wife has all sorts of claims, privileges, and powers in the person, labour power and earnings of her husband” (Patterson 1982: 22). Second, Patterson turns to the position of American football stars, who were traded between clubs with little or no say in the matter until 1975. “While the terms of the transaction differ, there is *no substantive difference* in the sale of a football idol such as Joe Namath by his proprietors, the New York Jets, to the Los Angeles Rams, and the sale of a slave by one proprietor to another” (Patterson 1982: 24, my italics). Both examples show that for Patterson, any sort of legal claims and powers between persons amounts to a property relation: this is why “any person, beggar or king, can be the object of a property relation.”

Patterson’s reasoning runs along the same lines as that of several Africanists working on the definition of slavery during the 1970s. I. Kopytoff and S. Miers, who wrote a few years before the publication of *Slavery and Social Death*, argued that to say that what makes a person a “slave” is the fact that he is “property” is to say, in effect: “A slave is a person over whom certain (unspecified) rights are exercised. This does not tell us what rights are involved nor how they differ from the rights of a kin group over its ordinary members.” Because of this, “to define ‘slavery’ as ‘the legal institutionalisation of persons as property’ (...) is not very helpful” (Kopytoff and Miers 1977: 11). If this conception of property is correct, then Kopytoff, Miers, and Patterson are quite correct to reject it as the basis of a definition.

A second strand of Patterson’s thinking on the notion of property must also be highlighted, for it is key when we come to formulate any cross-cultural definition of slavery. Property, in his view, is a society-specific (and thus not

cross-culturally valid) concept. Upon asking the question, “what is ownership?” Patterson responds:

Immediately we open a Pandora’s box filled with at least two thousand years of jurisprudential clutter. The prevailing view of ownership, which persists as a fundamental legal concept in continental civil law and is now universally employed as a social concept in countries such as Britain and America *in spite of its irrelevance to common law*, is the Roman view that it is a set of absolute rights *in rem* – things, usually tangibles, sometimes also intangibles. (Patterson 1982: 20, my italics)

In other words, the “Roman” concept of ownership is only applicable to civil law systems that derive from Roman law; it is “irrelevant” to common law jurisdictions that derive from a different lineage, and presumably also to other non-civil law systems. In a recent study, Patterson has re-emphasized this point: claiming that the 1926 League of Nations definition is a “narrowly conceived Western approach,” he writes that “most traditional societies had no such formal systems of law and it is anachronistic, as well as legally ethnocentric, to claim that legal ownership was generally asserted in the old systems of slavery. Exclusive legal ownership is a distinctive principle originating in ancient Roman law and is not attested in many traditional systems of law” (Patterson 2012: 323). It is easy to see why, holding these assumptions, Patterson believed it necessary to jettison the legal definition, and look elsewhere for a common denominator that could identify the distinctive attributes of slavery in comparative perspective. Patterson thus re-defined slavery as “the permanent, violent domination of natally alienated and generally dishonoured persons” (Patterson 1982: 13).

Patterson’s claims, if correct, compel us to reject the traditional approach to defining slavery and to search for alternatives. But are these two claims – that the property approach cannot designate a distinct category of persons, and is cross-culturally inconsistent – warranted?

The Concept of Ownership in Legal Theory

The most important discussion of ownership in modern legal theory is that of A. M. Honoré (1961), but this key essay does not appear to have been consulted by Patterson.⁴ A brief discussion of this study will place us in a good position to see the weaknesses of Patterson’s analysis. Honoré sought to identify those aspects of ownership that remained the same across all human societies, and those which varied from one place to the next. Looking cross-culturally, Honoré was struck by the remarkable consistency of the technical content of ownership from one society to the next; this did not only apply to modern nation-states such as Britain, the USA or the Soviet Union, but also to pre-industrial societies such as the Trobriand Islanders famously studied by Malinowski. Honoré defined ownership as the “greatest possible interest in a thing which a mature system of law recognises” and

broke down the aspects of this relationship into a number of “incidents.” Yet at the same time, Honoré’s view of ownership was not rigid or overly mechanical, for it admitted cross-cultural variations in several areas. We may summarise his view of the cross-culturally consistent and cross-culturally divergent aspects of ownership as follows.

*Cross-culturally consistent aspects of ownership*⁵

Right to possess. Honoré found that in all of the societies he investigated, there was a clear recognition of a right of possession. This amounted to more than a *de facto* recognition that a specific item of property might be in a certain person’s keeping at a certain time. Rather, it recognised that an owner had an exclusive *right* to possession of that property, one that was not shared by other members of society. This aspect is closely linked to the protection of this right (see *right to security*, below).

Right to use. Ownership in all societies is the “greatest possible interest in a thing which a mature system of law recognises.” This means that the owner’s liberty to make use of his property is more extensive than any other form of legal interest; an owner’s rights over his property constitute an “open list,” the limits of which are set by the stipulation that an owner cannot use his property in an illegal manner (see *prohibition of harmful use*, below). By contrast, contractual relationships are generally hemmed-in by all manner of restrictions and provisos that prescribe yet limit (for example) a borrower’s ability to make use of hired goods.

Right to manage. Ownership of property entails the right to decide how and by whom one’s property may be put to use. For example, “an owner may not merely sit in his own deck chair but may validly license others to sit in it, lend it, impose conditions on the borrower, direct how it is to be painted or cleaned, contract for it to be mended in a particular way” (Honoré 1961: 116).

Right to the income. If an owner chooses to loan his property to a third party, he is the rightful recipient of any income generated by that loan. Likewise, the owner of a field and its crops reaps the benefits of a harvest, just as the owner of a fruit tree gains the fruits that grow upon it.

Right to capital refers to the right of owners to alienate their property, which normally amounts to sale or gift. This transfers the rights of ownership to the new owner, who may in turn alienate the property if he wishes.

Right to security. Owners of property in any society are guaranteed exclusive rights to their property and protection of their possession. This means that third parties cannot interfere with the property, damage it, or take it from the owner without due cause. All legal systems, then, provide rules on damage and theft that protect the rights of owners and set out the means by which owners can recover stolen property or receive compensation if this is not possible.

Transmissibility and absence of term. Ownership in all societies involves an aspect called “duration.” This comprises two features: *transmissibility* and *absence of term*.

An owner's rights over his property are essentially permanent: unless he chooses to alienate his property, or unless the property is seized by the state or a third party for legally legitimate reasons (see *liability to execution* below), his interest in the item is permanent. If a man buys a watch from a shop, he does not have to give it back after a certain period of time (this aspect marks an important difference from legal arrangements such as hire and usufruct). *Transmissibility* means that the permanence of this interest is so strong that it outlasts the lifespan of the owner: the property thus passes to his heir after the owner's death. The watch, then, passes to a new owner rather than reverting to, for instance, the state. Different societies will construct different rules on wills, intestate succession, and so on, but the principle that the property passes to heirs is common to all human societies.

Prohibition of harmful use. One common myth is that ownership is an absolute right. In fact, ownership has never constituted a set of absolute rights in any society: being an owner involves responsibilities and restrictions as well as various liberties (see Birks 1985). The principle of *prohibition of harmful use* means that an owner cannot use his property to illegal ends. For example, a person might own a car, but he cannot drive that car on to private land without permission, nor drive without insurance, never mind run over his neighbour with it.

Liability to execution. Another aspect of ownership in all societies is the fact that although owners generally enjoy exclusive rights of possession, some circumstances allow third parties to deprive the owner of his property. One common instance lies in loan agreements, where owners can pledge their property as security for a loan, meaning that in the event of default, creditors can seize the property and dispose of it. Individuals with taxes in arrears in modern Britain or the USA might also have items of property seized by the government. In certain circumstances, too, the state may seize property. For example, when Baron Haussman remodeled Paris in the 1850s, the French state's interests trumped those of private property owners, allowing him to demolish large parts of the city and rebuild it to his own design. Likewise, the UK government is currently planning a high-speed rail link between London and Birmingham, and is forcibly purchasing land and houses lying on the proposed route. There is a limit, then, to owners' rights over their property, and when the interests of private owners run up against the interest of the state, it is often the latter that triumphs.

The owner's "rights" over his property, then, are always subject to publicly imposed limitations, though their specifics vary from one society to the next. There are three specific areas of ownership that vary cross-culturally.

Cross-culturally variant aspects of ownership

Who can own? Ownership of property is often limited to different groups of persons in different societies. For example, in classical Athens, only citizens were allowed to own land; metics (resident foreigners) were only able to rent land and houses.

As a modern example, one could note that only individuals who hold the correct licence in the UK can own firearms, and so on.

What can be owned? Another area of variation is the notion of *what* can be owned. For example, the UK government classifies some substances as class A drugs, banning their ownership altogether. Other countries take a more liberal line, permitting private ownership of these substances. In the former Soviet Union, various things such as factories could not be owned by private individuals. Many nomadic societies lack a concept of land ownership due to the itinerant nature of their lifestyles, which has generated the erroneous belief among many people that these societies have no concept of property whatsoever.⁶

Restrictions on ownership. Even if two societies permit the same sort of person to own the same kind of property, the specific rules that govern the use of that property will invariably differ. For example, a person may own the same model of car in the UK, France, or Germany; but in the UK, he may only drive it up to 112 kilometers per hour. His French counterpart can drive a little faster, up to 130 kilometers per hour. But in Germany, where large stretches of the Autobahn lack speed restrictions, one might drive the car at the highest speed that can be coaxed out of the engine.

To sum up: ownership is a relationship found in all human societies, and it contains certain standard features common across all cultures. Yet this is not a rigid approach, in so far as it permits cross-cultural variation in several areas. Like the human body, then, the skeletal structure of ownership is the same worldwide, but the finer details that lay flesh on these bones inevitably vary from one legal culture to the next. Ownership manifests as a plurality of specific local forms sharing a common underlying structure.

If Honoré's analysis of ownership is correct, it creates major problems for Patterson's approach. Before we return to look at the flaws in Patterson's analysis of the "property definition," however, it is necessary to show how the notion of ownership outlined above does map accurately onto slave law in two very different ancient societies.

Two Ancient Case Studies

It is one thing to claim that Patterson has misunderstood the notion of property that he so famously attacked. However, to argue in favor of a property-based approach requires a concrete illustration of its utility, and cannot be based on mere assertion. The following section therefore takes two very different ancient societies as test cases: Athens during the classical period, and Babylonia during the Neo-Babylonian and Achaemenid periods. Both are pre-Roman and cannot be accused of deriving from a Roman legal lineage. It should be emphasized that I am not claiming that either of these societies had anything resembling a "theory" of ownership. Such jurisprudential understanding follows rather than precedes the practical utilization of private property; and it would be difficult even today to find

a man on the street who possesses an abstract understanding of property such as that found in Honoré's study.⁷ On the other hand, this lack of an abstract theory of ownership does not inhibit the average person from buying and selling, from reporting theft to the authorities, or from inheriting the property of deceased relatives. In other words, I am not trying to impute an abstract "actor's category" to the Athenians or Babylonians, but rather attempting to show that Honoré's "observer's" approach *accurately describes the practices* of these peoples.

Classical Athens

The Athenians had a sophisticated practical understanding of property law. Slave-holders in Attica were recognized as holding a special interest in their human property that was backed up by legal sanctions against those who might infringe that right. Attic law thus implicitly recognized a *right to possess* and *right to security* with regard to slave ownership. For example, one individual who falsely asserted that an Athenian man's slave was in fact free was brought to trial, convicted of making a false claim, and fined 500 drachmas, half of which went to the public treasury (Demosthenes 58.19–21). Theft of a slave was illegal: in Demosthenes 47.52–53 the speaker complains of a man named Theophemus who had seized one of his slaves; because Theophemus had not won any suit against him giving him the right to collect damages, the seizure was tantamount to theft. In Athenian law, claims over the ownership of slaves were treated alongside those for animals ([Aristotle] *Athenian Constitution* 52.2). The principle of *right to security* was subject to restrictions, however: in most cases, only a slave's owner could beat his slave ([Xenophon] *Athenian Constitution* 1.11), but there were a few exceptions, such as if a man's slave trespassed onto another man's property in order to steal his goods (e.g. [Demosthenes] 53.16; Aristophanes, *Acharnians* 271–276); the state could also punish privately owned slaves for several public offences (Aeschines 1.138–139; *IG* ii² 380; 1362). Killing another man's slave was illegal, and procedures enabled masters to bring the killers to trial (Isocrates 18.52; cf. Lysias 13.64–65).

Athenian slave-holders held the *right to manage* their slaves and a *right to the income* generated; they could set them to any sort of work, and could hire them to third parties (Xenophon, *De Vectigalibus* 4.14–16; Demosthenes 53.21; Theophrastus, *Characters* 30.17). Slaves could (like Frederick Douglass over 2000 years later) work "on their own time," paying a fixed rent to their owners called *apophora*; but they had no legal right to any income they generated, the arrangement being a *de facto* indulgence of the owner. One inscription shows this legal relationship clearly: a man named Adeimantus had his property confiscated following the scandal of the mutilation of the herms and the profanation of the Eleusinian Mysteries in 415 BCE (for the context, see Thucydides 6.26–29). Among his confiscated goods are listed several slaves, including a leather worker named Aristarchus (*IG* i³ 426.14). A little further down the inscription we find a sub-list

of property that had been held by Aristarchus (*IG* i³ 426.24–39). Evidently, though Aristarchus held *de facto* control of these goods – probably living separately from his owner and running a small leather business – legal title resided with Adeimantus, and they were confiscated along with Aristarchus himself when the former was convicted and his goods seized. Slaves in Athens were fully alienable property, i.e. owners held a *right to capital*: they could be sold (*IG* i³ 421–430 *passim*; Xenophon, *Memorabilia* 2.5.2), given away as gifts (Menander, *Samia* 380–382) or manumitted (Antiphon 2.50; Aeschines 3.41–42; Xenophon, *Oeconomicus* 9.13–14; [Aristotle] *Oeconomica* 1344a20–1344b10).

Athenian slave-holders enjoyed considerable *rights of use* over their slaves. For instance, they could physically abuse them: in one revealing passage, a litigant explains to a court how he had previously threatened to torture one of his slaves if she did not provide him with information on his wife’s infidelity (Lysias 1.18–22). Obviously this admission would have harmed his case were there anything like a popular sentiment against abusing slaves; clearly, violent mistreatment of slaves was socially acceptable in classical Athens. In Xenophon’s *Memorabilia* (2.1.16), Socrates asserts that masters keep their slaves in line through beatings and starvation. Elsewhere, the same writer hints at the total sexual domination that owners exercised over their slaves, when he claims that wives are more sexually enjoyable since their consent is required, whereas slave girls have no choice but to submit (Xenophon, *Oeconomicus* 10.12). Owners might also get away with murdering their slaves; this did cause *miasma* (religious pollution), but this could be assuaged through purificatory rituals (Antiphon 6.4; Isocrates 12.181; cf. Plato, *Laws* 868a). The *miasma* caused by murdering a free person was, by contrast, ineradicable, requiring the execution or exile of the perpetrator. There is no evidence from Athens of any restrictions on slave-holders’ rights of use over their slaves of the sort found in later Roman law.⁸

Athenian slaveholders held a permanent and transmissible interest in their slaves (*absence of term; transmissibility*). Several wills provide evidence for the bequeathal of slaves after a slaveholder’s death (Aeschines 1.97; Demosthenes 27.9–11; [Demosthenes] 48.12; Diogenes Laertius 5.11–16; 51–57; 61–64; 69–74). They were also responsible for the actions of their slaves (*prohibition of harmful use*). This is best illustrated in the case *Against Athenogenes* found among the orations of Hypereides. The litigant brought the suit after being allegedly defrauded by an Egyptian metic (resident foreigner) named Athenogenes. The latter owned a slave named Midas and his two sons; the litigant became infatuated with one of the boys, and Athenogenes insisted on selling him the trio rather than the boy alone. However, the sale contract had some unfortunate “small print” that the litigant failed to investigate properly, making him liable for any debts incurred by Midas, who had managed a perfume shop (Hypereides 3.10–11). Normally in Athenian law, when a slave committed a damaging act, the man who owned him at the time when the act was committed was held legally liable (Hypereides 3.22). By adding a transfer of liability into the “small print,” Athenogenes transferred a crippling debt of five talents to the unwitting buyer. Another example can be found in the

speech *Against Pantaenetus*, where it is clear that individuals harmed by slaves had to legally prove the slave's guilt and then proceed against the slave's owner for damages ([Demosthenes] 37.51).

Finally, an owner might have his slave confiscated or seized in certain circumstances (*liability to execution*). We have several examples of the pledging of slaves as security for loans (*IG* ii² 2747; 2748; 2749; 2751; *SEG* 51.162; 54.256; Demosthenes 27.9; 29.37; 30.27; 33.8–9; 53.20), and these slaves could be seized and sold if the borrower defaulted. Slaves could be seized by the state, such as in the case of those convicted following the scandal of 415 BCE noted above (*IG* i³ 421–430); and sometimes they were freed by the state in times of military emergency (Aristophanes, *Frogs* 693–694; cf. [Aristotle] *Oeconomica* 1350a).

The ten incidents of ownership set out by Honoré therefore map well onto Athenian slave law. Let us now turn our attention eastwards.

Babylonia (Neo-Babylonian and Achaemenid periods)

Very little in the way of legislation *per se* exists for this period of Mesopotamian history; our fuller legal codes, such as those of Hammurabi or Lipit-Īštar, come for the most part from an earlier epoch (Roth 1995: 1–9; Westbrook 1995). To a great extent these deficiencies are negated by an abundance of legal documents from private and temple archives (see Jursa 2010: 6–13 for an overview). We do possess, however, a fragmentary set of laws from Sippar, c. 700 BCE, which mention slavery, and allow us to see that the principle of the *right to possess* was clearly observed in this culture in relation to slave ownership. LNB 6 sets out rules regarding slave sales: if someone sold a slave woman who did not belong to him, and the rightful owner made a claim to regain possession of his slave, the fraudulent seller had to compensate the buyer for the capital amount paid as set out in the sale document. This clearly shows that Babylonian law recognized the owner's legitimate title to his slave; it also shows that the rightful owner could regain his slave, which demonstrates his *right to security*. As in Athens, Babylonian courts were able to determine the status of individuals in disputed cases. Nbn 1113 describes how status distinctions could be enforced. A slave named Bariki-ili lodged a complaint claiming that he was a free man; the case came to court, and Bariki-ili's owner presented documents that showed that he had been bought, pawned, and then later given away as part of a dowry. The court asked Bariki-ili to produce the document that would prove he had been manumitted; he was unable to do so, and he soon confessed to having twice run away and then made a false claim to being a free man. The court then had him returned to his owner (translation in Dandamaev 1984: 441–442). In this concrete instance we can see a similar picture to that given in LNB 6: Babylonian law protected the master's rights of ownership over his slave and put procedures in place to keep the slave under the master's control.

Slave-owners in Babylonia during this era had an extensive *right to use* in respect to their slaves. It was common to brand slaves, which clearly marked them out as

the property of a particular person. This seems to have been a standard practice throughout the Persian Empire, and we find it as far from the Babylonian heartland as Egypt.⁹ In Camb 143 we find a slave who had her master's name branded on her hand in both Akkadian and Aramaic, which made her easily identifiable among readers of these scripts.¹⁰ Masters could sleep with their slaves (Dandamaev 1984: 133); and they could chain their slaves up if they proved recalcitrant. One particular solution to slaves repeatedly attempting to escape known from this period was a type of workhouse, where slaves could be chained to their tasks. The master could be thus freed from the concern of constant supervision – for a fee, of course (Dandamaev 1984: 235–238). Because of the nature of our documentation, we possess little direct evidence for the beating of slaves by their masters (there is no equivalent, for example, of Attic comedy, or the generalizing literature on treatment of slaves of the kind which we find in Xenophon), but a good deal of evidence shows that many slaves ran away from their masters, which surely indicates that mistreatment occurred (see Snell 2001; Dandamaev 1984: 220–228; Westbrook 1995: 1670–1673).

As we might expect, the Babylonian owner had full rights of management over his slave. He could decide how to employ his slave, and for whom he might contract the slave to work if he were to hire out the slave. Slaves worked in many sectors of the Babylonian economy: in agriculture, leatherworking, shoemaking, seal engraving, weaving, sack-making, dyeing, baking, carpentry, building, brewing, metalworking, and as barbers. They were used for domestic work, and sometimes acted as business agents for their masters (see Dandamaev 1984: 246–320; Jursa 2010: 232–239). The master could also hire his slave out as a prostitute. In Nbk 409 we hear of an arrangement by which a Babylonian named Nabu-aḥḫe-iddin hired out his slave girl to a brothel-keeper named Kalba. According to the agreement, the brothel keeper received a quarter of the slave girl's income for his work as a pimp bringing in clients; the owner received a three-quarter share.

The principle of *right to the income* is also clear in Babylonian slave law, and can be seen quite explicitly in the documents Nbn 679 and 682, which concern a slave woman named Amtija employed as a prostitute by her master, Itti-Marduk-balaṭu. In Nbn 679, the master makes an agreement by which Nur-Sin, evidently a popular client, was to pay him and him alone for the privilege of sleeping with Amtija; in a later document (Nbn 682), the client has changed (this document concerns a certain Guzanu), but the principle remains the same: Guzanu must pay Itti-Marduk-balaṭu three sūt of barley per day to have sex with Amtija. There is no indication whatsoever that Amtija is to be paid for her services. In Babylonia there also existed an arrangement along the same lines as the *apophora* arrangement at Athens. This payment was known in Akkadian as *mandattu*, and, as at Athens, it was the master who ultimately owned any of the possessions accrued through the slave's work. In Dar 509 we find the master of one such slave stepping in to safeguard his financial interests and overriding any *de facto* control the slave may have had over his "*peculium*." The slave, Madanu-bel-ušur, had a contractual relationship with a man named Bel-upaḥḫir, and the latter owed him money.

When Bel-upaḥḥir refused to pay the debt, Madanu-bel-ušur's owner demanded that either Bel-upaḥḥir prove that the contract was false, or pay him (i.e. the owner) the full amount owed (Dandamaev 1984: 390–391).

Babylonian masters had a *right to capital* in respect to their slaves. They could sell, give, or manumit the slave as they wished, and one document in particular demonstrates that a single slave might be alienated numerous times and pass to a number of different owners in the course of his life. Cyr 332 describes the purchase history of a slave named Mušeziḫ-Šamaš, who was originally owned by a man (whose name is not preserved) and his wife Ajartu. He was then sold to a new owner, Nur-Šamaš; later, Nur-Šamaš gave Mušeziḫ-Šamaš to his wife, Burašu, in place of half a mina of silver that constituted her dowry. After Nur-Šamaš died, his wife remarried, and her second husband, Tabbanca, pledged Mušeziḫ-Šamaš as security for a loan of half a mina of silver in what appears to be an antichretic arrangement. The loan was evidently paid off, because the document tells us that the couple in turn sold Mušeziḫ-Šamaš to a new owner for one mina and fifty shekels of silver (see Dandamaev 1984: 192). Masters could also manumit their slaves. In Nbn 697 we see a striking parallel to the Greek practice of *paramone*, which was a form of manumission by which the slave received his freedom but was legally obliged to provide determined services to his ex-owner, failure to do so sometimes resulting in re-enslavement (see Wunsch and Magdalene 2014). In our Babylonian example a man named Iqiša drew up a document bestowing freedom upon his slave Rimanni-Bel, on condition that the slave provided him with food and clothing; on receipt of the document, Rimanni-Bel fled, and did not fulfil his obligations. Iqiša canceled the deal and re-enslaved Rimanni-Bel, giving him as a gift to a woman named Esagil-ramat. A very similar situation can be observed in Cyr 339, where a woman named Ḫibta manumitted her slave Bazuzu on condition that he supply her with a certain amount of food, beer, salt, and wool. Unfortunately, the documentation surviving on manumission is not extensive enough to determine whether or not this Babylonian equivalent of *paramone* was commonplace (see Dandamaev 1984: 438–455; Westbrook 1995: 1648–1651).

The duration of slavery in Babylonia was permanent; it encompassed both the incidents of *transmissibility* and the *absence of term*. Slaves were bequeathed in wills: in YOS 6 143 we hear of a division of slaves between two beneficiaries: Ištar-mukin-apli and his uncle Nabu-mušetiq-uddi; likewise, in Camb 365 we can see the division of six slaves as well as a sum of money among members of a wealthy Babylonian banking family (Dandamaev 1984: 213; see also Porten 1996: 199–201 [# B 33]). This leads us to the incident of *absence of term*. As property, the Babylonian slave was held indefinitely; although the owner was free to emancipate his slave, he was under no compulsion to do so. In TMH 2/3 121 we hear of a slave woman named Nana-rešua pledged as security for a loan, with the proviso that in the event of default, the slave would belong to the creditor “for all time” (Dandamaev 1984: 142). The contemporary Aramaic slave-sale papyri from Wadi Daliyeh also demonstrate this principle, since they stipulate that upon sale a slave becomes property of the buyer and his sons after him in perpetuity (see Gropp *et al.* 2001 no. 1 lines 1–4).

As in Athens, the use of slaves for purposes deemed harmful by the law was prohibited. In YOS 7 189 we can see this principle in action. Two slaves, named Pudija and Ša-Nabu-taqum, physically assaulted a herdsman and stole the flock he was in charge of (which belonged to a temple of Ištar). The owner of the slaves, a man named Kina, was required to produce his slaves before a court, and if he failed to do so, liability lay with him to compensate the temple for the stolen property (Dandamaev 1984: 420–428). Finally, slave ownership in Babylonia entailed a *liability to execution*. Slaves could be pledged as security for loans, and could be taken by the creditor in the event of default, and became the creditor's property. In the document TMH 2/3 121 (which we have just considered in relation to *absence of term*) we can see such a situation: a woman named Aḫušunu pledged her slave Nana-rešua as security for a loan of one mina and fifty-two shekels of silver, and in the event of default the contract stipulated that Nana-rešua would belong to the creditor, Nabu-šum-ukin, for all time (Dandamaev 1984: 142; see also Westbrook and Jasnow 2001 *passim*). Slaves could be confiscated for other reasons. In YOS 3 165: 32–34, for example, we hear of a man who owed taxes to the state and had fled the country along with his son; the governor of Uruk took possession of his slave and confined him to a workhouse (Dandamaev 1984: 237–238).

Though stemming from a completely different legal lineage, Babylonian slave law admits the same basic cross-cultural incidents highlighted by Honoré that we can see at work in Athens. Though in their individual details these may manifest in a distinctive fashion in either society, the basic areas of similarity (or “incidents”) are concrete and clear.

Patterson's Approach: A Reappraisal

We are now in a position to return to Patterson's criticism of the “property definition” and determine whether or not his claims about the problematic nature of property are warranted. We have seen that Patterson equates property with “claims and powers vis-à-vis other persons with respect to a given thing, person or action.” This description could apply to almost any legal relationship. As we have seen from the analysis of Honoré, however, the powers and responsibilities of owners constitute a far more specific list: this is why an American husband is decidedly *not* the property of his wife, nor a football player the property of his ball club. An American wife cannot surrender her husband to her creditors should she run up an enormous credit card bill; neither can she bequeath her husband to her heirs, nor can she assault him with a weapon. To be sure, she has rights in respect of her husband, but these are the rights of the marriage contract. Likewise, ball clubs could not retain the services of players indefinitely, only for the term of the contract. This is of key importance: Patterson's conception of property is *sui generis*, and very different from the standard understanding of property in modern legal theory. He collapses the distinction between ownership and contractual relationships. None of Patterson's criticisms of “property” work when applied to the notion of property set out by Honoré.

It is not difficult to trace the origin of Patterson's conflation of property and contractual relationships. In his *The Origin and Development of the Moral Ideas* (1906), the Finnish philosopher Edward Westermarck rejected the idea of the slave as property:

Now the master's right of disposing of his slave is not necessarily exclusive; custom or law may grant the latter a certain amount of liberty, and in such case his condition differs essentially from that of a piece of property. The chief characteristic of slavery is the compulsory nature of the slave's relation to his master. Voluntary slavery, as when a person sells himself as a slave, is only an imitation of slavery true and proper; the person who gives up his liberty confers upon another, by contract, either for a limited period or forever, the same rights over himself as a master possesses over his slave. If slavery proper could be based upon a contract between the parties concerned, I fail to see how to distinguish between a servant and a slave. (Westermarck 1906: 670–671)

Here is not the place to criticize this remarkably confused set of assertions – among other problems, Westermarck is seduced by the false idea of “absolute ownership” – and his definition of slavery as a sort of compulsory labor is so vague as to include anything from serfdom to peonage and convict labor. More important is the fact that this view is the clear precursor of Patterson's criticism of the “property definition.” Patterson cited and endorsed Westermarck's view in an essay of 1977, claiming that compared to the traditional property definition, “Westermarck's view is by far the more satisfactory of the two.”¹¹

What of Patterson's claim that the property definition is a “narrowly conceived Western approach”? (Patterson 2012: 323). We may recall his assertion that “most traditional societies had no such formal systems of law and it is anachronistic, as well as legally ethnocentric, to claim that legal ownership was generally asserted in the old systems of slavery. Exclusive legal ownership is a distinctive principle originating in ancient Roman law and is not attested in many traditional systems of law.” Such a statement may appear *prima facie* to draw on a broad anthropological data set, but in fact this view is rather misleading. The late Jack Goody has rightly written that “the widespread idea that individual property rights are an invention of Roman law – or of the west – completely overlooks the sophisticated analysis by anthropologists of the jural order in oral cultures” (Goody 2006: 58; cf. 59–60; 144). Legal anthropologists have shown that even societies with extremely low levels of social and technological development can display surprisingly sophisticated systems of private property.¹² As Benson has written, “The emphasis on private property may seem surprising to those who think of tribal society as some sort of socialist or communal system. On the contrary, however, private property rights are a common characteristic of primitive societies; they constitute the most important primary rules of conduct.”¹³ Moreover, we have seen that the cross-cultural notion of ownership sketched above accurately describes the legal position of slaves in Babylonian law, a system that can hardly be described as “western,” and which owed nothing to Roman law whatsoever.

A further point is worth emphasizing. We noted earlier that Patterson's views on property as a "western" concept developed at a time when some Africanists were calling into question the relevance of the property definition. In particular, Kopytoff and Miers delivered strong criticisms of this approach since (in their opinion) property was an open-ended concept and did not help with understanding various African forms of slavery. In fact, M. I. Finley pointed out the obvious error in their approach in his *Ancient Slavery and Modern Ideology*. Specifically citing Kopytoff and Miers, he wrote:

First, a host of, let us say, African statuses and status terms are translated as "slaves"; second, it is observed that at essential points these so-called slaves are extremely unlike the slaves of classical antiquity or of the Americas; third, instead of reconsidering their appellation "slaves" to their own subjects, these anthropologists angrily protest the "ethnocentrism" of "western" historians in order to provide a place for their own pseudo-slaves.¹⁴

Finley's point has been generally ignored, but unjustly so: it is incisive and correct. The definition of slavery in terms of property has a lengthy intellectual pedigree. It cannot casually be cast aside in favor of alternative formulations in order to accommodate other forms of dependent status simply because some scholars have (mistakenly) fallen into the habit of labeling these statuses "slavery" and wish to continue doing so.

If Patterson's criticism of the traditional, property-based definition of slavery rests upon a major misunderstanding of the category of property (and thus cannot be maintained), we still cannot ignore his substitute definition of slavery as the "permanent, violent domination of natively alienated and generally dishonoured persons." Is this alternative definition valid, and can it serve as a viable alternative approach? What are its strengths and weaknesses?

First, we must realize that of the four elements stressed in Patterson's definition – permanence, violence, natal alienation, and dishonor – the first three are direct consequences of the property rights of slave-holders. The permanence of the condition is simply a result of what we might call the "duration" of the owner's legal interest: as we have seen, ownership is a legal relationship without term limits, and extends beyond the owner's lifetime to include the principle of transmissibility. The violence associated with slavery is a result of the owner's *right to use*: in other words, the legal rights of the owner equip him with the powers to inflict violence on the slave. What Patterson calls "natal alienation" results from the owner's power to alienate his slave (*right to capital*): the owner's ability to give away or sell his slave to a new owner trumps any *de facto* social or familial ties that slaves might establish.¹⁵ Thus we are dealing less with a real substantive difference between Patterson's approach and the traditional property definition than a shift in perspective: the property definition looks at slavery from the vantage point of the owner, Patterson's definition from the vantage point of the slave, focusing on the social consequences of the master's rights of ownership.¹⁶

Dishonor is a somewhat different variable; but it is this aspect of Patterson's definition that has proven most problematic, for slaves cannot be simply removed

tout court from the dialectic of esteem and honor that characterize social relations in any society, even if slave status does usually carry some taint of dishonor; and besides, some slaves (e.g. the eunuchs of Late Roman courts or the Viziers of the Ottoman court: see Hopkins 1978: 172–196; Toledano, in this volume, Chapter 7) commanded immense respect and esteem, and are particularly difficult to crowbar into Patterson’s honor-free conception of slavery.¹⁷ I wish to challenge Patterson’s definition of slavery, however, on two further counts. First is a matter of utility, second is a matter of sharp edges – or to paraphrase Patterson himself, specifying a distinct category of persons.

The real acid test comes in terms of utility. We have looked a little at the evidence for slavery in Babylonia: how can one use Patterson’s definitional approach on cuneiform material? Notions such as honor are not easily visible in these genres, which for the most part comprise rather dry business documents.¹⁸ While the legal approach based on the concept of ownership can facilitate clear distinctions between slaves and non-slaves, Patterson’s approach hardly allows us to get off the ground. Perhaps a clearer way to demonstrate the practical problems of Patterson’s definition is to consider a recent essay by Patterson himself, which analyses slavery in the “Homeric Age” using his own definition. Individuals labeled *dmoes* and *dmoai*, unsurprisingly, fall within his definition of slavery; but rather remarkably, so do individuals called thetes. It is clear from Homeric texts that thetes were unattached laborers who might reside with a family for a while and work for wages (*Odyssey* 18.351–364; *Iliad* 21.441–447). Patterson’s loose conception of slavery thus elides two very distinct status groups in early Greece, erasing what are essentially quite clear status boundaries.¹⁹

Second, Patterson is quite right to note that the purpose of a definition in socio-historical inquiries is to specify a distinct category of persons. Does Patterson’s definition outperform the traditional property formulation in this respect? There are, in fact, good reasons to believe that it does not. The four elements stressed by Patterson – permanence, violence, natal alienation, and dishonor – can be found in a wide variety of relationships that would not be considered “slave–master” relationships. Life sentences in some of the world’s more brutal prisons would certainly fall well within this remit, as would the condition of inmates of Nazi concentration camps during the Second World War (see Flaig 2009: 13–15). Some sexual relationships in which one partner violently dominates the other can also fulfill all of Patterson’s criteria. Whereas the “property definition” outlined above is extremely precise in its ability to determine who is or is not a slave, Patterson’s criteria are too loose: like the thetes of Homer, all variety of conditions can fall through the wide mesh of Patterson’s definitional sieve and thus be defined as “slavery.”

A Further Twist

In an essay published in 2012, Patterson has sought to defend his definition from the criticisms of Kevin Bales, who has argued that whilst Patterson’s definition works for historical cases of slavery, it causes problems when applied to slavery’s

modern manifestation (Patterson 2012: 323). His riposte against Bales is convincing, highlighting the methodological weaknesses in Bales' extremely loose conception of slavery. In so doing, Patterson modified and updated his 1982 definition. He recasts natal alienation as "social isolation" to take into account the fact that modern slave-holders cannot fall back upon the law to enforce their ability to isolate the slave from his or her family, instead relying on force and terror (Patterson 2012: 324). He also takes what is ostensibly a step closer to the traditional property definition by stressing the corporeal possession of the slave by his or her master (Patterson 2012: 326). Patterson's updated definition states that slavery is "the violent, corporeal possession of socially isolated and parasitically degraded persons" (Patterson 2012: 329).

In some ways, this recasting of his definition is an improvement on its predecessor; in other ways, it is not. It is difficult to see the substantive difference between parasitic degradation and dishonor; indeed, Patterson continues to stress that a slave is a person without honor (Patterson 2012: 325). Violence is still there, as is natal alienation, in its new garb as "social isolation." Corporeal possession may seem to imply ownership, but *sensu stricto* possession is a potentially ephemeral condition, whereas ownership is a permanent right. Permanence has dropped out of Patterson's recast definition, and this is problematic. He removes this facet since in his eyes, modern slavery is usually not a heritable condition; but as Allain and Hickey have recently reminded us, modern slavery is based on force and not on law; the "permanence" of the condition holds in relation to the slave-holder's ability to detain the slave (Allain and Hickey 2012). The removal of permanence from Patterson's new definition is not an improvement on its predecessor; indeed, his recasting of the definition is vulnerable to many of the objections that apply to the 1982 definition.

A Return to the Property Definition

There seems to be a reaction occurring in some quarters of slavery studies against the degree of definitional imprecision that has become *de rigueur* in recent years. Joel Quirk has pointed out the loose employment of the term by the United Nations (UN) Working Group on slavery, "where slavery has arguably come to be little more than short hand for virtually any form of severe ill-treatment and exploitation" (Quirk 2009: 32). Jean Allain and Robin Hickey have highlighted the emotional capital that labeling various exploitative conditions as "slavery" carries: whilst this has clearly had positive effects in stirring international efforts against various forms of injustice, it has had adverse effects intellectually.²⁰ The way forward, it seems, is not to jettison property-based approaches, but to investigate exactly what terms such as "property" and "ownership" mean in a concrete sense, rather than to rely on some intuitive or workaday sense of what they might constitute. As we have seen, slavery is something much more specific than the forms of "severe ill-treatment and exploitation" to which Quirk refers; Finley was right

when he wrote that “slavery is a species of dependent labor, and not the genus” (Finley 1968: 308). To that one might add that it is an *historically distinctive* species of the genus of dependent labor, and something we find worldwide, *because* it is founded on a universal institution with common features across all societies, viz. ownership.

We have seen that Patterson’s definition of slavery is too broad, and that his reasons for rejecting the property definition are based on a flawed conception of ownership. However, with some modifications we can retain his approach as an important research strategy. We first need to realize that definition is a taxonomic tool, not an analytical tool: it serves to tell us what slavery is as a category, but it cannot tell us how slavery operates in practice. Human beings have been held as property in a large number of societies, but the specific legal, economic, and cultural manifestations in which this condition has been rendered are legion and truly diverse. To establish what other features of slavery are common across this vast array of distinctive regional configurations requires more than just classification, and this is where Patterson’s approach retains considerable value. As a tool of classification, it is flawed, but as a tool of analysis, it is invaluable. Instead of a zero-sum standoff between Patterson’s definition and the traditional property definition, we should move toward a more productive synergy. Accepting the property definition as a taxonomic tool, we can proceed to use Patterson’s variables (permanence, violent domination, natal alienation, and dishonor) as an analytical strategy to understand the most basic and cross-culturally consistent *social effects* of slave ownership. This shifts the perspective to the slave himself (or herself), allowing us to gain a more rounded understanding of slavery as a historical phenomenon.²¹

Patterson’s stress on the effect of slavery on the slave, then, should rightly be viewed as one of the major intellectual legacies of *Slavery and Social Death*. Another major contribution cannot be passed over without mention: he has provided compellingly grounds for dispensing with the strange mantra long repeated by historians of ancient slavery that only five “genuine slave societies” existed in world history.²² For these substantial advances, we owe a debt of gratitude to Patterson for his erudition, originality, and labor. The challenge for the future is to build upon the ambitious foundations laid in *Slavery and Social Death*, and to refine and modify its picture as society-specific studies of slavery are improved and our methodologies honed.²³

Notes

- 1 Patterson’s definition has had less impact outside the world of scholarship in English: Andreau and Descat 2006: 18–19 treat it as self-evident that a slave is by definition the property of his or her owner, though Patterson 1982 appears in their bibliography; more positive is Flaig 2009: 13–15, who notes that the institutionalized nature of slavery and the ability to sell the slave help us to distinguish slavery from other forms of “Unfreiheit,” but in his discussion of the essence of slavery (“das Wesen der Sklaverei”)

adopts a sociological approach inspired by Meillasoux (1991) and Patterson (1982: 16–22). See also July 2010; Hermann-Otto 2002. Ismard 2015: 21–22 warmly endorses Patterson’s approach. In this chapter Greek and Roman sources are cited in full; for more details on individual authors, see the *Oxford Classical Dictionary* (fourth edition, 2012). Sources in square brackets indicate that the text has been handed down in the corpus of a particular author, but was not written by him; thus [Demosthenes] 59 was probably written by a man named Apollodorus, but has been passed down from antiquity in the corpus of Demosthenes’ speeches. For inscriptions, *IG* refers to the series *Inscriptiones Graecae*; *SEG* refers to *Supplementum Epigraphicum Graecum*. Babylonian laws are referenced as in Roth 1995; other Babylonian documents follow the system of reference found in Dandamaev 1984.

- 2 For ancient historians writing in English who employ Patterson’s approach: Fisher 1993: 5–6 gives both definitions equal standing without preferring one over the other; Patterson’s definition is accepted by Bradley 1994, and more closely endorsed by Morris 1987: 174; likewise Thalmann 1998: 24; Scheidel 2002: 176; Zelnick-Abramovitz 2005: 25–27; Dal Lago and Katsari 2008: 200; Rankine 2011: 35; Kleber 2011. Patterson 2008 has attempted to analyse slavery in Homeric Greece using his own definition, for which see p. 46 in this essay. Cartledge 2011: 79 endorses Patterson’s approach; elsewhere (Cartledge 2003: 17) he suggests that ownership is an anachronistic concept to apply to the Greek world. Hezser 2005: 26 realizes that slaves were property but stresses also the utility of Patterson’s approach, cf. Kamen 2012. Luraghi 2002: 233 rightly (in my opinion) argues that the helots were slaves, using Patterson’s definition. Hunt 1998: 14 uses Patterson’s definition to (incorrectly, in my opinion) de-classify the helots from slave status, and in his contribution to this volume argues that they should be classified as serfs. The status of the helots is a large issue that I cannot adequately treat here, but I will set out my reasons for viewing them as privately owned slaves in my book *Greek Slave Systems and their Eastern Neighbours: A Comparative Study* (Oxford University Press, forthcoming).
- 3 Harper 2011a: 35 n. 11 notes, in relation to Patterson’s view, “Definitions that identify the commodification of the human person as the essence of slavery are more persuasive.” Cruz-Uribe 1982: 65–67 criticizes Patterson in some detail, but his useful essay has not received the attention it deserves. Harris 2002 rightly criticized Patterson’s understanding of ownership and expressed the desire to treat the topic at greater length in the future (cf. Harris 2012). The title of Vlassopoulos 2011 ostensibly appears to be a defense of Patterson, but this is not so; Vlassopoulos is not concerned with defining slavery, but with the general orientation of slavery studies: too much focus on the legal, property aspects of slavery, he argues, results in a lop-sided picture of the slave experience that ignores the agency of slaves themselves. This is quite correct. In this study, my focus on definition is not meant as an alternative to studying slave agency. Rather, I see slavery as a multi-faceted phenomenon; the legal position of slaves is one facet of many, their agency another, and neither can be neglected if we wish to produce a rounded understanding of the phenomenon.
- 4 Honoré 1961 remains the basis of all modern discussions of the category: cf. Allain and Hickey 2012: 925 n. 35.
- 5 Honoré does in fact include an eleventh incident: “residual character.” This is important, but I omit it from my list since it is a principle that is indemonstrable for nearly all historical legal systems, whether it applied or not.

- 6 Itinerant hunter-gatherers often own few personal possessions, and those they do have are easily replaceable; their need for mobility precludes the extensive accumulation of goods. This trend is described well by Sahlins 1972: 11–13. One should not, however, equate this underdeveloped sense of materialism with an underdeveloped concept of private property; the distinction is a fine but a crucial one. This issue is discussed later in the essay.
- 7 Cf. Malinowski 1926: 42, in relation to the Trobriand Islanders, “the honourable citizen is bound to carry out his duties, though his submission is not due to any instinct or intuitive impulse or mysterious ‘group sentiment’, but to the detailed and elaborate working of a system, in which every act has its own place and must be performed without fail. *Though no native, no matter how intelligent, can formulate this state of affairs in a general abstract manner, or present it as a sociological theory, yet every one is well aware of its existence and in each concrete case he can foresee the consequences*” (my emphasis). In other words, pragmatic rules do not require an abstract theory in order to be comprehended and acted upon.
- 8 Nicholas 1962: 69 describes these Roman restrictions as taking “the same form as our legislation for the protection of animals.”
- 9 Driver 1957: 29–30; Porten 1996: 199–201, B33. See also Dandamaev 1984: 229–234; Mendelsohn 1949: 42–50.
- 10 See Beaulieu 2006: 199–200. My thanks to Heather Baker for an update on this document and for pointing me to Beaulieu’s study.
- 11 Patterson 1977: 431. Finley leveled a clear objection to this whole approach, specifically citing Patterson’s 1977 essay: “As a commodity, the slave is property. At least since Westermarck writing at the beginning of the present century, some sociologists and historians have persistently tried to deny the significance of that simple fact, on the ground that the slave is also a human being or that the owner’s rights over a slave are often restricted by the law. All this seems to be to be futile: the fact that a slave is a human being has no relevance to the question whether or not he is property; it merely reveals that he is a peculiar property” (Finley 1980: 73 with note 18). Patterson 1982: 369 n. 21 wrote – regarding this comment – “There remain some differences between his interpretation and mine, but they are largely matters of emphasis and conceptualization.” This rather misrepresents Finley’s point, which was to completely reject the approach of Westermarck that Patterson followed, and to endorse the property definition.
- 12 For example, Pospisil 1971: 66: “A house, a boat, bow and arrows, fields, crops, patches of second-growth forest, or even a meal shared by a family or household is always owned by one person. Individual ownership (...) is so extensive in the Kamu valley that we find virgin forests divided into tracts which belong to single individuals. Relatives, husbands and wives do not own anything in common. Even an eleven-year-old boy can own his field and his money and play the role of debtor and creditor as well.”
- 13 Benson 1989: 8. The idea that primitive societies exist in a social stage preceding the existence of private property – an idea found in the works of Marx and Durkheim – was already strongly contested on empirical grounds some ninety years ago: see Malinowski 1926, esp. pp. 17–21.
- 14 Finley 1980: 69. In fact, the property approach works perfectly well for African societies: see Lovejoy 2011: 2.
- 15 Hunt (in this volume, Chapter 3) suggests that it may be the case that property status follows natal alienation rather than vice-versa. This is an interesting point; it seems to

me however that the two phenomena are so closely related in a temporal sense as to be almost simultaneous in their occurrence. In the Greek world, for example, if one captures a person in war, one can sell him or give him away (Xenophon, *Cyropaedia* 7.5.73). As soon as the victim is subject to this power, he can be said to be natally alienated. But as soon as the victor gains this power over the victim, he can be said to own the latter.

- 16 Noticed by Fisher 1995: 5; Harris 2012: 352–353.
- 17 For a more sophisticated view of honor, see Cairns 2011.
- 18 See Baker, in this volume, Chapter 1. Occasionally, however, the documentary record affords us tantalizing glimpses into the world of honor and social prejudice: see Wunsch and Magdalene 2012.
- 19 See Harper’s note on this essay 2011b: 165. On Homeric slavery, see now the important essay of Harris 2012. For further criticisms of Patterson’s work on thetes, see Hunt, in this volume, Chapter 3.
- 20 Alain and Hickey 2012: 918. The work of Jean Allain has brought a great deal of clarity to what has been a very confused field of scholarship. See Allain and Hickey 2012; Allain and Bales 2012; Allain 2012. On the “property definition” Ulrike Roth reminds me that the *paterfamilias* in early Rome had powers amounting to ownership over his children; one could make the same point for pre-Solonian Attica and parts of the ancient Near East. It is interesting in this regard that as long ago as 1910 Nieboer wrote, “Slavery is the fact that one man is the property or possession of another beyond the limits of the family proper” (Nieboer 1910: 30).
- 21 This approach also helps to explain the legacy of slavery: the legal architecture that asserts and protects the rights of slave-owners might be removed by the government overnight, but that does not cause the historical consequences of slavery to immediately evaporate; indeed, they are still felt today in the US. See Patterson’s perceptive comments in a recent interview: Lambert 2014: 46 (second paragraph).
- 22 This view is found in several basic works, e.g. Hopkins 1978: 99–100; Finley 1980: 9; Fisher 1993: 4; Garnsey 1996: 2. It has taken some time for Patterson’s objections to the list of five “genuine slave societies” to penetrate classical studies, but this is now occurring, e.g. Scheidel 2008: 105 n. 1; Ismard 2015: 21.
- 23 The majority of the work presented here was undertaken as part of a PhD thesis at Durham University, UK, under the supervision of Professor E. M. Harris. I should like to thank Edward Harris for his advice and the many discussions we have had on this topic over a number of years. Ulrike Roth and Kyle Harper commented on a draft of the essay and helped to improve it in numerous respects. I have particularly benefited from a stimulating exchange with Peter Hunt both in person and via email; though we disagree on some key points, Peter has been a model of the gentleman scholar throughout, and our conversations have helped me to improve my piece as well as clarify my thoughts on method.

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Slaves or Serfs?: Patterson on the Thetes and Helots of Ancient Greece

PETER HUNT

Introduction

Orlando Patterson's *Slavery and Social Death: A Comparative Study* has had an immense influence on historians of slavery since its publication in 1982.¹ One might expect that its impact on the study of Greek slavery would be particularly significant, since Patterson, though not a historian of ancient Greece, has shown great interest in the subject. An early cross-cultural, statistical article analyzing the economic correlates of slavery concluded with an extended treatment of archaic Greece (Patterson 1977: 25–33). Greek examples and discussions figured prominently in *Slavery and Social Death*. The first 200 pages of *Freedom in the Making of Western Culture* explored the development of the western ideal of freedom in the context of ancient Greek slavery (Patterson 1991). More recently, Patterson has followed up on his Greek interests in two articles (Patterson 2003, 2008). Three potential areas of impact stand out.

First, Patterson's work is profoundly comparative in the range of societies that he considers. Rather than seeing slavery as a peculiar institution or as only important to a small set of "slave societies," *Slavery and Social Death* has prompted historians to see slavery as a common practice throughout the world and ages. His work would seem to open the door to more wide-ranging and sophisticated uses of comparative history in the study of Greek slavery.

Second, the impact of Patterson's famous definition of slavery in terms of natal alienation is less obvious. On the one hand, city-states, like Athens, do not provide

a fruitful testing ground for whether property or natal alienation best describes the status of slaves: they both do quite well. On the other hand, Patterson's definition and his comparative work may have sensitized scholars to a certain set of issues in slave studies: for example, the deracination of slaves, their dishonoring, and the violence at the heart of the institution.² Even this is debatable since many of these issues have long been preoccupations of eminent historians of New World slavery, whose work is often familiar to ancient social historians.

Third, Patterson likens the status of thetes in Athens before Solon and of the helots subject to Sparta to that of slaves. With his definition of slavery, Patterson has provided an invaluable tool for the comparative-historical understanding of slavery, but its application to groups like the helots and thetes is not persuasive. Some members of these groups may fall within the borderline of slavery, according either to the traditional property definition or according to Patterson's definition, but they little resemble prototypical slaves. Rather, if more insight into the situation of these groups is possible – and given our scanty and undependable evidence that is a big if – what may pay richer dividends is a comparative-historical understanding of serfdom and other forms of peasant dependence.

Accordingly, this essay first discusses Patterson's concept of slavery and then his views on Athenian thetes before Solon's reforms (c. 594) and Sparta's helots in the classical period (500–323 BCE). I shall consider what is at stake in the classification of these groups and, where appropriate, the implications of using Patterson's as opposed to the property definition of slavery.

Patterson's Definition of Slavery

Slavery and Social Death has contributed greatly to the comparative history of slavery. Patterson is well informed about slavery in many places and times and he is thus able to point out parallels and contrasts and make generalizations unnoticed by historians of a single slave system. For example, he points out that birth must have been the "single most important source of slaves" in all societies with large numbers of slaves, a claim which anticipated an important recent argument about the Roman slave population (1982: 132; cf. Scheidel 1997, 2005). Nevertheless, a great part of the influence of *Slavery and Social Death* derives not from Patterson's specific claims about this or that aspect of slavery, but rather from his definition of slavery: "slavery is the permanent, violent domination of natively alienated and generally dishonored persons" (1982: 13). This definition includes several salient aspects of slavery, but does not mention others central to traditional conceptions of slavery.

The permanence of slavery is a striking aspect of the slave's plight and central to most historians' understanding of the institution. Although individual slaves may be freed, this is generally at their owners' discretion and the children of slaves are typically slaves. For example, that the slavery of Jews to Jews in the Old Testament ended in the seventh year attracts discussion and seems to mark this as an anomalous

type of slavery – if it is slavery at all.³ So too, the general dishonor of slaves is manifest. Patterson argues cogently that even high-status slaves, such as the Mamluks, were in certain respects dishonored (1982: 300–331). The role of force in the process of enslavement as well as of violence and of the threat of violence in the maintenance of slavery will surprise few historians. That slavery is a relationship of domination seems almost self-evident. So far, Patterson’s definition breaks little new ground.

Patterson does not mention coerced labor even though that is certainly a large part of the image slavery evokes and frequently the reality. One of Patterson’s main goals and greatest accomplishments explains this omission. Coerced labor was important to many slave systems and was the *raison d’être* of the major New World slave societies, but Patterson aims to include a wider range of slave societies to counteract the myopia that associates slavery mainly with African slaves in the New World. This project requires that he not exclude societies that used slaves primarily as status markers or sacrificial victims. In addition, the enslavement of women as sexual partners was common – for example, in Africa (Lovejoy 2012: 14, 63–65) – but does not easily fit into the category of coerced labor. So Patterson sticks with domination without specifying what use might be made of it: enhancement of status, sexual exploitation, appeasement of the gods, or, of course, hard work.

The parts of Patterson’s definition that we have considered so far – dishonor, domination, permanence, and violence – are salient features of slavery but do not distinguish it from other forms of oppression. For example, societies based on violent domination were and are, unfortunately, a dime a dozen. Nor does the fact that slaves are generally dishonored set them apart. For instance, Eugene Genovese showed in *Roll, Jordan, Roll* that many of the negative characteristics masters attributed to their African slaves in the New World were anticipated in the negative stereotypes that the ruling classes held about the poor in Europe.⁴ Nor does the combination of these properties, violence and dishonor, help us to distinguish slaves. People often prefer to despise and disrespect those they oppress – for which tendency we can cite Patterson (1971) – and thus violent domination tends to go hand-in-hand with the dishonoring of the oppressed. None of these features of Patterson’s definition of slavery distinguishes it and it alone from other forms of oppression.

The crucial part of Patterson’s definition is thus his insistence that slaves have been “naturally alienated” and thus are “socially dead.” Slaves are naturally alienated in that they have been stripped of all the claims that other people possess by birth right, in particular, membership in a given family, clan, village, and community. This social death often takes place in situations, such as war, when actual death would otherwise have been a person’s fate. As a result, slaves are almost always in some sense outsiders – as Finley earlier emphasized (1972: 4) – and lack other acknowledged relationships that might confer countervailing rights and claims to limit the power that their masters hold over them. Patterson stresses that it is the slave’s lack of other legitimate relationships that makes his or her position so abject (1982: 4–6). The criteria of natal alienation distinguishes slavery from other forms

of oppression and most crucially from other extreme forms of oppression that do not involve the severing of a person's familial and social bonds – or, to be more precise, society's disregard of any such ties a slave may possess. So serfs may suffer dishonor, terrible material deprivation, violent physical abuse, and perform coerced labor; they still possess an acknowledged family and often a village or community of some sort.

In contrast to Patterson, traditional definitions of slavery focus on the fact that slaves are property. H. J. Nieboer provides a well-known definition intended to cover a broad spectrum of societies: “a man [or woman] who is the property or possession of another man [or woman], and forced to work for him,” which he eventually simplifies to “slavery is the fact that one man is the property or possession of another” on the ground that ownership of a person includes command of their labor.⁵ Patterson criticizes the property definition of slavery on a number of grounds (1982: 18–27). He claims that all sorts of property claims in people commonly arise – he gives the example of a divorced wife's claim on her former husband's income – but that such claims do not at all imply slavery (1982: 22). One may object that Nieboer, for example, was thinking of full ownership – as described in David Lewis's chapter – and not just any proprietary claim regarding a person. But ownership of people or of things is almost never really full. It possesses properties common in many societies – which is why the property definition of slavery is usually satisfactory – but significant limits on the rights of ownership vary over time and place. They also vary with the type of property. These variations sometimes turn out to be crucial in the case of human property, slaves. Just as real estate may not be alienated outside the family in many traditional societies, slaveholders are often highly constrained in their property rights to slaves. In some cases, they not allowed to manumit slaves, to kill them or to maltreat them in certain ways, to sell them away from their wives, to sell them to the mines or gladiatorial shows (unless guilty of a crime), and in some cases even to sell second-generation slaves at all.⁶ David Lewis argues in this volume (Chapter 2) that a basic core of the concept of property is transcultural, notwithstanding such variations around the edges, i.e. different limits on property rights. I believe that these limits – which vary among societies and types of property, especially human property – go deeper and make the concept of property too amorphous to provide a perfect definition.

Patterson stresses that slaves are assimilated to property in some respects, but not in others. They are usually treated as human agents when they commit a crime; they are subject to punishment by the state. For instance, in classical Greece various public laws specify a monetary penalty for free offenders but a corporal penalty for slaves – at the rate of one lash per drachma in Athens (Fisher 2001: 284 on Aeschines 1.139). Advocates of the property definition sometimes argue that these phenomena just prove that you can't treat a person as a thing. But Patterson is scathing in rebuttal of this “triumphant” claim: what sort of a definition has the logical result that the thing defined cannot exist, especially when this thing, slavery, is an institution attested around the world and across the millennia (1982: 23)? The response that slaves are people treated in some respects as property runs the

risk of Patterson's first criticism: many non-slave people are treated as property in some respects.

These objections notwithstanding, historians have done well enough with the definition of slavery in terms of property. It may not be perfect, but it works pretty well. What is striking is that the definition of slavery in terms of natal alienation and that in terms of property both generally encompass the same groups of people. Patterson's criterion of natal alienation somehow plays the role that "legal property" does in the traditional definition in distinguishing slavery from other severe forms of domination. In this volume (Chapter 2), David Lewis argues that natal alienation is a consequence of the fact that slaves are property – they can be sold away from their families – and that Patterson is simply looking at things from the slaves' points of view and concentrating on the social results of ownership. Patterson does indeed look at social practice and conceptions rather than the law of property, but it may be that the classification of a person as property is a consequence of his or her social death. Persons stripped of their birthrights can be assimilated to property in societies where such a concept exists and is prominent. In simpler societies, however, it might not occur to a master that his captive slave concubine was somehow in the same category as his drinking cup. Through most of history, few or no human rights, that is, rights deriving merely from the fact of being human, were generally acknowledged. So the rights and claims that persons possessed, they possessed by virtue of their membership in a family, clan, village, or community. These natal rights may be all that prevent a person from being utterly subject to anybody more powerful. When a person lacks these ties and thus these rights, s/he can be assimilated to property, as slaves are in the more familiar and complex societies. One advantage of Patterson's formulation is that it converges with the traditional definition in many cases, but allows for a broader spectrum of comparative history in that one can now find slaves in societies that do not have a strong concept of alienable property, but may encompass socially dead, right-less people. Although chattel slavery in most Greek city-states was clear cut, in at least two cases ancient historians encounter categories of oppressed persons whose status is controversial: the humble peasants of pre-Solonic Athens and the helots subject to the Spartans.

Thetes in Pre-Solonic Athens

Difficult issues of interpretation surround the social and economic implications and context of Solon's agrarian reforms in early-sixth-century Athens.⁷ Indeed, no one interpretation may ever command a scholarly consensus. Our evidence is scanty, often late, and hard to interpret. The structure of rural society may well have been complicated with a variety of different classes of peasants, slaves, or laborers in different relations with the wealthy few – who may not have been a homogenous class either. Patterson's overall interpretation of the reforms follows a traditional line of argument: the ending of debt bondage in Athens and the restructuring of the social structure of the countryside contributed to a turn, already

underway, by the Athenian elite to imported slave labor (1991: 66–69). Patterson, however, makes slavery relevant to the debate in a new way: he argues that the Athenian thetes (“laborers”), who after Solon constituted the lowest wealth class among the citizens, were essentially slaves before the reforms of Solon.

First, he argues that slavery was important to the Attic rural society in the late Dark Age and Archaic period, since Attica shows characteristic features that correlate statistically with slave use in other societies: high status of women with freedom of movement, transition from pastoralism to agriculture, frequent warfare, the cultivation of fruit trees.⁸ He posits that warfare led to the import of large numbers of slaves and that such slaves provided the bulk of agricultural labor and that second-generation slaves were probably “huttet up” to a “semi-servile” condition in the villages.⁹ Patterson believes that this was the origins of the thetes in Athens, who thus were virtually slaves, although not according to the (false) property definition:

Thetes were the perfect exemplification of the condition I have called ‘natal alienation’, a fundamental element of slavery. Did this mean that they were slaves? Very likely; or else they were descended from slaves. (2008: 64)

In support he adduces modern examples of such low-status and vulnerable ex-slave populations, the Irewelen of Hausaland and Afro-Americans after the Civil War (Patterson 2008: 64).

Second, Patterson emphasizes Solon’s claim to have brought back to Athens citizens who had been sold abroad and had even forgotten their native language: “It is rare indeed for people to sell the members of their own community abroad. Rare, unless those sold were regarded as slaves or hardly better in status by the sellers” (Patterson 2008: 65). Such a practice, so the argument goes, attests to the powerlessness of the thetes and thus justifies his description of them as slaves. But Patterson’s arguments are open to at least one specific criticism and one general objection.

I am skeptical about the number of Athenians who were actually sold abroad, not to mention how many Solon managed to retrieve after they had forgotten their language. Solon was writing a polemical political poem. Patent lies would not have helped Solon persuade, but exaggerations would. Ransoming and bringing back, say, ten thetes who had ended up enslaved abroad, the child of one of whom reportedly now spoke with a Doric accent, would be sufficient to allow Solon to make an emotive appeal without opening himself to mockery. Admittedly, a class any of whose members not only can fall into debt bondage but also can then be sold abroad as slaves cannot enjoy much power.

More generally, individuals sold abroad were manifestly slaves by any definition, but Patterson can provide no evidence that the thetes as a whole were ever slaves.¹⁰ He cites Garland’s view that the thetes and slaves were not clearly distinguished and quotes John Fine’s general history of Greece to the effect that the thetes were powerless since they lacked family connections in a world where these were crucial.¹¹

He cannot, however, provide any ancient evidence that the thetes fit his definition of slavery: that they did not possess acknowledged social ties such as birth families. In the absence of such evidence, it seems likely that they did possess such ties and hence were not slaves on his definition.

In an earlier work, Patterson made an additional argument that Athenian peasants after Solon were determined as much as possible not to work for others: this result of their experience as slaves tended to encourage the recourse to imported foreign slaves (1991: 67–68). Such a reaction is quite possible, but peasants in general are keenly aware of the dangers of subordinating ties; they are merely unable to avoid them in many circumstances (Scott 1990, e.g. 81; Freedman 1991: 222–223).

It would be rash to deny that there could have been many slaves in early archaic Greece and that their descendants might have become thetes, remaining particularly vulnerable to exploitation. It is just as rash to assert anything like this, regardless of the moderate statistical propensity Patterson discerns. Greek rural social structure before Solon is extremely poorly known. It is a blank canvas on which historians, especially the self-confident, can paint what they choose. When faced with such a void, Patterson turns naturally to slavery, an institution to whose understanding he has contributed so much.

In the case of pre-Solonic Athens, other scholars have opted for an alternative model deriving from analogies to peasant societies: they focus less on the putative natively alienated thetes, and more on the *hektemoroi*, mentioned in our sources, who seem to be a class of peasants subject to some sharecropping or rent agreement (Rhodes 2006: 252–253; cf. Stanley 1999: 180–194). That they or their lands were “liberated” may suggest that they were “bound peasants,” which, as I shall argue below, is the best definition for serfs. Scholars such as John Bintliff describe the state of the lower classes before Solon in terms closely resembling archetypal medieval serfs: they worked the land they lived on subject to rents and owed labor to local magnates (Bintliff 2006: 329; cf. Van Wees 2006: 379, “serf-like”). That Bintliff avoids the term “serfs” is a historiographical phenomenon, which we shall explore below. Whether the debt bondage that Solon eliminated and the obligations of the peasants whose land he liberated were the same thing is not clear (de Ste. Croix 2004: 110–118; Rhodes 1992: 126). In any case, parallels to rural peasant societies and perhaps to serfdom offer more promise for understanding archaic Attica than does Patterson’s slavery hypothesis (e.g. Forsdyke 2006).

The History of the Helots

The tendency to look for slavery is not unique to Patterson, but has also shaped the historical understanding of helots, a class subject to the Spartans, living both in the Spartan homeland of Laconia and in the province of Messenia to its west. In this case, there is at least ancient support for categorizing them as slaves. Ancient, contemporary references to the helots varied between denoting them as a special class, helots, or as slaves, *douloi* in the Greek. Perhaps, the Spartans

preferred to assimilate their harsh rule over the helots, problematic since the latter were unequivocally Greek, with the chattel slavery of “purchased barbarians” practiced throughout the Greek world. In any case, the mainstream view in the twentieth century was that they were not, in fact, chattel slaves. Rather scholars more frequently described them as communal or state slaves, as state serfs, serf-like, or (just) serfs.¹² Jean Ducat’s *Les Hilotes*, however, highlighted parallels between helots and chattel slaves in other Greek cities and argued that the helots were a subcategory of slaves, subject to “l’esclavage de type hilotique” (Ducat 1990: 41–44). More recently, Nino Luraghi has written a series of articles expanding this argument and proposing a radically different history of the helots both in Laconia and Messenia. So both the status of the helots in the classical period and how they got that way are controversial topics.

Slavery and Social Death has played a role in both controversies. First, Patterson notes that throughout history no people have been enslaved as a whole *in situ*.¹³ It seems to require geographic dislocation to strip a large group of people of their natal rights. Although individuals can fall into slavery in their own homeland – as the result of debt for example – whole peoples do not. This rule carries the authority of Patterson’s exceptionally wide knowledge of slavery and has drawn approval from Greek historians. At first blush, it would seem to rule out slavery for the helots, who, historians assumed, were natives. Nino Luraghi, who accepts Patterson’s generalization (Luraghi 2002a: 237 citing Patterson 1982: 110), argues for a more complex story of the helots’ subjection than simple conquest by the Spartans. In particular, the original “conquest of Messenia” seems to have taken place at about the same time that political and cultural entities such as Messenia were first coming into existence. Hence, the argument goes, Spartan dominance should be viewed within the context of the *synoikismos*, the unification of communities, rather than the conquest of a previously existing political entity (Luraghi 2002c: 45–50). Given our terrible evidence for the early archaic Peloponnese this point may or may not be correct. Luraghi’s claim that the helots were a mix of imported slaves with humble local peasants forced into subjection would save Patterson’s rule, since, on this argument, the helots were not a people reduced to slavery in their homeland. There is, unfortunately, no evidence that suggests the importation by war or otherwise of large numbers of slaves by Sparta during the archaic period – and the numbers would have to be large if the helots as a whole are not to be considered indigenous. The other alternative, if Patterson’s rule is to hold, is that the helots are not slaves, but rather serfs of some sort – an option I argue for below. Conquests have often resulted in such a system of exploitation; for example, Hans Van Wees argues that, despite scanty evidence, we can discern several ancient Greek parallels for this process of reducing conquered people to serfdom (Van Wees 2003).

Luraghi bolsters his case with the argument that the story of the conquest of Messenia validated Spartan rule according to a militaristic ideology: the Spartans ruled on the basis of the superiority proved by their military success (Luraghi 2009: 267). Such ideologies are well attested in ancient Greece, but Patterson asks, why did the Messenians adopt this story, which served Spartan interests, were it not true?¹⁴

Patterson's own historical reconstruction emphasizes the difference between helots in Laconia and in Messenia – a topic to which we shall return – and posits different but convergent historical evolutions of their status:

The argument, derived analogously from the cases discussed above, is that the Laconians [helots] had been genuine slaves who had gone through a long process of being hutted up to the status of domiciled, semi-free (or semi-servile) persons. The Messenians, on the other hand, had been free persons resettled in Messenia, who had seen their status gradually reduced to that of semi-free, then virtually enslaved domiciled persons... Slavery, although one that was slowly being changed, best describes the condition of the Laconians, and it is difficult to understand why classicists would want to see anything else. (Patterson 2003: 295–296)

In propounding this theory of historical convergence and the mutual influence of serf-like and slave-like statuses, Patterson puts a great deal of weight on parallels from late antiquity and from Korea, especially just before and after the Koryo unification (2003: 292–295). In both cases, an unfree population, many of whose ancestors were plainly captive or imported slaves, displayed attributes both of serfdom and slavery. Most strikingly, the servile populations in both cases ended up speaking the same language and sharing in the same culture as their rulers and enjoying considerable security of tenure. Patterson's point that at various times in history we find subjected classes who do not fit neatly into the category of slave or serf is well taken and is one we shall revisit. The possibility of different starting points and convergence between Messenian and Laconian helots remains speculative given how tenuous our sources for archaic Sparta are. Indeed, in the absence of archaic evidence, his model is no more compelling than the reverse picture: Laconian peasants fell gradually and sporadically into deeper and deeper subservience; the Messenians were treated as slaves after their original conquest, but over time it required too much supervision and (costly) violence to keep them in slavery – one might invoke Patterson's rule – hence the share-cropping system. I would not argue hard for such a reverse reconstruction, but mention its possibility to underscore the difficulty of reconstructing social arrangements where both textual and archaeological evidence is so sparse and inconclusive.

Helots as Property

Although still controversial, the helots' position in the classical period is better known than the history of their subjection. The traditional view that helots were serf-like rather than slave-like predated *Slavery and Social Death* and so proceeded according to the traditional historical understanding of slavery as a system of coerced labor in which people are treated as property. Were the helots slaves according to this definition? An underlying reason for hesitation derives from the communal nature of Spartan society. Ancient portrayals of Sparta tended to focus

on the egalitarian ideal among its elite, on the primacy of the community, and on limits to the private ownership of property – including in one period a ban on the possession of coinage, gold, and silver (see Christien 2002; cf. Hodkinson 2000: 154–182). Accordingly some historians call the helots state or communal slaves as the geographer Strabo did already in antiquity (c. 64 BCE to 24 CE).¹⁵ There is some truth to this view. For example, all helots were expected to fear all Spartans, whereas in Athens an individual slave-holder's interest in his slaves trumped the overall rule of the class of masters over slaves ([Xenophon] *Politeia of the Athenians* I.11). In particular, one Athenian slaveholder could bring another Athenian to court on the charge of *hubris* if his slave had suffered humiliating treatment at the hands of another citizen – the opposite of the situation at Sparta.¹⁶

Recent scholarship has tended, however, toward skepticism about how the egalitarian and communal ideals of Sparta worked in practice. For instance, Stephen Hodkinson has challenged the view of Sparta as limiting private property and hence material inequality. He points out that statements implying the equal division of land come mainly from post-classical sources and even when such statements appear in classical texts, they tend to refer to Sparta “back in the good old days”: they are referring to an imagined and glorified past (2000: 65; cf. Schüttrumpf 1987). The community dominance of Spartan life is to some extent an ideology; it did not preclude helots being treated as private property. On the other hand, Hodkinson accepts the ancient testimony – including that of Aristotle – that it was disgraceful for Spartans to sell their land (2000: 83–85; cf. Figueira 2004). This was a significant limit on the property rights of Spartans and leaves open the possibility that the other crucial element of agricultural production, the helot workers living on the land, could not be sold. And then the helots would not be private property and not slaves.

These preliminary considerations are not decisive and, unfortunately, our direct evidence about whether helots could be sold as property is scanty. There are no references to cases when an individual helot was sold, but this counts for little, since there are not really any sources where we would expect such a thing to be reported. The debate on the sale of helots hinges largely on just one passage. The later geographic writer Strabo cites Ephorus, a fourth-century historian, to the effect that the helots were “condemned to be slaves on set terms, namely that whoever had them was not allowed either to free them or to sell them outside the boundaries.”¹⁷ The context of this passage is a summary of the history of the helots in the archaic period. This narrative is tendentious and unreliable, but Ephorus ought to have known something about the condition of helots in his own time, the fourth century. Two points are crucial.

First of all, the ban on liberating helots could only have covered individual manumission: we hear of several occasions when the Spartan state liberated large groups of helots (usually as a reward for military service) and of various classes who probably include freed helots.¹⁸ The ban on individual manumission would represent a significant limitation on the property rights of Spartans in helots and again highlights the importance of communal interests at Sparta. Nevertheless, several states

in the southern US had all but banned manumission in the decades before the Civil War (Kolchin 1993: 89–90). A historian of Russian slavery, Richard Hellie, describes the southern limits as “an incredible interference in the right to dispose of private property” (Hellie 1982: 519). Nevertheless, given the US case, curbing manumission is plainly compatible with slavery.

Second, the crux and most important part of the passage is the ban on the sale of helots “outside the boundaries.” The lack of liquidity in the Spartan economy, the apparent stability of the helot population, and the lack of motivations to sell individual helots have shaped the interpretation of this passage by some historians; these have taken it to mean that helots could not be sold individually at all. Douglas MacDowell, for example, takes the “boundaries” as being those of an individual Spartan’s estate; this is not the usual use of *boroi*, but is possible given the fourth-century *boroi* marking either mortgaged land or the boundaries of an estate (Ober 2006: 446–447; Finley 1951: 3–5). MacDowell interprets the expression, “outside the boundaries” in the following terms: “The phrase explains *polein* [sell] rather than modifies it; the Spartan could not sell a helot and thus remove him from his land” (MacDowell 1986: 35). If this were the case, then we have an explicit statement that the helots lacked one of the crucial elements of property, since they could not be sold. Jean Ducat argues, however, that this is not the natural interpretation of the text and points out that parallel expressions are used regarding the subjection of the Mariandrians; the expression there unambiguously means “beyond Mariandrian territory.”¹⁹ Luraghi is also vehement on this topic:

Only preconceived ideas about helotry can explain how some scholars have been able to interpret this clause as if it meant that it was forbidden to sell helots altogether. A quick look at the text shows that, in order to convey that meaning, it would have been enough to conclude the sentence with *pōlein*, without mentioning the borders... (Luraghi 2002a: 228–229)

According to Luraghi, helots could be sold. From a legal perspective they were treated as property and, given the other aspects of their oppression, were slaves. His arguments notwithstanding, authors are not always economical in their phrasing, but may add explanatory phrases that are in some sense redundant – which is implied in MacDowell’s interpretation of Strabo. Other scholars remain agnostic, probably the prudent position (Hodkinson 2000: 117–119).

Even were we to accept that Spartan law countenanced the sale of helots, three drawbacks of the definition of slaves as a kind of property are conspicuous here. First, curbs and limits on the use of property, which differ from society to society, were particularly strong in Sparta: selling land was shameful; helots could not be manumitted. Second, ancient Sparta did not generally seem to have had written laws in the classical period.²⁰ And once we are in the realm of oral law or customary practices, especially in a state such as Sparta, which drastically limited property rights, the criterion of property may indeed have been fuzzy. Third, the law does not always accurately represent social practices. In the case of the helots, if land was

mainly transferred at death and almost always along with its helots, they might as well not be liable to sale and not property for all that that influenced their lives.

Helots as Socially Dead

Patterson's definition is perhaps a more promising approach to the status of the helots, a case where the legal position is uncertain and perhaps not relevant.²¹ His definition directs attention to the actual experiences of slaves – or non-slaves as the case may be. The question in Patterson's terms is not whether there existed an abstract and rarely used legal right to sell helots outside of one sort of boundary or another; rather the question is whether the relationships of helots to each other – as opposed to their relations with their Spartan lords – and the rights and claims deriving from these relationships carried some weight in their lives.

The helots, like many oppressed classes, were subject to permanent, violent domination and were generally dishonored. Helots regularly remained helots for their whole lives and their children inherited the status. The Spartans' violence towards helots was infamous regardless of whether one wants to accept the most extreme stories (contrast Harvey 2004 and Paradiso 2004). The Spartans dishonored the helots in various ways ranging from forcing them to wear distinct and rustic clothing to getting them drunk and mocking them in the mess halls.²²

As usual, the decisive part of Patterson's definition for distinguishing slavery is his criterion of natal alienation and social death. Let us now consider three conspicuous cases where we seem to find evidence of the natal alienation of the helots: their liability to assassination by the Spartans, their displacement from their families and communities by sale, and the requirement that they perform personal service for the Spartans. We will consider these problematic areas first, but then look at some arguments that suggest that the big picture was not natal alienation and social death but rather stable lives within families and communities.

The social death of helots would seem to be confirmed in several related stories about Spartan brutality toward them. The first is that Spartan youths were assigned to go into the countryside armed with daggers; their assignment was to terrorize the helots by killing those whom they caught out at night and even killing some helots in the fields, presumably as they were working. This institution was called the *krupteia* (Plutarch, *Lycurgus* 28 citing Aristotle; Cartledge 2011: 85). Myron relates that the Spartans killed any helot men who became too big and strong – and even penalized the masters for allowing such dangerous vigor (*FGrH* 106F2). Finally, Thucydides relates that in their alarm at unrest during the Peloponnesian War the Spartans killed 2000 helots (4.80.3–4). A symbolic action supplements these cruel practices: the Ephors, Spartan magistrates, annually declared war on the helots, so that these and other killings would not incur the religious pollution that followed upon murder but not upon war (Plutarch, *Lycurgus* 28 citing Aristotle). On the one hand, killing helots would seem to indicate their social death in that no revenge by brothers, sons, or fathers was anticipated: these relationships did not

carry their usual weight. Nor, obviously, was there a state to which the helots, as citizens, could turn for justice. And the declaration of war against the helots is consonant with the common conception of slaves as outsiders; they have no bonds within the society, but are assimilated to external enemies whom it is permitted to kill. This is perhaps the way in which the position of the helots most resembles that of slaves in Patterson's conception. Patterson points out that "social death" of enslavement is almost always a substitute for the actual death to which a person might be liable, for example, as a captive in war (Patterson 1982: 5).

Overall, however, I suspect that the Spartans "doth protest too much," and that the claim that helots were foreign enemies served to conceal a different reality: the helots were culturally similar, possessed traditional rights to property as well as life, and in some cases, as we shall see below, were intimately bound in relations of patronage with the Spartans. More important, all these violent measures need to be understood in the context of the Spartan fear of a helot insurgency. When seen in that light, they find many parallels among the annals of beleaguered, or just paranoid and cruel, elites ruling over whatever sort of unhappy subjects throughout history.

Helots may have been taken from their families and communities when they were required to serve the Spartans in person. Luraghi argues that such personal service disrupted the lives of helots – presumably only some of them – and thus nudged them in the direction of displaced, natally alienated slaves rather than of secure, if downtrodden, bound share-croppers or serfs (Luraghi 2009: 275). The devil, however, is in the details, details that we do not know. We possess only a handful of references to helot servants, most of whom were working for the royal family, an exceptional situation.²³ Spartans on campaign were almost certainly accompanied by helots, witness the helot dead at Thermopylae and the helots at Platea and Mantinea (Hunt 1997). Such service was communal, temporary, and at the behest of the Spartan state; it did not make slaves of the helots any more than corvée labor or the draft makes peasants into slaves – indeed, states more commonly draft serfs than slaves (Kolchin 1987: 42). But we also find helots attached to the mess halls, presumably as cooks and servers, and performing sundry other functions on what seems to be a year-round basis (Hodkinson 1997: 47). Was this imposed upon a few helots as a permanent obligation, perhaps only for second sons for all we know? Or was personal service something that a larger number of helots went through but as a phase, in their youth or young adulthood for example?

If we knew these details, we might determine whether personal service made helots any more like slaves. But, as it stands, it is not even clear that personal service was an imposition. Hodkinson believes that these positions were long-term ones and argues that they need to be understood within the context of the patronage prominent Spartans exercised over various inferiors (Hodkinson 1997: 46–62). Such personal service may thus have signified a chance to move up in society through personal contact with a member of the prestigious and wealthy *homoioi*, the Spartan "equals," who might, for example, recommend an attendant when some opportunity such as the expedition of Brasidas came up. Such personal

service may have been a perquisite rather than a reduction to slave status and natal alienation.

Female helots are also attested in positions as domestic servants; their service purportedly spared Spartan women from learning to weave, the typical accomplishment of Greek women, even those of the elite (Hodkinson 2000: 227 on Xenophon, *Constitution of the Spartans* 1.3–4; Plato, *Laws* 7.805e–806a). Again we know little more than that the offspring of Spartans and helot women (perhaps in domestic service) were called *nothoi*. This was the Greek word for illegitimate sons, but Xenophon explicitly mentions their participation in a Spartan army and that they were “fine-looking men and shared in the perquisites of the ruling class” (Hodkinson 1997: 53–55, on Xenophon, *Hellenica* 5.3.9). So, again, we see only the tip of the iceberg and cannot evaluate whether the main story is of additional levels of exploitation (sometimes sexual), or patronage and hypergamy – or likely some mixture of all of these.

Whether helots could be sold individually is crucial to whether they were property. It is also important to the question of whether they were socially dead: individual sale would often involve the disregard of social and familial ties, and would show that they did not carry much weight. Although the legal situation is not clear, the consensus of scholars is that in practice most helots enjoyed secure family and community lives. In their conservative agricultural system, Spartans generally kept their helots in place for sake of farming efficiency, since helots would have known their particular fields and how best to farm them (Hodkinson 2000: 121). Even if land changed hands, the helots would remain with it. They thus enjoyed greater security than slaves in more dynamic agricultural systems. In the southern US, for example, individual slaves were sold apart from their families for any number of reasons: to cover debts, to improve efficiency, for the higher prices offered in the Deep South, as part of the westward migration, or in the resolution of an estate when a slaveholder died.²⁴

Even on those occasions, generally accepted to be rare, when an individual helot was sold, the proviso that helots not be sold beyond the border at least meant that they could not be sold more than about 70 km away from their homes. A forced move across 70 km could displace a helot from his or her village and family, but it would not have been a deracinating experience. In fact, such helots might even maintain ties with their families.²⁵ The limited geography of Spartan control meant that there was no ancient equivalent of being sold “down the river” to the United States’ Deep South, up to 1600 km away from Virginia, for instance. That this made a difference is shown by the fact that the Mariandrians also enjoyed this right, having presumably demanded it (Posidonius (*Die Fragmente der griechischen Historiker* (FGrH) 87 F8) and Strabo 12.3.4).

Paul Cartledge sums up this contrast between the position of slaves and helots:

They [chattel slaves in cities like Athens] were, in a word, outsiders: or, to use the more sophisticated language of comparative historical sociology, natively alienated and social dead outsiders. In all these respects, these *douloi* were the antithesis and/indeed

the anti-type of the helots. They, both Laconian and Messenian, were insiders in language and on other criteria and indicia of ethnicity, and were born and bred precisely as a collective service group. (Cartledge 2011: 79–80)

When it comes to the actual experiences of helots, most scholars agree that they lived lives embedded in their own communities and families. They were born, lived, and died in an organized society of villages and families. Social and economic hierarchy seems to have existed within the helot communities (Hodkinson 2008: 306–309). Some helots even owned boats, which they presumably inherited from their parents and would pass to their children (Thucydides 4.26.7). Survey archaeology, in Messenia in particular, reveals traces of what seem to be helot villages (e.g. Hodkinson 2008: 297–300). Passing references in Tyrtaeus and Thucydides assume that helots had families and wives – something the stability of the helot population suggests in any case.²⁶

Prototypical Slaves

In a recent work, Patterson himself classes the helots as slaves or at least slave-like. In part, this is because he has revised his views about the definition of slavery. He characterizes his original definition of slavery as “crisp”: it included specific criteria, especially natal alienation and social death, to enable historians to count some groups as slaves and to exclude others. Patterson now no longer requires clean boundaries in a definition, but rather claims an adherence to Wittgenstein’s argument that things may belong to a kind simply by family resemblance. He favors definitions of slavery that acknowledge both prototypical and borderline cases. Reasonably enough, he states that the helots are a borderline case of slavery and prefers to leave the matter there rather than to pursue inconclusive arguments one way or the other.²⁷ This is fair enough: social categories are *a priori* likely to be complex and heterogeneous.

Divergences in life experiences among different sets of helots make it easier to understand why the group straddles the definitional boundaries of slavery. We may hypothesize at least three main sets of helots: first, those personally serving the Spartans and their families – insofar as this was a permanent group; second, helots living on farms with Spartans (or their families) in residence, at least during part of the year; third, helots with absentee Spartan lords, who rarely visited. Helots in this last category were responsible for producing and handing over a set amount or share of their produce to the Spartans. They probably constituted the largest group and comprised most of the helots in Messenia. They may have enjoyed considerable control over how they farmed. In his appraisal of early medieval society, Chris Wickham has argued that this control or its absence provides the basis for the fundamental distinction between the feudal and slave mode of agricultural organization and was even more important than legal status (Wickham 2005: 260–262). It is entirely possible that in Wickham’s terms, some helots fall into the slave and some into the feudal mode of organizing agricultural labor.

Despite these complexities, the adage that “hard cases make bad law” may suggest caution here too. Should we significantly revise Patterson’s satisfactory and stimulating definition of slavery just because the helots are hard to categorize? This is especially true since our difficulties with helotage may mainly be due to our ignorance and to variation among helots rather than a problem with the borders Patterson’s definition of slavery marks out.

Instead of focusing on these boundaries, I would like to suggest one way in which the idea of a prototypical slave can help us understand the particular position of the helots. The prototypical or ideal slave, at the dead center of the category of slavery as Patterson defines it, should be a person who not only has no relationships that are accorded weight by the society at large, but has no social ties at all other than his or her subordination to a master. Something very close to this can actually happen when a slave is first brought into a new society (Blassingame 1979: 7–13). Such slaves may be and often were brutally abstracted from their families and communities and almost entirely isolated, socially dead, in an alien society with foreign customs and an incomprehensible language. So they were extremely vulnerable.

Slaves can move away from this state relatively quickly. Those brought to the New World made bonds with shipmates already on their terrible journey (Mattoso 1991: 52, 86–93; Hawthorne 2010: 132–133). Most crucially, second-generation slaves necessarily have biological families, at least, and often communities of other sorts (Genovese 1976; Gutman 1976; Blassingame 1979). Many types of slaves, especially in servile populations dominated by born slaves, experienced their unlimited labor obligations only in theory; traditional and limited obligations determined the reality of their work life. For instance, although they never obtained the rights and degree of autonomy enjoyed by serfs (or Messenian helots), the slaves on the rice plantations of coastal South Carolina and Georgia, a majority of the population, performed clearly marked and (usually) evenly divided tasks each day; the rest of their time was their own, the result of a process of resistance, the threat of flight, and negotiation. Black drivers, slaves themselves, did more supervision than did white overseers; the slaves possessed separate living districts and graveyards on plantations whose owners were away for much of the year (Chaplin 1992: 33, 52–59; cf. Kolchin 1987: 233–239). They could still be sold off, but if the Civil War had not intervened, this subset of southern slaves might have gained immunity from individual sale and resembled serfs within a few more generations.

As slaves move away from the prototype, the notion of natal alienation no longer refers to an absolute absence of relationships other than subordination to the master, but rather to the absence of relationships that are accorded full weight by that society, a society usually dominated by the slave-holding class. This is why the criterion of natal alienation, although it involves slave experience more than does the legal concept of property, still represents essentially the master’s perspective; for slaves most definitely do not think that their families, other relationships, and communities are illegitimate or otherwise invalid.

Second-, third-, or greater-generation slaves are still socially dead in Patterson’s terms, in the estimation of the larger society dominated by slave-holders. There is

often an ideological impetus toward regarding them in this light: it can be advantageous for masters to be able to sell individual slaves away from their families; for masters not to admit any limits on the work they can demand of their slaves; and for them to regard the people they oppress so cruelly as alien. Masters thus continue to regard their slaves as powerless isolates without legitimate relationships or communities even when this involves a considerable distortion of social reality, when slaves are born in slavery and necessarily in a family and community of some sort. In the case of the American South, racism went a long way towards assimilating home-born, native slaves in a long-standing system of oppression to deracinated, isolated, and foreign proto-typical slaves. The helots of the classical period, however, lived lives even further removed from the prototype of a slave. If they or any subset of them had ever been deracinated, isolated slaves – which I doubt – they were no longer after many generations in place. Helots suffered oppression, but they had long benefited from stability of residence, of family, and of community as well as traditional limits on their exploitation.

In the Greek world as a whole slavery was the main model for the treatment of defeated enemies and for bound labor in general, but this affected Spartan self-representation more than their practices. As time went on, a constant pressure to conform to the usual Greek chattel slavery produced the Spartan insistence that the helots were in fact slaves even when their status was a far cry from that of Carians captured in raids and sold on the Athenian slave market, who were much more like proto-typical slaves.

Helots as Serfs

We can thus enhance the definition of slavery by introducing the concept of proto-typical slavery. This may not, however, be much of an improvement on the ancient classification by Pollux, who identified a number of groups whose social status lay “between slavery and freedom” (Pollux, *Onomastikon* 3.83 with classic discussions in Finley 1981a, 1981b). We are simply admitting some distance between proto-typical slaves and those groups, like the helots, “between slavery and freedom.” In the case of the helots, a poorly known and heterogeneous group, that may be the best we can do – at least as long as we are thinking in terms of slavery. Some scholars, however, have likened the helots to serfs albeit with more or less confidence.²⁸ Unfortunately, this has become less popular an option in recent decades.

In contrast to the investigation of slavery in various times and places, serfdom has lagged as a category for social analysis for two main reasons.²⁹ First, the study of serfdom has become a poor stepsister of slave studies, attracting less historical attention. Second, the use of the term is a dangerous third rail, whose use can evoke harsh reactions from medievalists, Marxian historians or their opponents.

Easiest to demonstrate is the less-intense recent interest in serfdom compared to slavery: otherwise identical JSTOR searches of scholarly literature for “slave” and “serf” yielded a huge difference: 4097 items for “slave” and only 71 for “serf.”

This disparity is not merely the result of the relative importance of the two institutions. Patterson may have shown the ubiquity of slavery, but bound peasants are commonly encountered in a wide variety of times and places. Rather, much of the difference in interest derives from the continuing impact and historical interest in New World slavery, especially within the United States of course. It is largely as a result of this historical focus that slavery is much more intensively studied than serfdom.

The two generally successful definitions of slavery and the lack of similar, cross-cultural definitions of serfdom constitute another factor in the limited application of serfdom in comparative history. Patterson is a “lumper” par excellence, eager to find all grades and types of “slave-like” groups throughout the world and history. As a result of an unobjectionable desire to capture the historical specificity of medieval rural social structure, many medievalists have ended up “splitters” – hence the “obsolescence of a general theory of serfdom” (Freedman 1991: 10). Marc Bloch, for example, decried the use of serf for eastern European and Russian serfs in the modern period and even for post-medieval French serfs (1975, orig. 1933: 51, 54). His definition of serfs aimed to distinguish them from other medieval peasants in legal contexts. He thus included three particular obligations as the mark of serfdom: *chevage*, *formariage*, and *mainmorte*.³⁰ Later medievalists have criticized this definition on various grounds (Freedman 1991: 3, 7–8). What is important here is that it is manifestly not portable. No group in another place or time is at all likely to fulfill its criteria or that of any definition with similar aims.

The tendency of recent historians to minimize the numbers and importance of medieval serfs presents another disincentive to use the serfdom as a category. In Marxist historiography serfdom is a basic stage in the development of the mode of production, but in the last generation many medievalists have taken the position that serfs constituted only a small fraction of the medieval peasantry.³¹ For example, the index of Georges Duby’s 300-page history of France in the Middle Ages contains only three, single-page references for serfdom.³² Even historians such as Paul Freedman, generally inclined to emphasize the importance of serfdom, assimilate serfs to peasants: serfs were distinct, but “peasants of all conditions were constrained by a system of economic exploitation and social subordination” (Freedman 1999: 10; cf. Wickham 2005: 260). Comparative historians aware, even only vaguely, of these trends in historiography, are understandably loathe to try to use a term that the medievalists themselves, who would seem to possess first rights, are abandoning.

Consequently – and perhaps also in reaction to earlier overuse of the term – some ancient historians have explicitly attacked the application of serf to any group in the ancient world. The most influential arguments are probably those of M. I. Finley, who calls the use of “serfs” about groups in the classical world “altogether unhelpful and misleading” (Finley 1981b: 142; see also Lotze 1959: 60–68 and Oliva 1971: 43–44). Finley’s arguments against the use of serfdom, however, tell us more about the historiography of his time – and some of its flaws – than about

whether a well-constructed category of serf might be useful. Finley first points out that the variety of statuses covered by the term serfdom presents a difficulty. Indeed, even at one time and in one general area of medieval Europe, serfdom could involve many hard-to-systematize local variations (e.g. Bloch 1975: 36; Lotze 1959: 63; Bush 1996b: 199–200). As if the medieval picture were not complex enough, there were serfs in western Europe after the Middle Ages and a separate period of serfdom in eastern Europe and Russia stretched from the seventeenth century through the mid-nineteenth century (see Bush 1996b). But neither Patterson nor the advocates of the property definition of slavery – including Finley – have been deterred by having to fit the Mamluks, southern plantation workers, and African concubines into the category of slaves – not to mention what history would be like if historians had to eschew the use of “monarchy” and “empire” on similar grounds (cf. Strayer and Coulburn 1965: 4)! Finley points out, “it is wrong to blanket every unfree person who is not an outright chattel under a single term like ‘serf’” (Finley 1981b: 142). Of course that would be wrong, but this is no argument against calling *some* unfree, non-chattel people serfs. His further point that serfdom does not encompass debt bondage or *paramone* (conditional manumission) is really a subset of the earlier argument and vulnerable to the same obvious riposte: that there were a variety of unfree statuses does not mean we should deplete our vocabulary for describing them. Rather the opposite. Finley’s last argument consists of the bald statement that there are too many differences between the helots and medieval serfs to encompass them in the same category. He does not attempt, however, to list these differences or even to specify a definition of serfdom, which the helots fail to meet.

There are, in fact, plenty of definitions of serfdom to choose from, but two functions are required of a useful definition for comparative history. It should allow historians to make appropriate comparisons and contrasts between different societies, for example, Russian serfs provide better *comparanda* for helots than do Caribbean slaves. It should also provide a clear descriptive tool for historians whether they are treating one or more societies, for example, to say that the helots were serfs should mean something in either case. For the first purpose, we need a minimalist definition that gets to the heart of an institution. We can always add additional layers of historical specificity. For example, we can explain that helots were *state* serfs if we want to emphasize the communal aspect of Spartan society (de Ste. Croix 1983: 147–149). To return to our specific problem, a definition of serfdom needs to distinguish serfs from other peasants on the one hand and from slaves on the other.³³

Among most social historians, *peasant* does not simply denote a small farmer. Rather peasants live on farmland, but do not have full ownership of it. They are subject to some sort of rent, be it in the form of taxes, labor obligations, rents in kind or money, or some sort of share-cropping arrangements. These obligations may be more or less formal and legal or customary, but they are defined. They are not unlimited unlike the labor of slaves. Serfs are a subset of peasants and endure additional constraints on their freedom: most conspicuous, they are bound either

to the land or to their lord.³⁴ Accordingly, Peter Kolchin traces the enserfment of the Russian peasantry largely in terms of increasing restrictions on their mobility (1987: 2–10). Serfs cannot move away to a frontier, a colony, or, most significant, another lord in search of better conditions. As a result, their bargaining power is radically constrained, which may be the point when land is plentiful as in Russia or when they are a conquered people like the Messenian helots (Kolchin 1987: 2, 17–19).

The difference between serfs and slaves is sometimes conceived in terms of a property distinction: slaves can be sold individually; serfs can be sold but only along with their land. This distinction is probably valid on some level: Kolchin argues that Russian serfs had effectively become slaves when it became common to sell them individually in the eighteenth century (1987: 41). It is not clear at all whether this means that serfs were or were not property before this development: serfs frequently constituted a significant fraction of the value of a property sold for money and without their consent; consequently, they are arguably property (Freedman 1991: 1–2; Bush 1996a: 1; Engerman 1996: 19). As a result of these quandaries G. E. M. de Ste. Croix prefers another approach:

To concentrate on the more practical side of the condition of the ancient serf, for the precise nature of his real status is often unclear to us, owing to the nature of the evidence, and was sometimes a matter of dispute in antiquity, and the terminology used in our sources can on occasion be misleading. (de Ste. Croix 1983: 147)

He thus adds to the limited extent of exploitation, mentioned above, the fact that “serfs, because they were ‘bound to the soil,’ could marry and have a fairly secure family life,” the importance of which he rightly emphasizes (1983: 148). Like Patterson, de Ste. Croix replaces a legal definition with one based on the social bonds of the serfs in contrast to the social death of the slave. Since peasants have not suffered social death or natal alienation, we can sum up our definition of serfs as “bound peasants.”

Now we can return to Finley’s most significant argument: “there are too many differences between the Spartan helot, let us say, and the serf of feudal society” (Finley 1981b: 142). Of course, there are differences, but helots fall quite comfortably and without hedges or caveats under the mainstream definition of serfdom we have adopted, apt also for the vast majority of medieval and modern serfs.

Helots were peasants in that they worked the land they lived on. They owed labor – military and perhaps domestic service – and a rent in kind to their Spartan lords. Their obligations were not unlimited as are those of slaves. Helots are described as “slaves on stated terms,” who owed half their produce to their Spartan lords.³⁵ Athenian slaves who earned money might owe their masters an *apophora* from their earnings (Aeschines 1.97, 1.99; Andocides 1.38; [Xenophon], *Ath. Pol.* 1.11). These, however, were individual arrangements put in place at the master’s discretion and revocable by him. The terms of the helot’s subjection seem to have been permanent, communal, and customary (*contra* Lotze 1959: 69 and Luraghi 2002a: 230). They were limited, like that of peasants.

But helots were not just peasants, since they were bound to their Spartan lords and to their land. This explains why freedom can be a reward – given, promised, or conceded – for helots and why they are sometimes described as running away or deserting rather than simply moving (e.g. Thucydides 1.103.1–2, 4.41.3, 4.80.3–4, 5.14.3, 5.34.1). As bound peasants, the helots fit the category of serfs comfortably, not as a borderline case.

Conclusion

Orlando Patterson's famous definition aimed to improve upon and even transcend the traditional conception of slaves as people treated as property. His focus on natal alienation and social death encourages a different and valuable perspective on slavery, but the congruence of the two definitions remains striking: people subject to natal alienation are often treated as property and vice versa.

Patterson's own theories about the history of the thetes in archaic Attica and of the helots in archaic Laconia and Messenia are open to several objections. Individual thetes may have sometimes fallen into debt bondage and then slavery, but no persuasive arguments suggest that the whole class were slaves or descendants of slaves. Relying on his admittedly immense knowledge of the comparative history of oppressed classes, Patterson is also too confident about the historical development of Messenian and Laconian helotage, an obscure and uncertain topic.

The greater part of this chapter evaluates the helots of the classical period according to both the property definition and Patterson's conception of slavery. This two-fold approach reveals many aspects of their subjection and their lives, but, according to both definitions, most helots occupied a position on or beyond the borderlines of slavery. When a historian wishes to categorize the helots – which is admittedly not all the time – it is more accurate to call them serfs rather than slaves. Patterson's definition of slavery is brilliantly designed for comparative history, so it is almost universally familiar to historians of slavery and often known by social historians of the pre-industrial world in general. But perhaps Patterson's definition and hence slavery has become too popular and other categories of subjection, such as serfdom, are now not used enough.

Notes

- 1 I would like to thank Walter Scheidel and John Bodel for the invitation to contribute to this volume. This chapter benefited from comments and suggestions from them, from co-contributors, and from the anonymous readers for Wiley-Blackwell. Most of all, I have learned a great amount from the insightful and detailed comments of David Lewis, whose knowledge of slavery is immense and with whom it has been a pleasure to (sometimes) disagree. Except where otherwise indicated, all dates in this chapter are BCE.
- 2 Cf. the critique of the property definition of slavery by Vlassopoulos 2011. References to Felix Jacoby, *Die Fragmente der Griechischen Historiker* (Berlin: 1923–) are abbreviated *FGrH* and are most easily accessed via *Brill's New Jacoby* (online) edited by Ian Worthington.

- 3 Hezser 2005: 307–321 on *Exodus* 21: 2, *Deuteronomy* 15: 12, *Leviticus* 25: 40.
- 4 Genovese 1976: 298–299. Cf. Leventer 1977: 66 and Freedman 1999: 133–156.
- 5 Nieboer 2010 (orig. 1900): 7. He eventually adds a limitation, “beyond the limits of the family proper,” (29), which is assumed in this chapter.
- 6 Such a respect for slave marriage is problematic both for the property and for Patterson’s definition of slavery. For example, Russian slaves were often sold, but not apart from their spouses. Russian slaves were also exceptional in not being foreigners in any sense. See Hellie 1982: 88–93, 388–396; cf. Hellie 1977.
- 7 Noussia-Fantuzzi 2010 and the essays collected in Blok and Lardinois 2006 provide an entrée to the scholarship on Solon.
- 8 Patterson 2008: 61–62 applying the patterns elucidated in 44–61; see also Patterson 1977 and 1991: 68–70.
- 9 Patterson 2008: 62–63. Harris 2012 also argues for a large slave population in early Greece based mainly on the evidence of Homer and Hesiod.
- 10 Debt is often taken to be the cause of enslavement in pre-Solonic Athens, but this is not quite explicit and some scholars suspect that lawlessness and violence involved enslavement, also a plausible scenario. See Harris 1997; Noussia-Fantuzzi 2010: 34–38.
- 11 Fine 1983: 42 and Garland 1988: 36–37 with Homer, *Odyssey* 4.643–634 (inconclusive).
- 12 For example, de Ste. Croix 1983: 135–136, 147–149; Cartledge 2002 (orig. 1979): 142; Jameson 1992: 136; Hodkinson 2000: 127–131 (cf. 2008: 287); Van Wees 2003: 31 n. 1; Davies 2007: 353–354.
- 13 A generalization anticipated by Finley 1972: 4; cf. Engerman 1996: 22.
- 14 Patterson 2003: 297; cf. Hunt 1998: 144–164; Hunt 2011: 36–38 on militaristic justifications of Greek slavery.
- 15 Strabo 8.5.4, endorsed most recently by Scott and Figueira 2013; see also the other historians cited in Hodkinson 2000: 114.
- 16 Demosthenes 21.46–50. See also Aeschines 1.15–17; Hyperides in Athenaeus, *Deipnosophistae* 6.267a with Fisher 1992: 58–59.
- 17 Ephorus (*FGrH* 70 F117) in Strabo, *Geography* 8.5.4: καὶ κριθῆναι δοῦλους ἐπὶ τακτοῖς τισιν, ὥστε τὸν ἔχοντα μήτ’ ἐλευθεροῦν ἐξεῖναι μήτε πωλεῖν ἕξω τῶν ὄρων τούτους.
- 18 Cartledge 2003: 17–18.
- 19 Ducat 1990: 21–22 on Posidonius (*FGrH* 87 F8) and Strabo, *Geography* 12.3.4.
- 20 Millender 2001: 134–137 questions the claim by Plutarch that the Spartans forbade written law (Plutarch *Lycurgus* 13.1–4 and *Moralia* 227b) but concedes, “[T]his meager harvest, nevertheless, would seem to suggest that many Spartan laws remained unwritten.” Cf. Gagarin 2005: 51.
- 21 Luraghi 2002a: 233 briefly essays a consideration of helot status in terms of Patterson’s criteria.
- 22 Myron of Priene (*FGrH* 106 F2) on the humiliation of the helots; see also Plutarch *Lycurgus* 28.
- 23 Cartledge 2011: 84 collects the references to personal service by helots.
- 24 Luraghi 2002a: 233 underrates the rate at which slave families were sold apart in the southern US; for example, Blassingame 1979: 177 estimates that over 30% of slave marriages were dissolved by their masters; slave children in the upper south endured a cumulative rate of sale away from their families of again 30% (Kolchin 1993: 97–98).
- 25 Compare Gutman 1976: 135–138 and Genovese 1976: 472–475 on “broad marriages” in the American South.

- 26 Tyrtaeus (*FGrH* 580F7); (cf. Herodotus 6.58.3). Luraghi 2002a: 229 argues that the helots mentioned in Thucydides 1.103.3 were rebels and their family situation is not likely to have been typical. But unmarried men were most likely to join an insurrection against the Spartans, so if some of the rebels had wives and families with them – or, better yet, if Thucydides or his source assumed this – *a fortiori* helot men living peacefully in their lands would have wives and families.
- 27 Patterson 2003: 291–292, 298; cf. Luraghi 2009: 278 and Bush 1996a: 17. See Lakoff 1987: 12–57 for an introduction to theory of structured categories.
- 28 See above, note 12.
- 29 This does not seem always to have been the case: e.g. Lasker 1950: 69–112 and the bibliography collected in Oliva 1971: 39–40.
- 30 Bloch 1975, orig. 1933: 37–43. These terms refer respectively to an annual payment, permission or fee required to marry outside a lord’s domain, and a lord’s right to part of the estate of a deceased serf in certain circumstances.
- 31 Freedman 1991: 213–214. See, for example, Anderson 1974 for an influential Marxian treatment.
- 32 Duby 1991: 329. Freedman 1991: 1–4 argues convincingly for the importance of medieval serfs, at least in Catalonia.
- 33 Russian serfs were not all rural cultivators, but most were (Kolchin 1975: 38; Bush 1996b: 206). The description of serfs as a subset of peasants is generally apt.
- 34 Bloch 1975, orig. 1933: 49–54 argues that medieval serfs were not bound to the land but to their lords. Serfs are also subject to their lord’s jurisdiction rather than public law and to his general command, subject to negotiation about their customary obligations.
- 35 Cartledge 2011: 83 on Plutarch, *Customs of the Spartans/Moralia* 239d–e; that there were set limits to the exploitation of helots is conceded by Luraghi 2002a: 230.

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Death and Social Death in Ancient Rome

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Orlando Patterson's well known definition of slavery as "the permanent, violent domination of natively alienated and generally dishonored persons" incorporates what for him are the three essential ingredients – the constituent elements – of the institution: naked force or violence; natal alienation, that is, the loss of ties of birth in both ascending and descending generations; and dishonor.¹ The condition of slavery, furthermore, is part of a unified, three-step sequence, which is variously said to comprise the stages of "recruitment, enslavement, and manumission" or of "enslavement, institutionalized liminality, and disenslavement." Structural elements and process are central to both formulations, but a subtle shift in the terms of the analysis between the first, offered at the start of Patterson's influential work, and the second, from near the end, results in the state or condition of being a slave, which lies at the center of the sequence, ultimately being characterized as "institutionalized liminality."² This conception of slavery as "institutionalized liminality" deserves closer scrutiny for what it implies about the controlling metaphor of Patterson's analysis, but first it will be useful to note the oppositional terms in which the argument is framed.

Slavery, Dominion, and Social Death: Conceptions and Misconceptions

Patterson emphasizes the distinction between his conception of slavery as a form of domination, and thus as a phenomenon to be understood in terms of personal relations and dynamics of power, and almost all other definitions, which take the

On Human Bondage: After Slavery and Social Death, First Edition.

Edited by John Bodel and Walter Scheidel.

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notion of property as central and essential. For Patterson, legal concepts of property and ownership are problematic – “a Pandora’s box filled with at least two thousand years of jurisprudential clutter” – and yet legal distinctions of juridical status, many of them involving concepts of chattel property, are built into the identifications of the sixty-six slave-holding societies of the Standard Cross-Cultural Sample of 186 human societies that make up Patterson’s sample, and the concept of human property does not seem so easily divorced from the interpersonal dimensions of the relationship.³

Ancient theorists of slavery, mostly philosophers and jurists, embraced both ideas, at times in ways very similar to those that inform modern arguments about the nature of the institution. A direct line of socio-biological interpretation, for example, runs from Patterson’s view of slavery as human parasitism and David Brion Davis’s speculation about the role played in the emergence of the institution by neoteny, the progressive juvenilization of wild animals through domestication, back to Aristotle, who, in expounding his theory of the “natural slave,” variously compares slaves with animals, women, children, and inanimate tools, not only in their deliberative capacities but also in their relation to the master and head of the household.⁴ From classical Roman law – indeed, from a single jurist – we get the oppositional pairing of freedom and slavery, the association of the latter with force (violence), and the recognition that slavery is unnatural, an institution of man. We also acquire the specious etiological etymology that springs the central metaphor of Patterson’s project. *Servi*, “slaves” in Latin, were so called because they were saved (*servati*) from death following capture. In the formulation of the Roman jurist Florentinus:

Freedom is one’s natural ability to do what one pleases, except insofar as it is prohibited by force (*vi*) or by law. Slavery is an institution of the common law of men (*ius gentium*), whereby someone is against nature subjected to the rule (*dominium*) of another. Slaves (*servi*) are so-called because generals usually sell their war prisoners, thereby “saving” them (*servare*) rather than killing them.⁵

At the heart of this conception of slavery is *dominium* (“rule”), which implies both “power over” something (dominion) and in legal contexts “ownership” and thus unites in a single term the dyadic concepts of property and domination that underpin and divide modern conceptions of the institution. Only recently have modern theorists of slavery returned to a synthetic definition of slavery that reconciles these sociological and legal aspects of the institution by emphasizing the importance to both of control, which underlies the exercise of ownership and is won through force.⁶

Patterson rightly notes that death in war was not the only form of death commuted by enslavement, and that the commutation was invariably conditional, dependent upon the slave’s acquiescence in his new condition as a non-person. Upon enslavement, a person thus entered the social equivalent of the biological state that marks the end of life – death. This “social death” was the outward expression of the slave’s natal alienation, the severance of all ties of birth and kinship.⁷ The concept of natal alienation is one of Patterson’s most influential ideas, and the

power of its epigrammatic figuring in the metaphor of death is undeniable. Indeed, the rhetorical force of the phrase has led to its widespread adoption in the literature about slavery, although it has not always been used with the same precision and nuance with which Patterson hedged it in his original formulation.⁸ As Vincent Brown observed in a recent assessment of the impact of Patterson's work on studies of slavery in the Atlantic World, the concept of social death is merely a distillation, "a theoretical abstraction," never intended to describe the lived experiences of actual slaves but rather meant to encapsulate the essence of the "ideal" condition of slavery, as constructed by masters, in the societies in which the institution is found (Brown 2009: 1233–1234).

Much of the earliest criticism of Patterson's theory was therefore misguided in seeking to refute the concept of social death simply by pointing to the ubiquitous evidence that slaves everywhere formed ties among themselves, established informal slave unions and families, and demonstrated agency independent of their masters' presumed total domination (see, e.g. Johnson 2003). This last idea – the master's total domination – has always been something of a chimera. Patterson never denied that slaves recognized kin and formed slave communities among themselves, but he insisted that the social ties slaves formed were never formally recognized by their communities and could always be severed at a master's whim.⁹ The slave was a genealogical isolate, no matter what social bonds he forged in life.

More recently, historians of Atlantic slavery have explored the concept of social death from the perspective of the enslaved. Joseph Miller has shown how first and subsequent generations of enslaved Africans in Brazil reformulated African world-views and social practices according to specific historical contexts determined by the particular changing circumstances in which they found themselves (Miller 2003: 82–84, 111–112; cf. Miller 2008). A pair of recent studies of American slavery, differently oriented but converging in their conclusions, makes clear that in America too the ever-evolving communities of deracinated Africans fostered continuity with the past through collective funerary practices. By retracing a slaving route in Ghana traversed unwillingly by her ancestors, Sadiya Hartman discovered the importance to herself and to other descendants of slaves of communal mourning and funerary commemoration in their efforts to recover a collective lost past (Hartman 2007: 5–9, 67–68, 85, 155–172). Stephanie Smallwood likewise investigated the experiences of Ghanaian captives and their torturous passage to the new world but focused less on the existential condition of slavery than on the contest between masters trying to impose the penalty of social death and slaves struggling to resist it. She too found that reestablishing ties to ancestors and learning to manage death were among the principal goals of "saltwater slaves" newly arrived in the Americas.¹⁰

Death and social death thus converge in the deaths of slaves and their descendants. Here, if anywhere, the two worlds intersect, and their proximity activates the mechanisms armed on either side to contest the disputed territory where natal alienation, deracination, and oblivion contended with commemoration, continuity, and the establishment of recognized and enduring familial ties.¹¹ It is therefore not

surprising that slave funerals have recently attracted the attention of historians of Atlantic slavery, who have found in their latent tensions a crucible for testing the psychic capabilities of slaves to resist the tools of domination and of masters to negotiate these unstable moments in order to maintain control (e.g. Rediker 2007: 280–281; Smallwood 2007: 139–141; Brown 2009: 1231–1233).

Managing death and establishing proper relationships with ancestors were culturally important in ancient Roman society also. The deaths of slaves and ex-slaves thus provide a natural focal point for examining the concept of social death as it applied to slavery in the ancient Roman world. A brief survey of some of the types of evidence that might be brought to bear on the question will suggest two preliminary observations: that the commemorative funerary practices of Roman slaves and ex-slaves were a principal weapon in their defense of identity against a social ideology aligned to negate it, and that Roman practices regarding the deaths of slaves reflect their conception of slavery itself as part of a process. The latter view, if correct, calls into question the applicability, regardless of its emotive power, of the metaphor of death, a static state (as far as we know), to describe a situation represented by Patterson as “liminal” and figured by him as the middle stage of a three-part process. In conclusion, three Roman-era myths about slavery and death will be briefly explored for the light they shed on the mutually consistent, if divergent, conceptions of the institution crafted by slaves and masters alike.

Death, Commemoration, and Roman Slavery

Funerary commemoration in the form of inscribed epitaphs and collective tomb monuments was among the most characteristically Roman of ancient Mediterranean cultural practices, so much so that the spread of Roman power throughout the Mediterranean world during the last two centuries BCE and the first two centuries CE can fairly be mapped by tracing the proliferation across the landscape of Roman-style tomb monuments, which left lasting marks in areas where durable forms of funerary commemoration were not previously found and influenced the form and style of those encountered in areas where similar traditions already existed. That Roman slaves and ex-slaves of all origins participated vigorously in these activities points to their successful integration into the cultural practices of Roman society – the master’s society, it should be noted, since it was only within parameters laid out by the master that any type of formal commemorative behavior was possible.¹² Although the forms and media of funerary commemoration were controlled, the content and manner of expression were not, and the ways in which slaves and ex-slaves represented themselves point at times to a distinctive understanding of how slavery affected a sense of identity and self. That we have a far greater quantity of direct evidence in this area for ex-slaves than for slaves creates an inevitable bias in our viewpoint, since we see these funerary reflections of slavery mainly through the eyes of the fortunate minority of slaves who escaped the condition.¹³ But if the surviving funerary records for slaves are fewer and less elaborate than those for

freedmen, they are no less eloquent in their expression of familial and quasi-familial bonds, and the perspectives they provide, shaped and sanctioned by the master class, are revealing of the popular perceptions and conceptions that underpinned the ideological structures on which the system rested, however unrepresentative they may be of the lived reality of many slaves.¹⁴

A pair of inscribed funerary markers decorated with figured reliefs may serve to illustrate two aspects of the multifaceted phenomenon. The first, a funerary stele of the second half of the first century BCE erected in south central Italy at Capua, the location of an active slave market since the early years of the second century BCE, was dedicated by a freedman for himself and a fellow freedman at the discretion of two other ex-slaves from the same household, one of whom was an auctioneer (Figure 4.1).

The top register shows the two commemorated freedmen standing side by side, dressed in togas as a mark of their Roman citizenship. The bottom register depicts the scene of a slave sale, with the auctioneer at the left gesturing toward the naked slave on the block, while a togate figure (a customer?) reaches out to examine the human merchandise. Three texts recording persons involved in the dedication appear above, below, and between the figured scenes; they identify the dedicant, M. Publilius Satur, as a Roman freedman of a locally prominent family; three fellow-freedmen or freedmen members of the same household, at least one (Gadia) with a Semitic name and therefore probably of eastern origin, all involved in the slave trade; and a fifth person who died at the age of twenty-two.¹⁵ How to interpret the scene of the slave auction is uncertain, since the representation might belong to either of two well recognized categories of Roman funerary art: scenes of significant moments in the life of the deceased or depictions of the deceased's occupation. If the auctioneer Gadia named as arbiter is the one figured in the lower scene, it is likely that the two togate figures above represent the commemorated companions Satyr and Stephanus, but whether the auction scene itself depicts an important moment in the life of one or both of them or simply a typical scene from the professional lives of all four freedmen is difficult to say.¹⁶ It is clear in any case that none of the ex-slaves named in the dedication concealed their identities as freedmen or the association of their citizen status with the sale of slaves at auction, whether they were involved in the business as professional traders or as merchandise.

We can only speculate about the relationships that linked these four freedmen from the same household in their joint commemoration, but lasting personal bonds were forged below decks in the crowded slave ships of the Atlantic Middle Passage, and similar ties were formed and are very occasionally attested also in the Roman world. That they found expression in funerary commemoration shows not only that the bonds were long-lasting but that they were recognized and sanctioned by the new community in which they were formed. So, for example, an epitaph from Rome declares the love of one freedman for another, with whom he had shared his life as a slave.

Aulus Memmius Urbanus, to his fellow-freedman and dearest partner, Aulus Memmius Clarus. I do not remember, my most blameless fellow freedman, there ever being any quarrel between you and me. With this epitaph I call on the gods above and

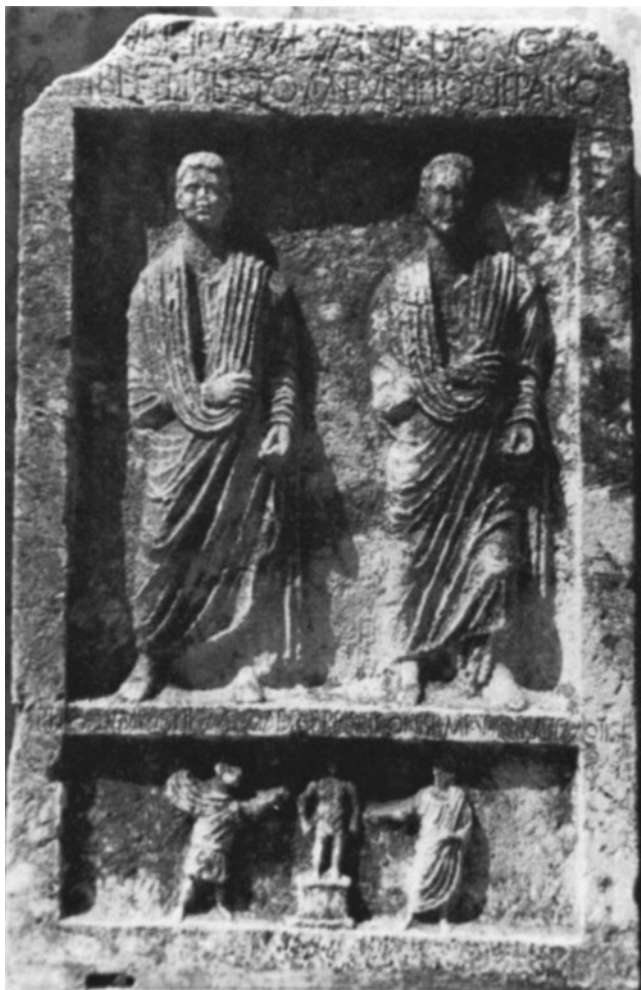


Figure 4.1 Funerary stele of M. Publius Satyr from Capua representing two togate figures and the sale of a slave at auction. The inscriptions record (on the epistyle at the top): “[Marcus] Publius Satur, freedman of Marcus, (had this made) from his own savings for himself and Marcus Publius Step(h)anus, freedman of Marcus;” (in the middle, between the two figured scenes): “(Done) according to the discretion of Marcus Publius Gadia, freedman of Marcus, auctioneer, and Marcus Publius Timot(h)es, freedman of Marcus;” (on the listellum, below the auction scene): “[... Gadi?]ae <et> T(imotis?) lived for twenty-two years” (*CIL* 10.8222; see n. 15). Reproduced by permission of the British School at Rome, after M. Frederiksen, *Campania*, edited by N. Purcell (Rome 1984) Plate VIII.

below as witness that you and I came together in the slave market, that we were made free together in the same household, and that nothing ever separated us except the day of your death.¹⁷

The numerous surviving epitaphs erected by slaves to their deceased partners and children do not prove that slaves did not live under the ever-present threat of

having their familial ties severed at the whim of an owner, but they do demonstrate that formal mechanisms existed to enable some slaves to commemorate family ties in the same way as freeborn and freed members of the population. To what extent Roman slave-owners respected familial ties among their slaves is unknown. No law of the classical era ever constrained an owner's right to dispose of his human property as he wished, and in certain contexts where documentary evidence is abundant, the pattern of manumissions recorded over a two-hundred-year period provides little indication of family members being manumitted together and much circumstantial evidence of their being split up.¹⁸ On the other hand, Roman law recognized blood relationships among slaves and ex-slaves to the extent that a kinship relationship of "son or daughter or natural brother or sister" was considered a just cause (*iusta causa*) for manumitting a slave younger than the statutory age limit, and rhetorical and legal texts from the Hellenistic period through to late antiquity reveal a persistent moral bias in favor of preserving slave families intact.¹⁹ How far moral censure and legal exemptions go toward demonstrating societal recognition of the validity of slave marriages can be debated, but the inhibiting influence of social norms on the behavior of individual masters toward their slaves should not be underestimated.

The second monument, from Rome and dating to the first half of the second century, commemorates a freeborn baby boy endowed with a heroic Greek name, "Achilleus" (after Achilles), by a father whose own name, Decibalus, points to his origins in Dacia (modern Romania), a region famous for providing slaves to the Mediterranean world from at least the sixth century BCE. Whether or not Decibalus himself had been a slave is uncertain, but the monument he chose for his son places him in a tradition that belongs to the world-view of immigrant slaves. The deceased child is represented in the guise of Mercury, with the standard attributes of tortoise, cock, money bag, and the distinctive staff known as the *caduceus* (Figure 4.2).²⁰

This type of allegorical representation, in which a private person is represented as a god, first appears in Greco-Roman art in the funerary monuments of slaves and ex-slaves of eastern origin around Rome, beginning about the middle of the first century CE, and in its first phase lasts about eighty years, until around the time of the monument of Achilleus. The most frequently represented god throughout this period is Mercury, whose prominence is explained in part by the desire of many ex-slaves to commemorate their successful careers in commerce but also, as here, in the case of the infant Achilleus, by Hermes' role as "Psychopompos", the "Escort of Souls" in the mythological inflection of basic Greco-Roman eschatology, who leads the spirit at death to an afterlife in the underworld or (in the Pythagorean conception popular during the first centuries CE) the ethereal heavens.²¹ A comprehensive study of this type of monument undertaken thirty-five years ago by Henning Wrede found no precedent for this sort of allegorical deification of a private person in earlier popular art and therefore concluded that the form was the invention of these newly transplanted slaves and ex-slaves from the eastern Mediterranean, who absorbed the vocabulary of traditional Roman funerary art but redeployed it with a new grammar, creating a visual language of their own



Figure 4.2 Tombstone of an infant boy, Sextus Rufius Achilleus, from Rome. Achilleus is represented in the guise of Mercury, with tortoise, cock, money bag, and *caduceus*, c. 100–150 CE. “To the Divine Spirits, to Sextus Rufius Achilleus. He lived seven months, nine days. Sextus Rufius Decibalus made (this) for his sweetest son.” (*CIL* 6.25572), see n. 21. After Friggeri *et al.* 2012: 533, no. IX, 4.

(Wrede 1981: 67–68, 93–105). This is precisely the sort of contextual culture that Miller and Smallwood identify as essential to the strategies deployed by Africans transplanted to the Americas to carve out territory of their own in an alien world. Eventually, the custom of private deification in Roman funerary art was taken up by others of the sub-elite classes, especially provincials and immigrants to Italy like Decibalus, but its origins among ex-slaves newly arrived in a western land provides a striking parallel with the cultural products of African slaves forcibly relocated to the New World.²² Funerary commemoration, which in Roman practice fixed familial relations and social claims in stone, was a natural *locus* for defying the forces of natal alienation and dishonor. Representing themselves and their kin as triumphing over death, becoming immortal like gods, was for slaves and ex-slaves an existential parting shot.²³

A wealth of evidence shows that the Roman master class not only condoned this type of funerary expression but actively encouraged it, through social organizations such as private burial associations (*collegia*), which slaves were enabled to join and to organize, and architectural forms such as communal tombs, which wealthier masters often built for their household slaves and freedmen at their own expense.²⁴ An excerpt from one set of regulations for a private association near Rome open to slave and free members alike illustrates well the controlled autonomy that governed such funerary arrangements in presenting the stark case of a slave-owner who unfairly refuses to release the body of a slave for burial: "...when any member of this club who is a slave dies, if his master or mistress should unfairly refuse to hand over the body for burial, and if the slave has left no testamentary instructions, a funeral shall be performed for a likeness of him."²⁵ This reminds us that the power of a master to deny his slaves burial was absolute. But it reveals to us also the social norms that regarded such behavior as "unjust" (*inaequum*); it indicates incidentally that slaves left informal testamentary instructions that were recognized; and it shows one way that a mixed community of slaves and free persons might assert the fundamental humanity of a dead slave by performing funerary rites for a surrogate image.²⁶

"Liminality," Process, and the Ideology of Manumission

To establish my second claim – that the Romans regarded slavery as part of a process and reveal as much in their attitudes toward the deaths of slaves – would require more space than the present context allows. The issue hinges in part on the question of manumission at Rome, specifically its frequency and patterns of distribution, topics about which there has been much debate. On the one hand, the Romans seem to have manumitted slaves more regularly, and to have granted ex-slaves more complete rights of citizenship, than was common in most slave-owning societies. On the other, a majority of Roman slaves is thought to have been employed in agriculture and therefore to have lived and died in circumstances that brought few prospects of manumission, so that the impact of the practice on the maintenance of the system overall was minimal.²⁷ Recent assessments try to accommodate both views, allowing a high rate of manumission among household slaves in urban contexts (especially Rome) but minimizing the scale and effects of the practice overall.²⁸ For our purposes the actual rate of manumission is less important than the ideology attending the practice, since we are considering a metaphorical concept (social death) rather than a quantifiable reality, and for that perceptions are as important as demographic probabilities.

If we turn from the unknowable (numbers) to the unmeasurable (attitudes), various indicators suggest that Roman slaves and slave-owners alike regarded slavery as a temporary rather than a permanent condition. The idea that setting a recognized term-limit to slavery was both expedient and just was current in Greco-Roman thought from the Hellenistic period on, and the principle that meritorious slaves

would earn freedom for good conduct was fundamental to the ideology of Roman manumission.²⁹ Literary and legal sources from the middle of the first century BCE through the middle of the fourth century CE imply that slaves captured in war who served dutifully might expect to regain freedom after five or six years and that a period of servitude of twenty or thirty years was regarded as punitive.³⁰ The practice of self-sale into slavery for personal social advancement, a recognized phenomenon in the Roman world, could not have existed (however rare it may have been in practice) if enslavement to a Roman meant a permanent loss of liberty and status.³¹ Modern authorities, following our ancient literary sources, make much of the “stain of servitude” (*macula servitutis*) that prevented ex-slaves from fully entering respectable society, and there can be no doubt that various limitations – legal, social, and economic – encumbered freedman status in the Roman world.³² But the Romans recognized slavery to be a product of circumstances rather than nature, and outside the literary record, epigraphic and iconographic evidence points to an absence of shame in Roman ex-slaves about their servile pasts and evident pride in many in having attained freedom and citizenship.³³ However indelibly the experience of slavery was thought by some to have stained the character of any ex-slave, others outside the world of the Roman literary classes disdained the social stigma and saw voluntary self-enslavement as a vehicle for upward mobility. However remote the attainment of freedom may have been for some slaves, others rightly saw it as a plausible aspiration.³⁴ The attitudes of ex-slaves about slavery were no doubt as diverse as their experiences of it had been, and we must accept our inability to know how deeply the perception of dishonor being inherent in slavery imposed by masters penetrated the psyche and self-perception of those who escaped the condition.

For the present, it will suffice to ask how the idea of slavery as a transitory condition, if demonstrable, could be reconciled with Patterson’s conception of social death as the central element, a place of “institutionalized liminality,” within a process that in an ideal state maintains an equilibrium of slaves moving into and out of the system. Patterson’s model of a tripartite processual structure replicates the framework of a classic rite of passage marked by three stages: separation, margin or *limen*, and incorporation or re-aggregation.³⁵ Figure 4.3 projects the two phenomena at the center of Patterson’s central metaphor, slavery and death, against a schema devised by Peter Metcalf and Richard Huntington to show the binary oppositions that underlie van Gennep’s tripartite sequence.³⁶

Patterson’s formulation of the process as a transition from becoming enslaved, to being a slave, to becoming freed does not align with the natural analog in slavery

death	ONE DISTINCTION	slavery
alive / dead	TWO CATEGORIES	free / enslaved
alive -> dying -> dead	THREE STAGES	enslavement -> slavery -> manumission

Figure 4.3 Schema of van Gennep’s rites of passage with Patterson’s stages of slavery compared with the corresponding stages of dying (after Metcalf and Huntington 1991: 30).

of the three-stage existential process of living, dying, and being dead, which would instead correspond to being free, becoming enslaved, and living in servitude or being a slave. Patterson's scheme instead figures the entire cycle of recruitment, servitude, and manumission, as a three-stage process. That is not a problem in itself: the sequences of death rituals and slavery rituals need not coincide on a one-to-one basis in order for the latter to be conceived of as a rite of passage or for the metaphor of slavery as social death to be operative in its own terms.³⁷ But it shows how in an analogous scheme the state of servitude, which on the model of the stages of dying would be paralleled by death, in a position signifying a final state, is displaced by Patterson to the center of the scheme, which has the effect of moving the static final element to a position of transition at the heart of the process. That move, along with the labeling of the phase as liminal, replicates the elaboration of van Gennep's thesis by Victor Turner, who effectively detached the liminal stage from the process and fixed it as a static state.³⁸

To describe the central transitional phase van Gennep used the French term *marge* ("margin") and Latin *limen* ("threshold") interchangeably – reasonably so, since he was groping toward the outline of a theory. Turner's adaptation of the concept of the liminal, on the other hand, transformed van Gennep's model into a rigid structure fundamentally different from what the original formulation intended. In borrowing van Gennep's terminology Turner paid little attention to semantics, explaining that since other sociologists had co-opted the term "marginal" for their own purposes, he was left with "liminal" for his; he then went on to describe a transitional process that was more like a fixed state, thus ignoring both the derivation and van Gennep's original conception of the term (Turner 1977: 35). Since the 1980s it has been difficult to understand what social scientists mean when they characterize something as "liminal," since popular usage shows that in many cases the term has wholly departed from its original sense. The terms "margin" and "*limen*," however, are not synonymous. Indeed, each implies a perspective opposite to that of the other. Both signify being at the edge, but from there the two terms part company. Margins limit. We speak of margins of error and of writing within margins and of buying on margin. "Margin" is a word of containment; if you move to the other side of one, you are said to go beyond it or outside it. "*Limen*," on the other hand – literally "threshold," "the point at which one passes into (or emerges from) something" (*Oxford Latin Dictionary* (1982) 1031 s.v. 3) – differs fundamentally in semantic orientation. Thresholds are meant for crossing; they signal transition and passage, not limitation and barrier. The two terms point to opposing conceptions of the realms they describe, with margins circumscribing and *limina* marking points of transition.

Patterson, like Van Gennep, uses the terms marginality and liminality interchangeably, and although the latter is his preferred term, it is clear that he employs it as Turner does, to describe a static state, not only at the institutional level but also in the interpersonal relations between masters and slaves, whose situation is likened to death. This is where his view of slavery differs from the Roman perspective. However the Romans may have understood the operation of their slave society on

an institutional level, a variety of evidence indicates that they regarded the period of servitude of individual slaves as a probational sentence, a stage through which meritorious slaves would pass in the normal course of life. In this sense, Patterson's insistence on the permanence of the state, although it fits with his own Turner-influenced idea of a liminal stage, is ill-suited to one conception of slavery held by the Romans. A single illustration may suffice to indicate the difference.

Among the surprises revealed fifty years ago by the publication of a remarkable inscription recording the terms for the local undertaking concession at the Roman port city of Puteoli, modern Pozzuoli, on the Bay of Naples, during the first decades of the first century, was a pair of clauses mandating priority consideration for four types of "special death" within the community: the deaths of town counselors (decurions) and of young persons who died before adulthood were given precedence over other funerals, and the corpses of slaves and of those who died by hanging (mostly suicides) were to be removed from the town within a matter of hours.³⁹ A clear differentiation is drawn between funerals marked for special honor (those of decurions and the young) and those set apart as sources of particular concern (suicides by hanging and slaves) – concern, it may be noted, but not dishonor, of which there is no hint in the regulations. Honorific funerary rites for civic leaders and exclusions of suicides are documented elsewhere, but special treatment for the deaths of slaves and of those who died before their time is less easily paralleled.

In order to characterize the funerals of those who died prematurely, the Romans employed a technical expression, *funus acerbum*, "bitter funeral," which drew a metaphor from agriculture in the adjective *acerbus*, "bitter," originally applied to unripened fruit picked before maturity, to describe the deaths of those taken before their time (Néraudau 1987: 197–204 and Rawson 2002: 271–277). In literary texts the expression is used generically of any untimely death, but in inscriptions and legal documents such as the municipal contract from Puteoli a more precise usage marks out two groups: persons of any status and either gender who died before the age of about twenty-five, and slaves of even older ages, up to and above thirty, the minimum age during the imperial period at which slaves could be legally manumitted, except under special circumstances.⁴⁰ The late fourth century commentator on Virgil, Servius, provides a clue as to why these two types of deaths were assimilated and why neither was accorded full adult rites: "Some say, concerning children who die while still in their father's power (*potestas*), that it is not thought right for a funeral to be announced and to occur, because in relation to their father they are in the place of a slave."⁴¹ The wording is startling: it is one thing to say that a man regards his household slaves as part of his family – that paternalistic trope is well recognized. It is another to say that his children are in the place of slaves. What is evidently meant is that, like a slave, a freeborn child beneath the age of majority (and thus living under paternal authority) had no legally recognized independent identity. Obviously, the status and circumstances of freeborn children within a slave-owner's household were very different from those of his slaves, but the lives of slaves cut short before manumission were like those of children

who died before reaching adulthood in that each was terminated prematurely in the life course, before coming into its own power and thus before its time.⁴²

This conception of the death of a slave can be seen in the *Letters* of the Younger Pliny, who consoled himself on the deaths of his household slaves because of his generosity in manumitting them: in his mind, Pliny seemed “not to have lost entirely prematurely (*immaturos*) those whom he lost already free(d).” Pliny’s complacency should not blind us to the conceptual underpinnings of his magnanimity: slaves who died before manumission were thought to have died before their time.⁴³ Of the large number of funerary epigrams lamenting early deaths (many more in Latin than in Greek), a special subcategory represents a deceased slave or slave-owner claiming that death had deprived the slave of freedom “owed” or “promised,” and many other Roman epitaphs suggest that only death forestalled the attainment of a goal of manumission for which a slave was destined.⁴⁴ Deathbed manumissions and *post mortem* assurances of an aborted desire to manumit would have been cold comfort to a dead or dying slave, let alone to the many slaves who knew they would die in slavery, but the harsh realities of the Roman practice of manumission do not undermine or negate the validity of the culturally constructed conception of slavery as a probationary sentence, from which a dutiful slave could earn time off for good behavior and ultimately emerge with freedom and citizen rights.⁴⁵ A cultural system that placed ultimate discretion for judging worthiness in the hands of individual slave-owners enabled a comforting fiction – that slaves deserving manumission would be freed – to be reconciled morally with the harsh reality that most Roman slaves would die as slaves.

Three Myths of Slavery and Immortality

Finally, three myths of transition and change help to delineate the conceptual universe in which slavery and death intersected. The first is not peculiarly Roman but rather pan-Mediterranean in its orientation and reflects, already before the time of Herodotus, who is the first to report it in the fifth century BCE, the common mythology of neighboring peoples habituated by endemic slaving to abduction and repatriation as a way of life. According to Herodotus, the Getae, a Thracian tribe living in the area of modern Bulgaria between the Balkans and the Danube, a region famous throughout antiquity as a source for slaves, believed that when they departed from life they did not die but went instead to a divine spirit (*daimon*), Zalmoxis, in a land where they lived forever. From Greeks living along the Hellespont Herodotus had learned a different account: that Zalmoxis had been a slave of the philosopher Pythagoras on Samos before being freed, acquiring great wealth, and returning to his own country, where he built a dining hall to entertain his countrymen and taught them that they would never die. During this time Zalmoxis secretly made an underground chamber, into which, when it was completed, he disappeared for three years. When in the fourth year he returned, the Thracians then believed his doctrine of immortality, which they subsequently celebrated quadrennially with a human sacrifice.⁴⁶

The Getae had long been associated with slaving in the Black Sea, around the Hellespont, and all along the lower Danube – more often as victims than as perpetrators. Tribal skirmishing was common, but the Getae were also preyed upon regularly by external enemies, who enslaved them and sold them at local markets or took them away. Herodotus is clearly skeptical of the rationalizing version of his countrymen, which patronizes the native Thracian cult with the supposedly civilizing influence of Pythagorean learning, but the themes of enslavement and regeneration remain consistent, and it is not difficult to see in the legend of Zalmoxis, the vanishing slave god, with his doubled stories of repatriation, once from slavery to his homeland, once from a metaphorical death signaled by disappearance, to life, a myth fashioned around the realities of a world in which individuals customarily disappeared into slavery, but also, like Zalmoxis, returned.⁴⁷

Such symbolic restorations to life had resonances in the real world of ancient Mediterranean warfare. When a Roman citizen who had been taken captive and enslaved by the enemy returned to Roman protection, he regained freedom and most former civic and property rights by a legal principle known as *postliminium*, literally a return “back behind the threshold,” in this case the threshold of enemy territory, the frontier. The topic occupies an entire chapter in both the Justinianic *Code* and the *Digest*, which records legal opinions dating back to the second century BCE. Over time, the property and personal rights of the repatriated war captive became hedged about with restrictions, but one principle remained basic throughout: during the time of captivity, “in every branch of the law, a person who fails to return from enemy hands is regarded as having died at the moment when he was captured.”⁴⁸ The figuring of slavery as social death, so far from being opposed to a legal definition of the institution, was built by the Romans into the law of persons, to characterize a status that was absolute but potentially temporary. From technical usage in law the term *postliminium* was extended metaphorically in literary texts to other types of recovery of status or state, notably by the second-century novelist Apuleius, who uses the term to describe the experience of recovery from near death and of a restoration of identity or self.⁴⁹ The ultimate triumph of immortality over death reflects a universal fantasy, but its pairing in the Zalmoxis myth with a return from slavery suggests a more poignant conceptual assimilation of the two in Mediterranean thought that finds reflection also in Roman legal conceptions of enslavement by captivity.

If the myth of Zalmoxis reflects the world-view of a people accustomed to the realities of slaving, that of Acca Larentia suggests the perspective of Roman masters who recognized their slaves’ need to establish meaningful links to the past and sought to direct it into approved channels. The Roman religious calendar included at the end of the year an annual holiday on December 23, the *Larentalia*, which fell near the winter solstice at the close of the week-long *Saturnalia* festival, when license was granted to slaves to behave as equals with their masters in certain prescribed contexts.⁵⁰ The polymath Varro explained the origin of the rite: “The day of Larentia, which some writers call the *Larentalia*, is named after Acca Larentia, to whom, on the sixth day (after the *Saturnalia*), which is declared a ‘black day’,

our priests publicly perform a sacrifice to ancestors at a place called the *tarentum* of Acca Larentia. This sacrifice is performed on the Velabrum where it exits onto the New Road, at the tomb of Acca, as some say, because near there the priests sacrifice to the divine spirits of slaves (*diis Manibus servilibus*).⁵¹

Acca was the nurse of Romulus and Remus, and in some versions, the mother of the *Lares*, the collective ancestors of the Roman people.⁵² The form of sacrifice made to her on her holiday paralleled that made at the public holiday to honor dead kin that came at the end of the week-long *Parentalia* festival, when Roman families commemorated ancestors at their grave sites. In the Roman calendar, parallel positioning and sequence signaled a corresponding relationship and (usually) a parallel purpose. Here the paired public festivals in honor of dead kin collectively, one for free persons, one for slaves, suggest a modulated response to a recognized need to accommodate slaves' desires to connect to their pasts; if recognizing individual ancestral lineages could not be condoned, communal collective worship might safely channel individual yearnings into safer outlets.

Varro glosses the archaic term *tarentum* with the Latin word for grave (*sepulcrum*), and Calvert Watkins showed by tracing the older word's Indo-European etymology that *tarentum* was originally a "crossing place"; the term derives from an Indo-European root **terh₂-* associated with the semantic field of overcoming adversity or hostilities, which are conceived of as difficulties to be passed through or endured. That field sits squarely at the center of what Watkins called "the Indo European doctrine of final things," according to which the entity crossed over, the difficulty overcome at the tomb-site, is death. The *tarentum* of Acca marks the place where she triumphed over mortality, where she crossed over to a divine afterlife. That is why the priests made annual sacrifice to the divine ancestors of slaves, the original *lares familiares*, near her grave.⁵³

Third and finally, Trimalchio, the centerpiece of an extended satiric portrait drawn by the first-century novelist Petronius of a wealthy ex-slave as vulgar host of an extravagant banquet. The type of the boorish host places Trimalchio within a well-recognized tradition of banquet satire, but the picture he paints of his own remarkable life elevates his story to the level of myth. Petronius's genius is to have combined in his portrayal a traditional authorial stance of moral condemnation with the perspective of its conventional target, here cast realistically through the eyes of a successful freedman. The result is a complex portrait, laced with sympathy, of an indomitable personality shaped by circumstances to express itself in ways reflective of the ambivalent position in Roman society of a former slave.⁵⁴

Trimalchio is obsessed with death, and in Petronius's depiction, his desperate tallying of accumulated good fortune against the final day of reckoning marks a pitiable aspect of his freedman's mentality, a contemptible remnant of his past as a slave (Arrowsmith 1966). Trimalchio, of course, sees his life differently. We first learn of his perspective when the narrator encounters a painted autobiographical mural adorning the walls of his home. The fresco depicts four scenes from Trimalchio's life as a slave, followed by a fifth scene representing his manumission and subsequent success as a freedman. Shown first is (1) Trimalchio's sale as a boy

on the slave auction block (29.3), then (2) Trimalchio as a pampered youth in the guise of Mercury (like the young boy Achilles of Figure 4.2) entering Rome (29.3); these two scenes are followed by (3) Trimalchio learning to do accounts and (4) rising to the position of chief steward (*dispensator*) in his master's household (29.4), and then, finally, set off from the other scenes, (5) Trimalchio being lifted up by the chin by Mercury onto a tribunal (29.5), where he is surrounded by symbols of prosperity (29.6).⁵⁵

The depiction of Trimalchio in the final scene conveys in both words and images a single symbolic significance: iconographically, the gesture of raising the face of another by lifting under the chin represents favor bestowed on a beloved; verbally the expression "to raise the chin" evokes the rescuing of a drowning man at sea. The fourth-century lexicographer Nonius Marcellus provides the key to the relevance of the metaphor here. According to Nonius, newly freed slaves shaved their heads "just as those freed from shipwreck customarily do, because they seemed to be escaping the storm of servitude."⁵⁶ Trimalchio's manumission and elevation from slavery to freedman status is figured by him as both a deliverance from peril and an apotheosis, a transition from life to a blessed afterlife. In his vision of the world, and for Roman slaves generally, manumission marked the death of social death and the beginning of a new life, a resurrection and rebirth into a new world.⁵⁷ Death and manumission were alike in that each brought an end to the life of a slave and offered an opportunity for rebirth, into a divine afterlife or into the life of a free man.⁵⁸

Petronius and his upper-class readers saw Trimalchio differently: for them, the "stain of slavery" forever condemned Trimalchio to an inferior status in a social underworld from which he could never rise to respectability (Bodel 1994; Andreau 2009). Much of the poignancy of Petronius's portrait lies in its ability to convey simultaneously the master's and the slave's diverse perspectives on slavery and manumission conceptualized metaphorically with figures of death and rebirth.

Common to all three myths is the theme of slaves triumphing over death, which is variously represented as crossing over to a new world. Whether this insistence on immortality signifies a negation of the viability of the concept of social death or rather its affirmation is open for discussion. What is clear from all three myths is that the Romans viewed slavery less as a permanent condition than as part of a process, and that the progression from slavery through manumission to freed status was for them as natural as that from life through dying to death and the afterlife. This did not mean that all slaves would be freed any more than all Romans would be commemorated and have an afterlife, but advancement from one stage to the next was regarded as natural, if not inevitable.⁵⁹

Let us return, finally, to Patterson's metaphor of social death and his characterization of slavery as a state of "institutionalized liminality" at the center of a three-phase process between enslavement and disenslavement. If "liminality" means what its derivation implies and suggests a threshold between two worlds, then the phrase characterizes well one important Roman conception of slavery; and if "social death" is understood not as a permanent state but as a temporary condition, as the Roman law of *postliminium* conceives of it, then we may readily agree with the

jurist Ulpian (above, n. 7) that “death” is a fully appropriate analog for slavery, at least in matters of law. In the end, ironically, it is Roman law and legal definitions that provide the clearest indications of a Roman conception of slavery as social death. In other areas of Roman life – notably funerary culture and popular thought – social forces beyond the reach of law worked against (and ultimately shaped) the legal construction of slavery as death in ways that served masters and slaves alike, by softening the edges of natal alienation and enabling meaningful expressions of identity in the enduring commemorative forms that in Roman culture mattered most at death.

Notes

- 1 Patterson 1982: 3–13. More recently, he has described natal alienation succinctly as “deracination and socio-cultural isolation” (Patterson 2012: 324). In this chapter the following abbreviations of standard collections of Latin inscriptions are used: *AE=L’Année Épigraphique*. Paris. 1888–; *CIL=Corpus Inscriptionum Latinarum*. Berlin. 1863–; *CLE=F. Bücheler, ed. Carmina Latina Epigraphica*. Leipzig. 1895; *ILS=H. Dessau, ed., Inscriptiones Latinae Selectae*. Berlin. 1892–1916.
- 2 Patterson 1982: 13, “On the institutional level, the modes of recruitment, enslavement, and manumission were all intimately interrelated”; 340, “Slavery ... was an institutionalized process moving through three phases: enslavement, institutionalized liminality, and disenfranchisement.” In the later formulation the final stage of “disenfranchisement” is generalized and expanded to include emancipation, escape, and, presumably, death, along with manumission, as possible modes of final metamorphosis or exit. Weiler 2003: 147–275 surveys ancient modes of release from slavery, principally flight and manumission, but also return from captivity, adoption, marriage, and asylum.
- 3 Patterson 1982: 17–27 (quote from p. 20). Standard Cross-Cultural Sample: Murdock and White 2006. Objections to Patterson’s rejection of property-based conceptions of slavery as incompatible with his own focus on domination have been raised by Lovejoy 2003: 1; Davis 2006: 32; Harper 2011: 35 n. 11; and Lewis, Chapter 2 in this volume. Vlassopoulos 2011 follows Patterson in seeing ancient Greek slavery as a relationship of domination rather than ownership of property.
- 4 Patterson 1982: 334–342; Davis 2006: 32–34. For Aristotle’s (partly inconsistent) views, see, e.g. *Politics* 160a12–14 (women and children); 1254b21–24 (animals); and *Eudemian Ethics* 1241b22–24 (tool), with Garnsey 1996: 107–127. Assimilation to animals is built into the vocabulary of Greek slavery, as, e.g. in a standard term for slave, *andrapodon* (“man-footed”), formed on the analogy of *tetrapodon* (“four-footed”), of livestock: see Wrenhaven 2012: 13–17.
- 5 *Digest* 1.5.4.Pr-2 (Florentinus, *Institutes* 9): *Libertas est naturalis facultas eius quod cuique facere libet, nisi si quid vi aut iure prohibetur. Servitus est constitutio iuris gentium, qua quis dominio alieno contra naturam subicitur. Servi ex eo appellati sunt, quod imperatores captivos vendere ac per hoc servare nec occidere solent*. For *ius gentium* and the influence of Stoic conceptions of the cosmopolis on Roman lawyers, see Honoré 2012: 9–13; for *dominium*, see Berger 1953: 441–442. That the derivation of *servus* from *servare* is linguistically unlikely (Rix 1994: 54–87) does not diminish its significance as an indicator of a popular perception.

- 6 So Allain and Bales 2012, who define slavery as “control tantamount to possession ... achieved through violence” (11); cf. Allain 2012.
- 7 Patterson 1982: 5, “Because the slave had no socially recognized existence outside his master, he became a social nonperson”; 8. Here too Patterson’s conception accords well with Roman perceptions: as the jurist Ulpian notes succinctly in his commentary on the laws regulating manumission established by the first emperor Augustus, “Generally we compare slavery with death” (*servitutem mortalitati fere comparamus*): *Digest* 50.17.209 (the antepenultimate citation of the work, preserved in a collection of “various rules of early law,” *diversae regulae iuris antiqui*).
- 8 See, e.g. Kudlien 1991: 152; Johnson 1999: 23; Mason 2003: ix; Rankine 2011.
- 9 Patterson 1982: 5–6 rightly distinguishes between the natural affective feelings and practices observable among slaves in many societies and the ultimate contingency of all of them upon the master’s will. Cf. Patterson 2008: 35: “‘Natal alienation’ does not mean that the slave did not have a community, or relatives. Slaves loved their children and kinsmen dearly, but they had no custodial claims on their children or spouses.”
- 10 Smallwood 2007: 5, 190. Smallwood’s insight that social death was for masters a “receding horizon” Brown promotes into a thesis that enslavement actively engendered culture: social death was a “productive peril” that served as a catalyst for slaves’ resistance to domination (Brown 2009: 1248; cf. 1243–1244). In this view he shares much in common with Rucker 2006.
- 11 Patterson 1982: 207 well recognizes that contest is at the heart of the relationship: “What masters and slaves do is struggle; sometimes noisily, more often quietly; sometimes violently, more often surreptitiously; infrequently with arms, always with weapons of the mind and soul.”
- 12 For the master’s role in granting permission for burial within household tomb monuments, see Hasegawa 2005: 261–265.
- 13 As noted, for example, by Bruun 2014: 606. Patterson 1991: 236 recognizes that many freedmen’s epitaphs celebrated manumission as the most important event in their lives but does not note the extent to which this newly won freedom was manifested through an expression of familial bonds. Mouritsen 2011: 285–287 rightly emphasizes the importance to ex-slaves of family and (especially) freeborn sons but underplays the equally prominent presence in freedmen’s funerary commemorations of ties to patrons and slaves, their own and others’.
- 14 For example, in the epitaph of a slave from a prominent family in Rome set up by his wife and sister, the word used for “wife,” *coniunx*, elevates the slave union to the status of a legal marriage between free citizens: “To Sophrus, slave of Sisenna Statilius, accountant, his sister Psyche and wife Optata made (this epitaph),” *Sophro Sisennae/Statili ser(vo) tabul(ario)/Psyche soror et/Optata coniunx fecer(unt)* (CIL 6.6358 = ILS 7404).
- 15 CIL 10.8222 (Capua): (on the epistyle at the top) [*M(arcus)*] *Publilium M(arci) l(ibertus) Satur de suo/sibi et liberto M(arco) Publilio Stepano*. (In the middle band) *Arbitratu M(arci) Publili M(arci) l(iberti) Gadiae praeconis et M(arci) Publili M(arci) l(iberti) Timotis*. (On the listellum, below) [- -] *ae T[- -] vix(it) annis XXII*. See Figure 4.1.
- 16 See George 2011: 393–394; Chioffi 2005: 82–83 no. 70; and Chioffi 2010: 514–517, for the slave market at Capua, which grew up beside a local sanctuary of Diana at Mount Tifata that served as an asylum for runaway slaves. For the images and interpretation,

- see Kolendo 1979: 163–166 (life-moment); Donderer and Spilliopoulou-Donderer 1993: 255–257 (occupational scene).
- 17 *CIL* 6.22355a = *ILS* 8432 (Rome): *A(ulo) Memmio Claro, A(ulus) Memmius Urbanus, conliberto idem consorti carissimo sibi. Inter me et te, sanctissime mi conliberte, nullum unquam disurgium fuisse conscius sum mihi. Hoc quoque titulo superos et inferos testor deos una me tecum congressum in venalicio, una domo liberos esse factos, neque ullus unquam nos diunxisset nisi hic tuus fatalis dies.* See Flory 1978: 82–90 on the terms *conservus/-a* (“fellow slave”) and *collibertus/-a* (“fellow freed(wo)man”) as quasi-kinship designations and for the idea that the “the social cohesion of the *familia* [slave household] and ... its quasi-familial bond, which persisted beyond slavery and into freedom, helped to contribute to the social stability of the slave population” (89). Wilkinson 1964 surveys usage of the term *parens* (a relative, especially a parent) by slaves of their masters and by masters of (especially) their home-born slaves.
- 18 So, for example, at Delphi in Greece, over the last two centuries BCE: see Hopkins 1978: 163–168.
- 19 For the legal principle, see Gaius, *Institutes* 1.19, who lists among the other “just causes” quasi-familial relationships involving close affective ties, such as those with a foster-child (*alumnus*), child-minder (*paedagogus*), or future-wife (*ancilla matrimonii causa*). For texts implying a moral impetus to preserve the integrity of slave families, cf. Jones 2008 (a new fragment of Hyperides, *Against Timandros*); *Digest* 33.7.12.7; 33.7.12.33 (Ulpian); *Theodosian Code* 2.25.1. For balanced discussions, see Bradley 1984: 47–80 and Harper 2011: 262–273; note also Mouritsen 2011: 285–286 n. 20.
- 20 For the monument of Achilleus, see Friggeri *et al.* 2012: 533 no. IX, 4 (C. Ricci); Wrede 1981: 279–280, Kat. 222 (taf. 32,3), with the inscription (*CIL* 6.25572), “To the Divine Spirits, to Sextus Rufius Achilleus. He lived seven months, nine days. Sextus Rufius Decibalus made (this) for his sweetest son.” *D(is) M(anibus). Sex. Rufio Achilleo. Vix(it) m(enses) VII, d(ies) VIII. Sex. Rufius Decibalus fil(io) dulcissimo fec(it).* Decibalus may have come to Rome as one of the half million war captives reportedly enslaved by Trajan in Dacia in 105 and 106 CE (Lydus, *On Magistrates* 2.28). The number is no doubt exaggerated, but Dacian slaves had been common in Rome since the first century BCE: see Crawford 1977; Scheidel 2011: 302–303; Charpentier and Valtvhinova 2002: 144–148; further below, n. 46.
- 21 For Mercury/Hermes as the “Psychopompus,” see Combet-Farnoux 1980: 351–373; Cumont 1922: 163–164; 1949: 300.
- 22 For the diffusion of the practice of private deification geographically and socially over the second and third centuries, see Wrede 1981: 164–175 and, for the Iberian peninsula, Rothenhöfer 2010.
- 23 Reflections of a distinctive ex-slave mentality focused on family, citizenship, and immortality have been widely investigated in the funerary art of Roman freedmen, for example, by Zanker 1975; Petersen 2006; Leach 2006; George 2006; and Koortbojian 2006.
- 24 The Romans distinguished private “familial” tombs (*sepulchra familiaria*), set aside by slave-owners for the use of their slaves and freedmen and managed by private associations (*collegia*) of household slaves, from “hereditary” tombs (*sepulchra hereditaria*), which were reserved for the owner and his heirs and descendants: see *Digest* 11.7.5 (Gaius) with De Visscher 1963: 93–102; Hasegawa 2005: 252–256, 261–265. Though designated for slave owners’ personal households, familial tombs were neither restrictive nor exclusive: many included joint epitaphs and common burial niches preserving

- familial groupings involving slaves and ex-slaves of different households and even slaves and freeborn men and women: see Treggiari 1981; Bodel 2008a: 211–212.
- 25 *CIL* 14.2112 = *ILS* 7212, II, 3–4 (of 136 CE), ...*q[ui]sq[ui]s ex hoc collegio servus defunctus fuerit, et corpus eius a domino dominav[e] iniquitat[is] sepulturae datum non fuerit neque tabellas fecerit, ei funus imag[ina]rium fiet.* For the funerary regulations, see Bendlin 2011, esp. 278–285 on the predominantly slave and ex-slave membership of the association.
- 26 The grave of a Roman slave was considered a *locus religiosus* and was thus protected by religious law: see *Digest* 11.7.2.pr (Ulpian) with Dumont 1987: 184–185. By contrast the corpses of those who died at Rome without resources or social connections were dumped along with animal carcasses in common pits (*puticuli*): what mattered at death was not juridical status (whether slave or free) but connection to a family, patron, or social organization. Pliny the Younger allowed his household slaves to make informal wills, which he treated as binding – so long as property remained within the household (*Letters* 8.16.1–2).
- 27 Mouritsen 2011: 202–205 emphasizes the capricious nature of the Roman practice and its presumed demoralizing and divisive effects on the majority of slaves who never won manumission. Hopkins 1978: 125–132 sees greater economic rationality and therefore regularity in the Roman system, in which the prospect of manumission was a valuable incentive that helped to sustain a self-replacing workforce (*contra* Mouritsen 2011: 159–168). Bradley 1984: 111–112 notes that capriciousness and utility were not incompatible, that the value to slave-owners of manumission as an incentive was in fact enhanced by the unpredictability of its actual award; nor was the capricious award of manumission necessarily demoralizing to slaves themselves: cf. Petronius 28.8. Neither of the two premises on which the minimalizing view is based – the primacy of agriculture in the work regime of Roman slaves and the disadvantages of employment in agriculture for winning manumission – is unassailable: see, for example, Jongman 2003: 116–119 on urban slavery; Roth 2002, 2005, and 2007: 25–52 on rural slave families and the institution of the *peculium*.
- 28 For Scheidel 2011, Roman manumission was “fairly limited.” For Mouritsen 2011 it was “very common, at least in some environments” (141) but in rural settings “probably negligible” (205) and in scale overall “relatively small” (141). Despite refinements in our methods of analysis, the lack of measurable data prevents us from venturing beyond such cautiously vague estimations.
- 29 The advantages of term-limited servitude were expounded in the pseudo-Aristotelian *Oeconomica* (1.5.6 [1344b15]) of probably third century BCE date: “Every slave should see a definite end (τέλος) of slavery. To put forth freedom as a prize is both just (δικαιον) and expedient (σώμμερον), since slaves want to work when a reward and a time-limit are set.” See Bellen 2001: 15 and Weiler 2003: 279–281. Dionysius of Halicarnassus credited the mythical Roman king Servius Tullius with the insight that the prospect of earning freedom and citizenship by meritorious conduct inspired loyalty in slaves (4.23.3; cf. 4.24.4). Mouritsen 2011: 137–139 balances this testimony with literary passages suggesting that manumission was neither universal nor automatic.
- 30 Specific figures for the periods of servitude for war captives are provided by Cicero, *Philippics* 8.11.32 (6 years); *Codex Theodosianus* 5.7.2 (5); Cassius Dio 53.25.4 (20); and Suetonius, *Augustus* 21 (30); see further Weiler 2003: 246–247 n. 155.

- 31 Self-sale into slavery to a Roman for the purpose of acquiring citizenship is attested as early as 177 BCE, when the Roman senate passed a measure to prevent Latins from engaging in the practice: Livy 41.9.11. For the imperial period, see Ramin and Veyne 1981: 488–497; further Mouritsen 2011: 10; Patterson 1982: 248–249; Furtado in this volume, Chapter 8, on Joana Baptista; and Engerman 2007: 94–104, for a broader historical perspective. Petronius 57.4 provides a poignant (if fictitious) picture of self-motivated intragenerational mobility. The scale of the practice is generally considered to be insignificant (e.g. Scheidel 2011: 300); its importance to us lies in the implications of its underlying premise that slavery provided a path to personal advancement.
- 32 For the “stain of servitude” (*macula servitutis*), see *Digest* 40.11.5.1 (Modestinus) and *Codex Iustinianus* 7.16.9, 10.32.2 with Hermann-Otto 1994: 407–409 and Mouritsen 2011: 12–35, esp. 17–24. Mouritsen begins his discussion by approving Patterson’s concept of “social death” as “better in line with Roman perceptions of slavery” than legal definitions of slaves as property (14).
- 33 As the Syrian ex-slave Publilius put it in one of his proverbs, “One who succumbs to circumstances is a slave honorably” (*Sententiae* H17, 219, *Honeste servit, qui succumbit tempori*). For freedmen’s pride in Roman citizenship, see, for example, Zanker 1975, on funerary reliefs with togate portrait busts (cf. Figure 4.1), and, among many epigraphic testimonials, *CIL* 6.28228 = *CLE* 1054, a freed girl, dead at the age of twelve, who “came to Rome, which gave [her] the rights of a citizen and gave them while she was alive” (...*Romam veni, quae mihi iura dedit civis, dedit et mihi vivae*) and *CIL* 11.137 = *ILS* 1980 = *CLE* 1580, a freedman at Ravenna who was “Parthian by race, freeborn, captured as a youth and given over to the Roman land; there, when he had been made a citizen, with good luck [he] saved up his money to the age of fifty” (...*generi Parthus, natus ingenuus, capt(us) pubis aetate, dat(us) in terra Romana. Qui dum factus cives R(omanus), iuvene fato, colocavi arkam dum esse(m) annor(um) L...*); Petronius 57.4 (Hermeros), “I gave myself into slavery and preferred to be a Roman citizen rather than a tax-paying provincial” (*ipse me dedi in servitutem et malui civis Romanus esse quam tributarius*); see also n. 23.
- 34 For the prospect of manumission, see, for example, Patterson 1991: 320, “Most [slaves in the time of Paul] had a realistic expectation of being manumitted within their lifetime”; Mouritsen 2011: 200, “When a slave had attained a certain level of responsibility in the household, manumission was probably fairly certain”; Mouritsen 2013: 61, “Freedom was a realistic hope for virtually all domestic slaves at almost any time.”
- 35 See Patterson 1982: 293, 296. The tripartite structure of a *rite de passage* was first articulated by Arnold van Gennep (original French edition 1908), who himself recognized rites of passage in slavery when slaves passed into the hands of new owners and entered new households: van Gennep 1960: 39. In classical Greece the rites of incorporation for slaves entering new households resembled those used in marriages to welcome new brides into the home; both were received as non-kindred family members: see Mactoux 1990.
- 36 Metcalf and Huntington 1991: 30 use “marriage” instead of “slavery” as an institution paired with “death.”
- 37 As Patterson recognized (1982: 53, 216, 293), each stage of the transitions from freedom to slavery and from slavery to freedom was marked by rites of passage.
- 38 See Turner 1969; 1977: 36: “A *limen* is a threshold, but at least in the case of protracted initiation rituals ... it is a very long threshold, a corridor almost, or a tunnel

- which ... may cease to be a mere transition and become a set way of life, a state... Let us refer to the state and process of mid-transition as ‘liminality.’” Cf. Metcalf and Huntington 1991: 32–33.
- 39 *AE* 1971, 88, II, 19–20, 22–23: “...if the death of a town counselor or of one who died before maturity (*funus acervom* [= *acervum*]) is reported, those funerals will have to be taken care of first ... when a suicide by hanging has been reported, it will have to be removed within the hour; when the death of a male or female slave has been reported before the tenth hour of the day, take care of it within that day; if after the tenth hour, before the second hour of the following day.” ...*nisi si funus decurion(is) funusve acervom denuntiat(um) erit, cui prima curand(a) erint...Suspendiosum cum denuntiat(um) erit, ead(em) hora dissolvend(um) tollend(um) curato, item servom/servamve, si ante h(oram) X diei denuntiat(um) erit, ead(em) die tollend(um) curato, si post X, poster(a) d(ie) a(nte) h(oram) II*; for the text, see Panciera *et al.* 2004: 49–50.
- 40 Rawson 2002: 285–287 surveys twenty-three epigraphic examples of the term *funus acervum* from Rome and Puteoli; Néraudau 1987: 197–204 reviews literary sources. At the upper end of the age-range, note *CIL* 6.9150, of a Christian slave dead at the age of thirty-two (Rawson 2002: 274), and *AE* 2006, 1774 (Le Kef), a twenty-eight year old on the verge of municipal office. For kinship as one of the special circumstances allowing manumission before the age of thirty, see above, n. 19.
- 41 Servius, on Virgil, *Aeneid* 11.143, *Alii tradunt, de filiis qui in potestate patris sint, non putari ius esse funus vocari fierique, quia servi loco sint parenti*. See Dumont 1987: 185–186; Rawson 2002: 276–77; Hinard and Dumont 2003: 132.
- 42 Fabre 1981: 126–127 and Mouritsen 2011: 37–38, 147–148 recognize the pseudo-familial nature of the patron/freedman relationship and that “the release from servitude merely entailed the transition from one familial role to another” (147) but do not see that the paternal role of the master was inherent already (and precisely) in his role as *paterfamilias*, “father of the (slave) household.” Unlike slaves, children in a father’s power suffered no dishonor from their lack of autonomy and were not subjected to the humiliation of being beaten: see Saller 1994: 133–139; 1996.
- 43 Pliny, *Letters* 8.16.1, *Solacia duo ... unum, facilitas manumittendi (videor enim non omnino immaturos perdidisse quos iam liberos perdidit)*. For the practice of manumitting slaves on their deathbeds, see also Petronius 65.10 and Martial 1.101 with Citroni 1975: 271–273, 306–308. Hinard and Dumont 2003: 132 suggest that slaves condemned to death by precipitation from the Tarpeian rock were manumitted before execution so that their corpses would lie unburied longer and the humiliation be more keenly perceived: see David 1984: 136, with references.
- 44 For “freedom owed” (*debita libertas*), see, for example, *CIL* 10.4917 = *CLE* 1015 (Venafrum, age 25); “freedom promised” (*libertas ... promissa*), *CIL* 3.1854 = *CLE* 1117 (Narona, age 18); cf. also *CIL* 8.25006 = *CLE* 1331 (Carthage), of an infant, for whom “death conquered life, so that you would not grasp freedom” (*mors vitam vicat, ne libertatem teneres*); *CIL* 11.6435 = *CLE* 434 (Pisaurum, age 10), of a homeborn slave who owed his education to his father, who “himself would have been my patron, if I had not been unlucky and had the fates against me” (... *pater ipse patronus, si non infelix contraria fata habuissem*); *CIL* 5.2417 = *CLE* 1157 (Ferrara), of a slave boy, “who, if he had lived, would now bear the names of his master” (*qui si vixisset, domini iam nomina ferret*); *CIL* 5.6710; etc.
- 45 This view of slavery as a “transitional stage” (*Durchgangsstadium*) goes back to a controversial thesis of Alföldy (1986, originally 1972), that manumission was virtually

- universal, but need not depend for its cogency upon Alföldy's extreme and now methodologically discredited arguments for the regularity of the practice: see Horsmann 1986: 319 and Mouritsen 2011: 131–137.
- 46 Herodotus 4.94–95. Few details about the myth are not disputed or contradicted – even the name of the hero is uncertain (variants include Zamolxis, Salmoxis, Samolxis) – but the story of Zalmoxis' pseudo-death and resurrection is a consistent element in our Greco-Roman sources, for which see Dana 1999–2000 (on Christian writers); Dana and Ruscu 2000; and Popov 1989, 1990. For Thrace and the Black Sea region as a longtime source of slaves, see Braund 2011: 113–115, 123–130 and above, n. 20.
- 47 Modern interpretations of the Zalmoxis myth divide into two camps: one (following Eliade 1972) views Zalmochis primarily as the shamanistic founder of an initiatory mystery cult (e.g. Tauffer 2008); the other sees him essentially as a chthonic deity of vegetation (e.g. Dana 2007). The background of the story in the world of slaving is highlighted by Charpentier and Valtchinova 2002.
- 48 *Digest* 49.15.18 (Ulpian), *In omnibus partibus iuris, is qui reversus non est ab hostibus, quasi tunc decessisse videtur, cum captus est*. See further on the rules of *postliminium* *Digest* 49.15, *Codex Justinianus* 8.50; Gaius, *Institutes* 1.129; Berger 1953: 639 s.v. “postliminium”; and Watson 1987: 19–22. For the etymology of the term, from “*post*” and “*limen*,” see Justinian, *Institutes* 1.12.5. Patterson 1982: 215 recognizes the phenomenon as an extreme example of a practice typical of all advanced slave societies but fails to see its broader relevance for the Roman conception of slavery itself as a (potentially) temporary state.
- 49 See Apuleius, *Metamorphoses* 2.28.1, 10.12.8; *Florida* 19.8 (death); 3.25.3 (identity). Initiation into ancient mystery cults is often figured similarly as a metaphoric death and rebirth: see Apuleius, *Metamorphoses* 11.23.6 and Septuagint, *Romans* 6.5–11 with Burkert 1987: 99–101.
- 50 For the *Saturnalia* festival and its social functions, see Versnel 1993: 136–227, esp. 150–163; Bradley 1979, on other Roman holidays for slaves.
- 51 Varro, *De Lingua Latina* 6.24: *Larentinae, quem diem quidam in scribendo Larentalia appellat, ab Acca Larentia nominatus, cui sacerdotes nostri publice parentant e sexto die, qui atra dicitur die < s ad locum dictu > m tarentum Accas Larentinas. Hoc sacrificium fit in Velabro, qua in Novam Viam exitur, ut aiunt quidam ad sepulcrum Accae, ut quod ibi prope faciunt diis Manibus servilibus sacerdotes*. For the text, see Watkins 1995: 347–148.
- 52 For the various legends of Acca and the location of her tomb, see Aronen 1993.
- 53 See Watkins 1995: 347–353, esp. 351–353, associating *tarentum* with IE **terh₂*- = “crossing place”; Bodel 2008b: 266–268. The association of the sacrifice at Acca's tomb with the *parentatio* to the divine ancestors of slaves (*Di Manes serviles*) is essentially confirmed (rather than refuted) by North 2012: 77–79, whose own view of the *Di Manes serviles* as a “lesser group of serving or slave gods” (79) is unpersuasive.
- 54 For the “Banquet of Trimalchio,” see Petronius 26.7–78. The importance of Trimalchio's status as a freedman is highlighted by Veyne 1961; see also Bodel 1994 and Mouritsen 2011: 291–292.
- 55 Petronius 29.3–6: *Erat autem venalicium < cum > titulis pictis, et ipse Trimalchio capillatus caduceum tenebat Minervae ducente Romam intrabat. Hinc quemadmodum ratiocinari didicisset, deinceps dispensator factus esset, omnia diligenter curiosus pictor cum inscriptione reddiderat. In deficiente vero iam porticu levatum mento in tribunal excelsum Mercurius rapiebat. Praesto erat Fortuna cornu abundanti copiosa et tres Parcae aurea pensa torquentes*. For interpretation see Bodel 1994: 243–251.

- 56 Nonius p. 848 Lindsay, *qui liberi fiebant, ea causa calvi erant, quod tempestatem servitutis videbantur effugere, ut naufragio liberati solent.*
- 57 For Roman manumission as a new birth, through which the ex-slave acquired a patron as father, see Mouritsen 2011: 38–39, noting (in n. 14) similarities with medieval and early Islam.
- 58 According to the second-century diviner Artemidorus in his manual on *The Interpretation of Dreams*, “For a slave who is not trusted, to imagine dying and being carried out and buried in the ground foretells freedom... For a dead man has no master and also ceases from toils and service” *Oneirocritica* 2.49 (150).
- 59 Patterson (1982: 249) recognizes the processual nature of manumission and sees freedman status “not [as] an end to the process of marginalization but merely the end of the beginning – the end of one phase, slavery, which itself had several stages.” In his view, it is only the freedman, rather than the slave, who is in a “transitional state,” as “still a marginal, but ... now moving toward demarginalization socially and disalienation in personal terms.”

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Freedom, Slavery, and Female Sexual Honor in Antiquity

KYLE HARPER

Freedom began its long journey in the Western consciousness as a woman's value.

Orlando Patterson, *Freedom*

Introduction: The Romance of Freedom

In one of the most sensational scenes in one of the most sensational works of ancient literature, the Greek romance *Leucippe and Clitophon*, the story's protagonist, the beautiful Leucippe, finds herself enslaved and facing a predicament that must have been anything but uncommon for enslaved women in the Roman world: she faces sexual coercion from her master. Of course, Leucippe is not “really” a slave, in the world of the romance. Leucippe is a freeborn girl of unparalleled beauty, a child of the civic aristocracies of the Hellenic world. The romances are naturalistic stories, in which the characters are imbued with qualities appropriate to their station in life (see Frye 1976). These natural qualities transcend any temporary displacement, such as Leucippe's enslavement, and allow the authors of the romance to explore the tension between nature and condition, between status and circumstance. In the logic of the story, Leucippe is not a slave, she is a free person mistakenly held in slavery. Just a few scenes before her attempted rape, Leucippe, in rags, wearing leg-irons, bearing a hoe, casts herself at the mercy of her mistress, telling her that though she is now a slave, by the will of Fortune, she was in reality

a free woman – in Greek, an *eleuthera*. The mistress could instantly discern the truth of this claim: “Your physical charm proclaims, even amid this misfortune, that you are well-born.”¹ The good characters in the story could perceive the true nature of an *eleuthera* like Leucippe.

Another scene even more vividly relies on the ideological charge of the term *eleuthera*: her attempted rape at the hands of her master, a caricature of a villain named Thersandros, “Savage Man.” Leucippe’s virginity has survived trial and tribulation, and this scene is only the last in a long line of threats to her bodily purity. The reader senses that this story, though it exuberantly tests the conventions of the romantic genre, cannot violate the fundamental convention of ancient romance, the heroine’s sexual integrity, which is always miraculously rescued from danger in the nick of time. At first, the master Thersandros is certain that Leucippe will submit to his will, but he quickly finds her steeled against his advances. He tries psychological abuse, calling her a miserable slaveling who ought to be grateful to be the object of her master’s attentions. He impugns her sexual respectability. He threatens violence. “Since you don’t want to accept me as your lover, you will experience me as your master.”² In the slave society of the Roman Empire, where the routine sexual exploitation of slaves was an integral part of the sexual economy, the narration of such pedestrian violence was highly unusual, and surely jarring. For the historian interested in the realities of slavery, though, the value of this scene is limited by the fact that the author’s chief intention is not realism but arch melodrama. Leucippe’s virginity is never really in suspense, and the mechanics of the scene are contrived principally to provide a stage for her to demonstrate her will to purity. Throughout this passage, Leucippe is a knowing heroine, who seems perfectly aware that the conventions of the story in which she has been cast will not allow her to be violated. She is, in fact, truculent beyond all credibility, taunting her master to bring the lash, bring the rack, bring the fire, and bring the sword against her. In the climactic line of the encounter, she explains to her master, “Though I be naked, though I be alone, though I be a woman, my one shield is my freedom [*eleutheria*], and not blows, nor blade, nor blaze shall prevail against it!”³ In fact, Leucippe is entirely correct. Fate preserves the corporal integrity of this free woman. She reaches the end of the romance with her chastity intact and rejoins her true lover in the marriage for which she was all along destined.

What this scene lacks in realism, it richly recompenses us in ideology. The scene of Leucippe’s attempted rape is a revealing cultural moment, layered with meaning. Among other things, the author of this romance, Achilles Tatius, an Alexandrian living in the middle of the second century of our era, is mocking contemporary Stoic doctrine, with its paradoxical belief in both “fate” and a strongly internalized “freedom” (a case I make in more detail in Harper 2013. See also Perkins 1995: 77–103). But I want to explore what it means for Leucippe to invoke her *eleutheria*, and to call herself an *eleuthera*, in the context of the ancient slave systems. The romantic novel is one of the definitive cultural creations of the Roman world, a genre that was perhaps born in the early Roman Empire and whose heyday was coterminous with the period of Roman hegemony. Achilles Tatius’ romance is a

highly peculiar specimen of the genre, for it is a wry, winking, sardonic narrative, which might seem to make it a poor source for the historian of ancient society. But, in fact, it is precisely Achilles' willingness to toy with the conventions of the genre that makes his creation especially valuable as a witness to the ideological code that furnished the conventions of the genre.

The romances are a mature and highly self-conscious expression of a very ancient ideology of slavery and freedom, and as has often been noticed, they are stories *both* of personal salvation through the experience of erotic love in legitimate marriage *and* of civic salvation through the reproduction of the city in the figure of its nobility. In fact this romance offers precious testimony to a vastly underappreciated meaning of the Greek word *eleuthera*. I will argue that *eleuthera*, as an adjective or noun, in the most basic sense "a free woman," could also mean "a sexually respectable woman," "a woman with a claim to sexual honor," "a woman with *sophrosyne*, sexual modesty." By extension, this sense of *eleuthera* also allowed it to mean, according to context, "a marriageable woman" or even – remarkably – "a wife." In fact, the standard scholarly dictionary, Liddell-Scott-Jones, does attest to the meaning of *eleuthera* as wife. Sophocles' *Greek Lexicon of the Roman and Byzantine Periods* notes that *eleuthera* could mean "married lady." Lampe's dictionary of patristic Greek notices that *eleuthera* could refer to widows or wives. But none of these recognizes the importance of sexual respectability as part of the semantics of *eleuthera*. In short, we have not reckoned with the rather remarkable fact that in the ancient Mediterranean world a man could say "my free woman" to mean "my wife."

Hopefully the value of this exploration goes beyond the clarification of a sub-sub-heading to our Greek dictionaries. It is a fact in need of explaining when and why *eleuthera* came to mean sexually respectable woman, wife, in the Greek vernacular, and it is worth exploring what this fact has to tell us about the dynamics of slavery and freedom in the classical world, over the very long term. This discussion is broad rather than deep, ranging across classical Greece to the later phases of the Roman Empire. The institution of slavery waxed and waned, at various rhythms, over this long sweep. But there was a coherent and underlying ideological frame that persisted across these centuries, connecting marriage patterns, ideas of honor, even legal institutions. The language of the *eleuthera* has much to tell us about the long-term ideological persistence of ideas about freedom and honor, slavery and dishonor, in the ancient Mediterranean world.

Defining Slavery in Antiquity

Historians of the ancient Mediterranean can be grateful to Orlando Patterson for insisting on the importance of women to the history of slavery and freedom in general and to the history of classical slavery and classical ideals of freedom in particular. "Freedom began its long journey in the Western consciousness as a woman's value," Patterson wrote in his study of freedom in antiquity (Patterson 1991: 51). I will argue that the possession of socially recognized and publicly protected sexual

honor was an essential part of the experience of personal freedom for women in the ancient world, confirming Patterson's insights. A woman's status as an *eleuthera* distinguished her from women without sexual respectability, namely prostitutes and slaves. Prostitutes and slaves acted as the ideological opposites of the *eleuthera*. At stake in the distinction between women with and without sexual honor was the potential to marry and produce legitimate offspring. The sexual availability of *eleuthera*i was reserved for marriage, for legitimate reproduction; thus, sexual access to *eleuthera*i circulated only within the marriage market. Sexual access to slaves and prostitutes circulated in the commodities market, as a fungible good, exchangeable for money or gifts (Davidson 1998; Kurke 1999; the essays in Faraone and McClure 2006). For the woman in the classical world, the primary experience of not being a commodity was being destined for a life of marriage and reproduction; the substance of personal freedom, then, was not autonomy or absence of external control, but predestination to the heavy burdens that lay upon female sexual honor in ancient society. The classic definition of personal freedom in Roman law – the natural faculty to do what one wants without the hindrance of force or law – had little relevance for women, whose freedom meant access to a type of life but not the choice to have it otherwise.⁴

Here we might find another confirmation that the naturalistic romances are a sort of Rosetta Stone of ancient social ideology, for the heroine, the *eleuthera*, must be willing to die for her sexual honor. Her sexual honor is equivalent to her life, and its opposite is slavery and death. It is a convention of the genre that she must be willing to die – volubly, histrionically – rather than surrender her corporal integrity. She would die for her modesty, for her freedom. In the words of the latest of the extant romances, Heliodorus' *Ethiopian Tale*, "Chastity is a glorious winding sheet."⁵ For the woman in the ancient world, sexual dishonor was the equivalent of "social death," a connection that plays out in the romances as nowhere else.

The integration of sexual honor and legal status in the classical world was about more than personal freedom for the *eleuthera*. It was about the order of the *polis*, about the civic order, even in the age of empires. Sexual honor was about civic freedom – not the political rights and privileges accorded to men, but about the power to reproduce the city. In the same period when the term *eleuthera* acquires its full meaning, its synonyms include *aste gyne*, civic woman, and *politiss*, female citizen; over time, *eleuthera* will gradually displace these alternatives, but it will occupy the same place in the Greek vernacular. The civic dimension of *eleuthera* is present from its origins, because the capacity to reproduce the city was embedded at the heart of what it meant to be a free woman in the ancient Mediterranean.

The term *eleuthera* as a substantive meaning "sexually respectable woman" is not attested until the late fifth century BCE, but this is not particularly surprising. And like so much else about the public order of the classical world we cannot understand its development without appreciating the concatenation of changes that occurred in the archaic Greek period, when a certain model of public life – including institutions of sexual competition, marriage, inheritance, and commerce – began to take shape (Reinsberg 1989). This model was to define a very long arc in the

history of the Mediterranean, at least from the classical period through the late antique world. It is those later sources with which I am most familiar, and one minor subtext of this chapter is that the late antique sources are uniquely articulate; they demand inclusion in the story of classical slavery and freedom.

The primary roots for freedom and slavery in Greek, *eleuther-* and *doul-*, appear already in Homer, but as Raaflaub and others have argued, they are not especially prominent in the early phases (Raaflaub 2004). In fact, in Homer the principal root used for slave is *dmo-*, and it is only in the archaic period that *doul-* becomes primary and that *eleuther-* begins to become more important (Garlan 1988). These linguistic changes were part of the emergence of a Greek concept of freedom whose origins lie in the sweeping institutional transformations of archaic Greece. That is a familiar story, but to recover the formation of a female concept of freedom, we should accentuate three aspects of the archaic revolution – known in greatest detail from Athens, but *mutatis mutandis* applicable across much of the Greek world.

First, the rise of a public law regulating adultery and related sexual offenses. The regulation of adultery is at the heart of the legal and political order of both the Greek and Roman world. The institutionalization and rationalization of social norms that made sexual competition a matter of law rather than vengeance was part of the transition to political society as such (both the *Iliad* and the *Odyssey* are, in their ways, about adultery and private force). Draco, the first Athenian lawgiver, allowed a wide space for private violence, only exempting from punishment the man who killed an adulterer. Solon, however, introduced the *graphe moicheias*, which provided for the public punishment of adultery. Equally as important, Solon seems to have created one of the first exemption clauses, providing that a man could not be taken as an adulterer, a *moichos*, for having sex with a woman who sat in a brothel or who sold herself publicly ([Demosthenes], 59.67.6–7). This exemption is the first manifestation of a pattern that will become sharper over time, and is also embedded in Roman law, in providing public remedy, public protection, only to women with sexual honor. The adultery statutes of the classical world – protecting the sexual respectability of free women who were not prostitutes, or what is another way of saying virtually the same thing, protecting the sexual control of men over their wives and daughters – drove an ideological wedge between free women, as the bearers of sexual honor, and the others, principally slaves and prostitutes (for the Roman case, see McGinn 1998). Solon's legislation (or the processes of change that are remembered as the work of the "law-giver") was a landmark in developing the distinction between freedom and slavery in the classical city-state, and this was the case for women just as much as for men. The abolition of debt bondage is the most famous aspect of his reforms, and as Finley argued sharpened the distinction between freedom and slavery (Finley 1964: 233–249; Finley 1980). Solon aimed to prevent free citizens from slipping into slavery, but it is immensely significant that, according to Plutarch, he allowed the freeborn to be sold into slavery in just one case: when a sister or daughter had been found unchaste (Plutarch, *Solon* 23.2). For a woman, to lose her chastity, her sexual respectability, was to cross the chasm into slavery and social death.

Second, the slave trade. Economic developments drove and reinforced institutional developments in the archaic period, and chief among these is the expansion of the slave trade. A specialized trade in slaves clearly exists already in Homer, at least in the *Odyssey*. At the end of Book one, we meet Eurycleia, whom Laertes had bought in her youth for twenty oxen. And this passage points precisely to one of the constraints on trade in early Greece, the lack of money. But with the introduction of coinage, the growth of commerce, and the development of more complex and specialized economies with more varied demands for labor, chattel slavery and the slavery trade significantly expand in the late archaic and especially classical periods of Greece. The institutionalization of female sexual honor developed dialectically with the expansion of slavery in the Mediterranean world.

Third, the ideology that informs the meaning of *eleuthera* as a sexually respectable woman was shaped by the practice and institutionalization of prostitution in the ancient world. The Greek world in the late archaic and early classical period saw take shape the basic outlines of what was to prove a very enduring sex industry. There developed a two-tier flesh trade around *hetairai*, courtesans, and *pornai*, common prostitutes. The distinctions between the courtesan and the common prostitute were a blend of fantasy and reality, but in the context of this discussion what is important is what they shared: exclusion from the circle of honor, ineligibility to reproduce legitimate offspring for the *oikos*. At times the *hetaira* was a sexual free agent, but at times she was a slave working on her master's behalf. Very often, the *porne* was a slave, and in the classical world, the flesh trade was an extension of the slave trade. *Doule kai porne*: often the words are used together, and often it is simply assumed (Citti 1997: 91–96). But beyond the direct reliance of the ancient brothel on the exploitation of unfree women, there was a functional equivalence between slavery and prostitution, insofar as in both cases female sexual availability was circulated outside the marriage market (an argument I develop at greater length in chapter 7 of Harper 2011). Most importantly, there was a deep ideological overlap between slaves and prostitutes, in that both were women whose bodies were deprived of honor and protection. In some ways, even more than the slave, the prostitute concretized the abstract idea of sexual dishonor. She was the embodiment of sexual shame, and it was thus that the opposite of the *eleuthera* was often not the *doule* but the *porne*. To glance in the Roman direction, too, the opposite of the *matrona* or the *mater familias* (which are the nearest equivalents in Latin to *eleuthera*), was in fact the *meretrix*.

Eleutherai in Ancient Greek Societies

Eleuthera first appears as a substantive in the late fifth century – the earliest use I can find is in Euripides' *Hecuba*, where it describes the princess Polyxena, but in the context of the passage means no more than “free woman” as opposed to “slave woman,” without sexual undertones (Euripides, *Hecuba* 550). It appears again in Aristophanes, where the chorus of women in *Lysistrata*, accused of boldness,

proudly proclaim that they are “free women,” again without particular implications of sexual respectability (Aristophanes, *Lysistrata* 379). The most interesting use of *eleuthera* in the fifth century is in Sophocles’ *Electra*, where it appears first on the lips of Chrysothemis, Electra’s toady of a sister, who claims that to live as an *eleuthera* means respecting authority submissively (Sophocles, *Electra* 339–340 and 970–971). Electra begs to differ, and argues that the noble path is not to submit to their treacherous mother but boldly to avenge their murdered father. Electra needles her sister, saying that if they avenge their father, Chrysothemis will *then* be called an *eleuthera* and finally find a worthy marriage. Though the implication is that *eleuthera* implies not just freeborn status but also dignity and marriageability, it would be pressing too far to insist on the sense of sexual honor.

The first clear usage of *eleuthera* with connotations of sexual respectability belongs to the *fourth* century BCE. The word appears in a variety of genres with this sense. It is worth looking in detail at four examples from different genres – one from philosophy, then from rhetoric, historiography, and lastly from comedy – to explore the breadth of the term and the different shades of connotation that it could carry.

First, an example from Aristotle. In the *Magna moralia*, Aristotle is considering his well-known argument that virtues and vices depend on finding the mean between excess and deficiency. Well, not always, he wishes to qualify, since some vices are *not* a matter of too much or too little. The example he uses is adultery, *moicheia*, a word that ought simply to be translated as the “violation of an honorable woman” (Harper 2012: 365–385). “There are other feelings, as one might think, in the case of which the vice does not lie in any excess or defect; for instance, adultery and the adulterer. The adulterer is not the man who corrupts *eleutheras* too much.”⁶ Could *eleuthera* here simply mean free woman, without further implication? Only if *moicheia* were limited to free women, when in fact it was limited to respectable women, as the Solonian exemption of prostitutes provided. In the Aristotelian passage, the logic of the sentence requires *eleutherai* to be women with a sexual respectability capable of violation.

Second, an example from forensic oratory. In the thirteenth oration of Lysias, a prosecution speech against one Agoratus, the defendant is accused of living a dissolute and shameful life. His career is alleged to have included sexual malfeasance. “He has also attempted to commit adultery with the wives of citizens, and to corrupt *eleutheras*, and has been caught as an adulterer.”⁷ Again, the logic dictates that *eleutherai* are women with sexual respectability capable of being illicitly violated. The legal context underscores that public institutions protected the sexual honor of free women.

Third, an example from historiography. The Roman writer Athenaeus preserves a passage of Theopompus’ history describing a vicious character named Charidemus. He was, we are told, perpetually drunk and dared to ruin “free women” (*eleutheras gunaikas*) (Athenaeus 10.436c). The clear implication is that this dastardly fellow violated basic social propriety in his lack of self-control. The most astonishing crime was to violate women with sexual honor.

Finally, an example from New Comedy. In the plays of Menander, which took social jostling and marriage as central themes, the full range of female *eleuthera* – as a status, as a personal quality, and as sexual respectability – is first evident. In the *Grouch*, a well-to-do young man falls in love with a beautiful country girl. In an early conversation with his slave, attraction to a *hetaira* is contrasted with attraction to an *eleuthera*, in such a way that the latter’s marriageability is what defines her (Menander, *Dyscolus* 50). Elsewhere, the rural damsel is described as rather *eleutherios*, rather cultivated, for an *agroikos*, for a country bumpkin (Menander, *Dyscolus* 201). Later, the protagonist’s amorous intentions are read cynically by the girl’s brother, who wonders if he has intentions of ruining an *eleutheran parthenon* – a free, or better sexually honorable virgin (Menander, *Dyscolus* 291). In the rich ideological code of New Comedy (an important antecedent of the romantic novel), we find already developed the bundle of associations around freedom, sexual honor, and social respectability.

Why does the language of freedom become synonymous with sexual honor in the late classical Greek world? Ultimately, it is impossible to say, though we can highlight some probable causes. One is simply the type of source material that we have. The period brings us legal sources, philosophical texts, and eventually New Comedy. These documents reveal for us an already-developed language of female sexual honor. Moreover, New Comedy in particular provided a quasi-universal, or ecumenical, language of Greek society. And in this society, stereotyped distinctions between honor and shame, freedom and slavery, had tremendous salience, because slavery was not limited to fifth century BCE Athens, but instead a widespread institution in the broader Greek world.

The importance of the word *eleuthera* as a woman with sexual honor continues into and is perhaps even sharpened in the Roman period. The Roman Empire was home to a sprawling slave society. If the large-scale plantation economy based on slavery was mostly (though not exclusively) concentrated in Italy, we should not underestimate the importance of slavery in the provinces, especially in domestic contexts for both truly aristocratic and even “bourgeois” households (Harper 2011). An important sector of the slave system was made up of middling households with enough wealth for a small number of slaves. Slaves lived in close quarters among the free family. The Egyptian census records have underscored the breadth of the slave system (Bagnall and Frier 1994: 48, 70). The ubiquity of slaves across the Roman Empire helped to delineate the meaning of sexual honor sharply in Roman society, in both center and periphery. The Greek romances, such as *Leucippe and Clitophon*, are the creations of this prosperous, culturally diverse world.

A few examples will suffice to underscore the continued salience of the connection between the word *eleuthera* and sexual respectability. Philo, the Alexandrian Jewish philosopher of the early first century CE, wrote in his treatise on *Special Laws* that if a dissolute man ruined women, “using free women like slave girls, treating peacetime like war,” he should be arrested and tried in a court (Philo, *De specialibus legibus* 3.69). Again this passage invokes the fundamental distinction between free women and slaves as one of sexual honor defensible in public courts. For Philo,

the word *eleuthera* connoted a broader spectrum of qualities, since sexual honor entailed a whole range of habits and behaviors characteristic of the modest woman. The good woman, he wrote, would not wander in open sight of other men in public, unless she was going to worship; even then she should avoid crowds. She should act “like an *eleuthera* and *aste* [civic woman, cultivated woman]” worshipping and praying in solitude (Philo, *De specialibus legibus* 1.171).

One final example from the Roman Empire is worth special notice. In his seventh oration, the *Euboean Oration*, the philosopher and rhetor Dio Chrysostom created one of the great social commentaries on Roman society. In the first half, Dio contrives an elaborate scenario of encounter with uncivilized rustics whose natural virtue is a striking contrast with the corrupted civic life explored in the second half of the speech. For Dio, the elaborate and pervasive sex industry of the city was the ultimate symbol of contemporary decadence. His roaring critique exposes with unusual clarity the half-articulate justifications for the system of prostitution in the ancient world, including the widespread notion that the sexual use of slaves and prostitutes acted to *protect* the sexual honor of decent women by deflecting male lust away from their bodies and toward the zone of free access provided by dishonored women. Dio suggests that the apologist for the system of venal sex would reply, “in uncivilized fashion,” that the very “drug for chastity” was provided by the lawmakers in the form of “open and unlocked brothels,” to protect the “locked houses and interior chambers,” to safeguard “free and honored women.”⁸ This strategy would backfire, said Dio, when men tired of what was easily and cheaply available. But for our purposes the contrast between available and protected sexuality, shame and honor, in terms of the freedom of the woman, is remarkable.

The basic ideology of freedom and slavery, honor and shame, embedded in the language of the *eleuthera* continues right through the later phases of late antiquity. In profound ways, the slave system of the early Roman Empire continued into the period of Christian expansion and triumph (as I argue at length in Harper 2011). Indeed, the Christian church triumphed within the context of a slave society. The sources of the later empire are uniquely rich, in part because of their volume and vividness, in part because Christian leaders often took a critical stance toward regnant social practices.

One notable development in the sources of the late empire is that *eleuthera* is used as the basic word for “wife.” Unfortunately we cannot tell if this semantic development first appeared in late antiquity, although it is not clearly attested before late antiquity, when it is well represented; to explore the causes of such development is speculation, but we could imagine the continued importance of the slave system, in combination with the centrality of the marriage relationship in imperial culture, gradually contributed to what was a small leap from respectability to conjugality. In the biography of a holy man named Hypatius, a man is described entering the scene with “his children and his wife (*eleuthera*)” (Callinicus, *Vita Hypatii*, 18.3). Similarly, in one of his letters to his supporter Olympias, John Chrysostom referred to the “wife” (*eleuthera*) of a man named Rufinus (John Chrysostom,

Epistulae ad Olympiadem 9.2). In a slightly different vein, Palladius' *Lausiaca History* recounts the tale of a man "who fell in love with a married *eleuthera gune*" (Palladius, *Historia Lausiaca* 17.6: ἐρασθεὶς ἐλευθέρας γυναικὸς ὑπάνδρου). Here the adjectival form *eleuthera* must imply something like "respectability." The meaning is "he fell in love with an honorable woman who already had a husband."

A number of late antique authors juxtapose "the free woman" (*eleuthera*) with prostitutes. Iamblichus, in his *Life of Pythagoras*, comments that an *eleuthera* should not wear gold jewelry like courtesans (*hetairai*) do (Iamblichus, *De vita Pythagorica* 31.187). John Chrysostom, whose sermons are a goldmine of information on culture and society in late Roman Antioch and Constantinople, reveals much in his struggles to convince Christians, especially Christian men, to live up to the high standards of Christian sexual morality.

I am not unaware that most think it is adultery only to violate a married women. But I say that it is a wicked and licentious adultery to have an affair even with a public whore, a slave girl, or any other woman without a husband... Do not show me the laws of the outside world, which say a woman committing adultery is to be brought to a trial, but that men with wives who do it with slave girls are not considered guilty... Even a married man commits adultery, if he sates his lust with a slave girl or a public whore. A wife (*gune eleuthera*) offers at once pleasure and security and joy and honor and order and a clean conscience.⁹

In John's sermons, the connections between the sexual honor of the *eleuthera* and the behavioral correlates of female modesty are strikingly invoked. The noble city of Antioch was compared to a woman "noble, *eleuthera*, and chaste."¹⁰ A woman was *eleuthera* and chaste who wore her dress down to her ankles (John Chrysostom, *De sancta pentecoste* 50: 453). A man would marry a beautiful and chaste *eleuthera* (John Chrysostom, *In Genesisim* 1.1). For this most Christian author, the ideological meaning of a term like *eleuthera* could be unselfconsciously used, strategically deployed, or critically engaged. But the presumptive associations behind the language tell us about the slave society that he inhabited.

Concluding Thoughts

Down to the end of antiquity, the powerful ideological opposition between slavery and freedom was charged with correlative associations of slavery with shame, degradation, and social death and freedom with honor, esteem, and social reproduction. These associations confirm three essential insights of Orlando Patterson. The first is the deep connection between slavery and dishonor; the second is the highly gendered nature of the master–slave relationship; the third is the dialectical relationship of freedom and slavery. In the meaning of *eleuthera* – the free woman – as a synonym for sexually respectable woman or wife, these insights of Patterson converge. It may be the case that these associations are particularly visible in the Greek

case because the regime of Greek slavery tended to lack a favorable system of manumission; whereas some slave societies (including the Roman) allow, at least in some instances, for slave women to pass into freedom with respectability or other ways to reproduce honorable offspring, slavery in Greek culture was harsh and stamped its victims with a shame that could not be lost.¹¹ Hence, there may be a sense in which some of the lessons of this study are peculiar to Greece and more generalizable only to societies that lack or restrict manumission and the opportunities extended to freedwomen, although I would argue that the Greek case is more *revealing*, as an extreme one, than peculiar.

It is an open question whether or to what extent Christianity was able to destabilize the ancient ideology of sexual honor and shame. Certainly, the new religion's distinctive sexual ethics and its sense of universal human dignity carried the potential to undermine the ideology of dishonor. We can only imagine the shock of the audience when a preacher like John Chrysostom would make startling claims such as "the body of the *eleuthera* and the body of the whore (*porne*) are the same" (John Chrysostom, *In Matthaeum* 6.10). Within a generation, Christian emperors were passing stunningly unprecedented laws banning the forced prostitution of slaves (*Codex Theodosianus* 15.8.2, treated at length in Harper 2013). In *From Shame to Sin*, I sketch out an argument that Christianization was a radical ideological revolution. But it hardly led to widespread social change, and deeper patterns of domination endured.

Finally, the story told in this article focuses on the classical civilizations, but a cross-cultural perspective would prove illuminating. Walter Scheidel has recently called attention to the importance of socially imposed monogamy in the classical world, and it is worth considering how the meaning of *eleutheria* for women in the classical world compared to the Islamic model, where polygyny was allowed, where marriage between free and slave were recognized, and where a man could have legitimate offspring by a slave concubine (Scheidel 2009: 280–291; Ali 2010). As Patterson has written in his more recent comparative work on the emergence of slavery in traditional societies, "the decisive factor determining trafficking and slavery in these societies was the demand for the exploitation of women's bodies, as sex objects, as concubines and as secondary wives where free women were relatively scarce or too expensive" (Patterson 2012: 322–359). He describes the fundamental importance of a pattern in which polygynous systems create a deficit of marriageable women and elevated bride-prices, in turn encouraging the practice of slaving; in many societies, such as Islamic ones, slave concubines can function more directly as substitutes for wives, since fathers have a greater role in determining the status of offspring.

This pattern throws into greater contrast the distinctiveness of the classical model, in which monogamy, dowry, and legitimacy are closely tied, and where demand for female slaves is more properly considered *sexual* than *marital*. Across history, most slaves have been women, and what sets the classical slave systems, along with the modern Atlantic ones, apart from most of historical experience is the enormous role of male slave labor within the system. Certainly it is the case that

male slaves, working in agriculture, industry, mining, and business, gave Greek and Roman slavery their structurally distinctive form. This remained the case into the later Roman Empire, and the shift to a female-dominated slave trade in the early medieval Mediterranean was part of the general disarticulation of the ancient slave system. *But*, the structural importance of female slaves in classical antiquity is not to be underestimated, and it is apparent that, across the Greek and Roman periods, demand for commodified sexual availability was a major force of demand. And across the ancient world, the honor of the *eleuthera* was constructed out of and against the dishonor of the slave.

Notes

- 1 Achilles Tatius, *Leucippe and Clitophon* 5.17.4: κέκραγε γάρ σου καὶ ἐν κακοῖς ἢ μορφή τὴν εὐγένειαν.
- 2 Achilles Tatius, *Leucippe and Clitophon* 6.20.3: ἀλλ' ἐπειδὴ μὴ θέλεις ἐραστοῦ μου πεῖραν λαβεῖν, πειράση δεσπότου.
- 3 Achilles Tatius, *Leucippe and Clitophon* 6.22.4: ἐγὼ δὲ καὶ γυμνὴ καὶ μόνη καὶ γυνή, καὶ ἐν ὄπλῳ ἔχω τὴν ἐλευθερίαν, ἢ μήτε πληγαῖς κατακόπτεται μήτε σιδήρῳ κατατέμνεται μήτε πυρὶ κατακαίεται.
- 4 Justinian, *Institutes* 1.3.1: *naturalis facultas eius quod cuique facere libet, nisi si quid aut vi aut iure prohibetur.*
- 5 Heliodorus, *Aethiopica* 1.8.3: καὶ καλὸν ἐντάφιον τὴν σωφροσύνην ἀπενεγκαμένη.
- 6 Aristotle, *Magna Moralia* 1186b1; tr. Stock: Ἔστι δὲ καὶ ἄλλα πάθη, ὡς δόξειεν ἄν τι, ἐφ' ὧν ἡ κακία οὐκ ἔστιν ἐν ὑπερβολῇ καὶ ἐλλείψει τινί, οἷον μοιχεία καὶ ὁ μοιχός· οὐκ ἔστιν οὗτος ὁ μᾶλλον τὰς ἐλευθέρους διαφθείρων.
- 7 Lysias 13.66, tr. Todd: γυναῖκας τοίνυν τῶν πολιτῶν τοιοῦτος ὧν μοιχεύειν καὶ διαφθεῖρειν ἐλευθέρους ἐπεχείρησε, καὶ ἐλήφθη μοιχός.
- 8 Dio Chrysostom, *Orationes* 7.140: τάχ' οὖν λέγοι τις ἄν ἀγροικότερον οὕτω πως ἧ σοφοὶ νομοθέται καὶ ἄρχοντες οἱ παραδεξάμενοι τὰ τοιαῦτα ἀπ' ἀρχῆς, ὡς δὴ τι θαυμαστὸν εὐρηκότες ταῖς πόλεσιν ἡμεῖς σωφροσύνης φάρμακον, ὅπως ἡμῖν μὴ τὰ φανερά ταῦτα καὶ ἄκλειστα οἰκήματα τὰς κεκλειμένους οἰκίας καὶ τοὺς ἔνδοθεν θαλάμους ἀναπετάσῃ, καὶ τοὺς ἔξω καὶ φανερώς ἀσελγαίνοντας ἀπὸ μικρᾶς δαπάνης ἐπὶ τὰς ἐλευθέρους καὶ σεμνὰς τρέψῃ γυναῖκας.
- 9 John Chrysostom, *Propter fornicationes* 1.4: Οὐκ ἀγνοοῦμεν γὰρ ὅτι πολλοὶ μοιχείαν νομίζουσιν, ὅταν τις ὑπανδρον φθείρῃ γυναῖκα μόνον. ἐγὼ δὲ κἂν δημοσίᾳ πόρνη, κἂν θεραπαινίδι, κἂν ἄλλῃ τινὶ γυναικὶ ἄνδρα οὐκ ἐχούσῃ πρόσχη κακῶς καὶ ἀκολάστως... Μὴ γάρ μοι τοὺς ἔξωθεν νόμους εἴπῃς νῦν, οἱ τὰς μὲν γυναῖκας μοιχευομένας εἰς δικαστήριον ἔλκουσι καὶ εὐθύνας ἀπαιτοῦσιν, ἄνδρας καὶ γυναῖκας ἔχοντας καὶ θεραπαινίσιν προφθειρομένους οὐκ ἀπαιτοῦσιν εὐθύνας... Ἐπὶ γὰρ τῆς ἐλευθέρους γυναικὸς ὁμοῦ καὶ ἡδονὴ καὶ ἀσφάλεια καὶ ἄνεσις καὶ τιμὴ καὶ κόσμος καὶ συνειδὸς ἀγαθόν. See also *De Anna* PG 54:633.
- 10 John Chrysostom, *Ad populum Antiochenum* 49.178: Καὶ γὰρ γυναικὶ νῦν ἔοικεν ἡμῖν ἢ πόλις εὐσχήμονι καὶ ἐλευθέρῃ καὶ σώφρονι.
- 11 I am grateful to an anonymous reviewer for prompting this thought.

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Becoming Almost Somebody: Manumission and its Complications in the Early Han Empire

ANTHONY BARBIERI-LOW

In Orlando Patterson's book, *Slavery and Social Death*, he innovatively treats manumission as an integral phase in the process of slavery, "a negation of the negation of social life" (Patterson 1982: 211). For Patterson, manumission symbolically generates a new life and, concretely, results in a new status, that of the freedman. Although he has acquired custodial rights over his children and some legal protections, the freedman usually is still required to pay a life debt of obligations to his former master and is tainted for one or more succeeding generations by the stigma of slavery and its aura of "social death."¹

When Patterson's study was first published, very little was known about the legal process of manumission or the legal status of freedmen in Han China, as made clear by two influential studies of Chinese slavery, both cited by Patterson. In C. Martin Wilbur's foundational study, *Slavery in China during the Former Han Dynasty*, he remarked that "references to manumission are casual enough to make the act appear not unusual" (Wilbur 1943: 129), but, "on the basis of historical records we can only describe the methods of liberation without much detail about the actual process" (134). In E. G. Pulleyblank's study, "The origins and nature of chattel slavery in China," he expressed doubts that masters during the Han even had the ability to manumit privately held slaves, whom he viewed as all originating from penal enslavement by the state (Pulleyblank 1958: 209). Now, thanks to the discovery and publication of the legal texts from tomb no. 247 at the Zhangjiashan site, we can read and interpret the long-lost Han statutes authorizing manumission of privately held slaves.

On Human Bondage: After Slavery and Social Death, First Edition.

Edited by John Bodel and Walter Scheidel.

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The Manumission Statute from Zhangjiashan

In December of 1983, Chinese archaeologists excavated a vertical-pit tomb dating to around 186 BCE at the site of Zhangjiashan, located 1.5 km west of the old walled city of Jingzhou in Hubei Province (Jingzhou diqu bowuguan 1985; Zhangjiashan Han mu zhujian zhengli xiaozu 1985). The skeleton in the coffin had completely decayed, but based on the calendar found within the tomb, the lone tomb occupant appears to have been a male who served as an official under pre-Han and Han-era regimes in the area, retired due to illness in 194 BCE, and died in 186 BCE, or shortly thereafter. Writing equipment and two assemblages of texts were found in the tomb. The first textual assemblage was an inventory of the tomb's contents, found on scattered slips near the west wall of the tomb. The second assemblage of texts, found near the south wall, consisted of 1195 bamboo slips (and some fragments), which were once held in a bamboo box, long since decayed. The texts in the box consisted of a calendar, two medical texts, a mathematical treatise, a military-political treatise, and two legal texts, lost or otherwise unknown to scholars until this discovery. The longest legal text was called the *Statutes and Ordinances of the Second Year* (Ernian lüling) and consists of more than two-dozen statute collections from the early Han period and a lengthy ordinance collection on fords and passes. These laws were abstracted from the larger body of statutes and ordinances in force in the early empire, probably by a local official who needed copies of only those laws relevant to his office. The shorter legal text is entitled *Book of Submitted Doubtful Cases* (Zouyan shu) and consists of twenty-two legal case records, compiled and edited from case files originally sent by lower-level officials to their superiors for clarification and decision. They range in date from the late third century BCE to 196 BCE (Barbieri-Low and Yates 2015; Zhangjiashan ersiqi hao Han mu zhujian zhengli xiaozu 2001, 2006).

The item governing the manumission of privately held slaves was collated by the modern editors of the Zhangjiashan texts within the “Statutes on Abscondence” (Wang lü) section of the *Statutes and Ordinances of the Second Year* text, a section of the laws which specified punishments for absconding peasants and officials, runaway slaves, and those who harbored, employed, or married such persons. This textual placement is highly problematic, but that does not alter the significance of the statute itself.²

奴婢為善而主欲免者：許之。奴命曰私屬，婢為庶人。皆復使(事)及筭(算)。事之如奴婢。主死若有罪，以私屬為庶人，刑者以為隱官。所免不善，身免者得復入奴婢之。其亡，有它罪：以奴婢律論之。

In cases when a male or female slave acts in a good [fashion], and the master wishes to manumit [him or her]: permit it. The male slave is to be called a “private dependent,”³ and the female slave is to be made a freedman. In every case, exempt [them] from government service obligations and poll tax. Continue to employ them as when they were male and female slaves. When the master dies or is guilty of a crime, make the private dependent a freedman, but the one who has been mutilated, make him a

[person of] hidden-office [status]. When those who have been manumitted are not good, the one who personally manumitted them is able to once again enroll them as male or female slaves. Should, [once manumitted,] they abscond or become guilty of other crimes: sentence them according to the “Statutes on Male and Female Slaves.”⁴ (Barbieri-Low and Yates 2015: vol. 2, p. 583, section 3.6, no. 6)

I would like to explain several key features of this statute. First, the technical term used to indicate “manumission” was *miǎn* 免, which literally means “to release” or “to avoid.” The verb *miǎn* 免 carries several specific legal meanings in the *Statutes and Ordinances of the Second Year* text, including to be released from punishment (i.e. having one’s sentence commuted after it was pronounced), to be released from statutory labor due to age (*miǎnlǎo* 免老), to be dismissed or retire from one’s official position, or, here, to be manumitted from slavery. Each usage involves a fundamental change in the person’s status, releasing them from one bond of obligation while enrolling them into another. On an etymological level, the word *miǎn* 免 is cognate with the word *miǎn* (mourning clothes/mourning hairstyle) and the word *miǎn* 娩 (“to give birth” or “to be released or separated from a woman’s body”), a graph whose most ancient form pictographically shows two hands removing a crowning baby from a woman’s body (Karlgren 1957: 74 n. 222 g, 222 k; Guo Moruo 1978–1982, n. 14002 [recto]). These connections clearly demonstrate, at a fundamental linguistic level, the association of manumission with death and birth.

Second, the statute makes clear that the state recognized that the manumission of privately held slaves was the personal choice of the master (*zhǔ* 主), based on his “desire” or “inclination” (*yù* 欲), but that the state retained the authority to “permit” or “authorize” (*xǔ* 許) this decision. This also implies that the master had to submit a formal petition or request for approval, just as he had to do if he wished to have an unfilial son or obstreperous slave killed. The first sentence also makes clear that manumission was framed as a reward for “acting in a good [fashion]” (*wéishàn* 為善) but this is nowhere defined.

Third, the manumitted male and female slaves remained in a patron–client relationship with their former master (like the *wala* referred to by Patterson). Although the female slave was immediately released to the status of “freedman” (*shùrén* 庶人) her male counterpart was made a “private dependent” (*sīshǔ* 私屬) of the master.⁵ Each was required to perform what Roman jurists and Patterson called *operae libertorum*, working for the master in the same jobs they had performed as slaves. It is clear that they were not considered free peasants yet, for they were exempt from government service and poll tax, obligations that ordinary peasants carried.

Fourth, the manumission of private slaves was clearly probationary. If slaves who had been provisionally manumitted ceased their good behavior, presumably implying complete obedience working for their former master, they could be re-enslaved at any point up to the master’s death (or when he committed a serious crime), but only by the one who personally manumitted them. If they ran away from their former master or committed any other crime, they lost all legal protection as freedmen and would be treated as slaves under the law, subject to much harsher punishment

than an ordinary person would be for committing the same crime. At the master's death (or incarceration), the male private dependents were finally made freedmen, unless they had formerly been mutilated (for running away or other crimes), in which case they were enrolled as persons of hidden-office status, another liminal status like freedmen, stigmatized by the stain of physical deformity and not treated as ordinary persons.

The main features of Han manumission fit remarkably well within the framework developed by Patterson through his comparative analysis: the use of manumission as an incentive for obedience and productivity, the *wala*, or dependent client status of the freedman, and the *operae libertorum*, or obligation to continue to work for the master.

Another aspect of Han manumission comes as more of a surprise. An item from the “Statutes on the Establishment of Heirs” (Zhihou lü 置後律) from the *Statutes and Ordinances of the Second Year* text states:

死毋(無)後而有奴婢者，免奴婢以為庶人。以庶人律予之其主田宅及餘財。奴婢多，代戶者毋過一人，先用勞久、有【夫】子若主所信使者。

For a case of one who dies without an heir but has male and female slaves, manumit the slaves and make them freedmen. Use the “Statutes on Freedmen” to give them their master's agricultural fields, homestead [plots], and remaining wealth. When there are many male and female slaves, do not exceed one person as the substitute householder, and first use the one who had worked [for the master] the longest or the one whom the husband, son, or master trusted in employment. (Barbieri-Low and Yates 2015: vol. 2, p. 861, section 3.21, n. 12)

This statute provides that if the master were to die without any male or female heirs, his slaves would be manumitted and given all his land and property. His longest-serving or most-trusted slave would then be employed as a replacement for his legal householder status, inheriting his privileges and his tax and government service obligations, demonstrating that the interventionist early imperial Chinese state was perfectly willing to overlook the stigma of slavery in order to maintain a tax-paying household of the empire. If, however, the master died with a legal heir such as a wife, parent, or child, his slaves would naturally be inherited along with his other property, except for those female slaves whom he had used for sex and who had borne him children (Barbieri-Low and Yates 2015: vol. 2, p. 861, section 3.21, n. 14). They would be manumitted to freedman status, probably more to prevent the transgression of incest among the master's sons, than to conform to the “cohabitational mode” of manumission described by Patterson (1982: 228–232).

The Status of Freedman

According to the primary manumission statute, translated above, those persons freed by their master would all eventually be enrolled in a status referred to as *shùrén* 庶人. This is the term I have translated as “freedman,” but the word is far

more problematic than that. Earlier scholars of ancient Chinese slavery such Wilbur (1943) and Pulleyblank (1958) erroneously translated *shùrén* as “commoner,” misled by the fact that the term *shùrén*, in other philosophical and historical texts of the Warring States, Qin and Han periods, does indicate the masses or commoners, in other words, the free peasantry. But in legal and administrative texts, the word for an unranked commoner was *shìwǔ* 士伍, translated by Robin D.S. Yates (1987) as “rank-and-file commoner.” This signifies a person with no special rank, who had never been a criminal, bond servant, or slave, and who was subject to all the requirements of tax and government labor service. The other word used in legal texts to refer to such a person was *mín* 民 (“ordinary person”). It is now clear from reading the Zhangjiashan legal texts that slaves were not usually manumitted directly to become commoners as Wilbur and others had interpreted, but enrolled into the intermediate status of *shùrén*. What then was this *shùrén* status, and how were *shùrén* treated under the law? Let us explore some of the dimensions of this newly discovered status of *shùrén* during the early Han and see how they compare to the features of the slave and freedman statuses identified by Patterson.

It was not only manumitted slaves that were given the status of *shùrén* during the Han. According to an item from the “Statutes on Cash” (Qian lǜ 錢律) from Zhangjiashan, capital criminals, hard-labor convicts, bond servants, government slaves, and criminals whose sentences had matured could all have their sentences commuted and become *shùrén* if someone they knew, presumably a relative, arrested one counterfeiter of bronze coinage and used the resulting conferral of rank to free them (Barbieri-Low and Yates 2015: vol. 2, p. 635, section 3.9, n. 6). Furthermore, an item from the “Statutes on Arrest” (Bu lǜ 捕律) from Zhangjiashan provides that if a member of a bandit band surrendered and was able to execute a fellow bandit, he could have his culpability removed and be made a *shùrén* (Barbieri-Low and Yates 2015: vol. 2, p. 565, section 3.5, n. 9). Finally, an item from the “Statutes on the Composition of Judgments” (Ju lǜ 具律) from Zhangjiashan, reveals that women of any status who were mistakenly mutilated or punished through an intentional miscarriage of justice were made *shùrén* (Barbieri-Low and Yates 2015: vol. 2, p. 513, section 3.3, no. 24). Therefore, it appears from the surviving legal statutes that *shùrén* indicated a legal status assigned to former slaves, convicts, bond servants, or mutilated females who had been released from these degraded statuses.

In economic terms, Patterson defined the slave not by the fact that he was the “object of property,” but by the fact that he “could not be the subject of property” (Patterson 1982: 28). The Han statutes from Zhangjiashan demonstrate that *shùrén* could be the legal owners of land, as far as anyone could truly have ownership of land in ancient China. Earlier, I had shown that the law allowed officials to make private slaves whose masters died without heir into *shùrén*, giving them all of the master’s property and wealth. According to two items in the “Statutes on Households” (Hu lǜ 戶律) from Zhangjiashan, the state ideally allotted to *shùrén* one *qǐng* 頃 of land (approx. 4.61 ha) for agricultural fields under the state land distribution scheme, and one housing plot of thirty double-paces squared (approx. 1729 m²), the same amount allotted to rank-and-file commoners, but

twice as much as that allotted to debased persons such as former convicts or mutilated persons (Barbieri-Low and Yates 2015: vol. 2, pp. 791, 793, section 3.18, n. 5–6). The key clause in the second of these statutes comes at the end: the permission of *shùrén* to form a *hù* 戶, a legal household that would be counted in the census and subject to poll and labor taxes.

However, as we saw in the manumission statute, above, manumitted female slaves were made *shùrén* immediately, but were still required to work for their former master as long as he lived, and were considered clients of his household, not subject to poll and labor service tax. Manumitted male slaves were not even considered *shùrén* until the master died. So, it would appear that manumitted slaves could not really take the final step toward property ownership and apply to form their own legal household until their manumission was cemented by their master's death.

Patterson identified a generally dishonored status as one of the key features of the status of slave. Slaves could not earn or compete for honor. But, we learn from two articles in the “Statutes on Assault” (*Zei lü* 賊律) from Zhangjiashan that a *shùrén* was counted among those who were legally protected from physical abuse by those beneath them in status, including abuse from convicts and slaves (Barbieri-Low and Yates 2015: vol. 2, p. 401, section 3.1, n. 23–24). Thus, like a noble or a commoner, a *shùrén* was capable of being honored and was protected from the general condition of dishonor and degradation that characterized the status of slave. It is also evident from an item in the “Statutes on Finance” (*Jinbu lü* 金布律) from Zhangjiashan that a person could redeem or buy back their relatives who were slaves, turning them into *shùrén*, but were specifically prohibited from treating them as slaves that had been bought (Barbieri-Low and Yates 2015: vol. 2, p. 927, section 3.25, n. 12). Based on the hierarchically arranged lists of statuses given in the items from the “Statutes on Households” referred to above, a *shùrén* was considered below a holder Soldier of the Realm rank, the lowest order of the Han system of ranks, and below a rank-and-file commoner, but above the degraded statuses of robber-guard (persons whose prison sentences had matured) and persons of hidden-office status, freed convicts who had been physically mutilated.

As Patterson states in *Slavery and Social Death*, “The stigma of former slavery meant that the freedman was rarely perceived as an equal. Only time could blot out the memory of the debased condition he experienced as a slave. Hence, full freedom came only to his descendants. How long this took varied from one society to the next” (Patterson 1982: 247). According to an item in the Han “Statutes on Enrollment” (*Fu lü* 傅律) from Zhangjiashan, the children of those directly above and below *shùrén* on the status scale were born as rank-and-file commoners, including the children of the mutilated persons of hidden office status (Barbieri-Low and Yates 2015: vol. 2, p. 841, section 3.20, n. 8). Therefore, I believe we are safe in interpolating that the children of *shùrén*, unfortunately missing from this list, would automatically be designated full commoners as well.

Finally, a fundamental characteristic of the slave identified by Patterson was his natal alienation: he had no genealogy, no kin, and no custodial rights over his children.

This is what most made him a socially dead, non-person. Although the information is sketchy, and comes mostly by inference, it appears that a *shùrén* during the Han had much of his personhood restored. Because he was permitted to form a legal household, upon his masters' death, a *shùrén* was probably allowed to acquire (or re-acquire) a surname, which restored his ties of kin and genealogy. So long as he had not been mutilated while a slave, he would also be allowed to resume ancestral sacrifices, a key indicator of being considered human during the Han (Yates 2001: 299–300). As far as custodial rights are concerned, we are probably fairly safe in concluding that someone who could form his own household would have custodial and disciplinary rights over his own children, who would usually be listed under his name on the household register and considered subordinate members of the household. An important item from the “Statutes on Miscellaneous Matters” (Za lǜ 雜律) from Zhangjiahan states that if a *shùrén* woman had illicit intercourse with a male slave, the children from her womb would be *shùrén* (Barbieri-Low and Yates 2015: vol. 2, p. 617, section 3.8, n. 8). If she had married a *shùrén*, the children would probably have been born commoners, as argued above, but her illicit relations with a slave probably tainted this possibility, and produced another *shùrén*.

To conclude my discussion of the newly discovered *shùrén* status of the early Han, it is clear that a *shùrén* was not a slave according to Patterson's definition, having been restored some of his economic authority, dignity, and social life, but neither was he a fully recognized commoner. His status lay somewhere in between, which is why I translate the term as “freedman.” Nowhere in the legal texts does it mention whether *shùrén* were required to carry manumission documents or some other document verifying their status. During the Tang, a manumitted slave was given a document signed by the master and his sons, verifying his status, and releasing the family's legal hold on him (Pulleyblank 1958: 209–210). A copy was also filed with local authorities. My guess would be that, during the Han period, the only such written proof of manumission and *shùrén* status lay in the written household registers that were kept in district offices to track every household in the empire. We know from surviving examples of these that a person's rank was recorded on the boards, as well as the number and names of slaves held. It is likely that a household headed by a *shùrén* would indicate this status on the household register. A personally held proof-of-status document would have certainly aided a tragic character named Wu, whose legal case I shall introduce shortly.

Manumission and the Founding of the Han Empire

In *Slavery and Social Death*, Orlando Patterson identifies economic and military disturbances as the two “overarching factors” that led to high rates of manumissions in certain societies in the pre-modern world (Patterson 1982: 285–293). This exactly matches the situation during the early Han Empire. During the rebellion against the Qin Dynasty from 209 to 207 BCE and the subsequent civil war (206–202 BCE), untold thousands of persons were captured, kidnapped, or sold by themselves or

others into slavery. Millions of others fled the chaos to live as refugees in the mountains and marshes, awaiting an end to the bloodshed. The mass of refugees also included runaway slaves. When he finally eliminated his last principal rival in early 202 BCE, the newly acclaimed Emperor Gaozu (r. 202–195 BCE) faced a shattered realm, with a devastated and dislocated population, barren and uncultivated fields, and no revenue base to speak of.

One of his first official edicts after ascending the throne declared the world to be at peace and required those who had fled the disaster to come out of the hills and register themselves as peasants. The relevant portion of the edict reads:

As to the people who formerly had collected to take refuge in the mountains and marshes, whose names and related accounts have not been registered – the world has now been pacified. We order that each return to his county and be restored to his former rank, fields, and habitation. The officials, using civil and legal [models], should teach and instruct [these people]; let it be published abroad that there is to be no beating or shaming [of them]. As to those people who because of hunger and famine have sold themselves to be people's male and female slaves, all are to be manumitted and made freedmen. (*Han shu*, 1B.54; Dubs 1938–1955: 1:103–104)

Gaozu's edict promised amnesty and manumission to two different groups. The first group mentioned were those refugees who had absconded from their homes and farms and fled the warfare into the mountains and marshes. Based on legal case records from Zhangjiashan, this group probably also included slaves who had run away from their masters in non-Han-held territory during the civil war and surrendered to Han authority. A legal ordinance quoted in the *Book of Submitted Doubtful Cases* from Zhangjiashan, likely drawn up shortly after the imperial edict, specifies the details of the amnesty offer.

For all those who lack a [recorded] name and related accounts: in every case, order [them] to make a self-report and write out their name and related accounts. Order [them] to go to the office of their county or march within a full thirty days. [For one] who does not make a self-report and write out [his or her] name and related accounts: in every case, shave [the criminal] and make [him or her] a bond servant or bond-woman with the restriction, do not allow him or her to use rank or reparation [payments] to commute [the punishment]. The one who lodges or hides [the criminal] shares the same crime. (Barbieri-Low and Yates 2015: vol. 2, p. 1277, section 4.14)

Here, we learn that the unregistered persons had exactly thirty days to come out of the hills and register their name and age to become a peasant, or face serious criminal charges. This was both a generous offer and a threat. Come join the new regime as a full member, or be treated as a bandit. It was also an unprecedented opportunity for those who had been formerly enslaved to achieve complete manumission and become full commoners, not just *shùrén*, if they heard about the offer in time, and if they were not too distrustful of the authorities to come into the cities and register themselves.

The other group addressed in the edict were those who had been sold into slavery because of debt during the civil war years. Debt slavery caused by famine has been viewed as a major source of Chinese slaves during all eras. At the outset of the civil war, in 205 BCE, Emperor Gaozu actually authorized parents to sell their children into slavery, so they could more easily migrate in search of food (*Han shu*, 24A.1127). Edicts of manumission similar to Gaozu's were also issued by the founder of the Eastern Han (Liu Xiu) in 26, 31, 36, 37, and 39 CE, attempting to free those who had been enslaved because of debt or kidnapping during the civil war between the two Han dynasties. Wilbur viewed all these manumission edicts as hollow, grand gestures, highly doubtful that they ever could have been enforced by a weak and newly established authority (Wilbur 1943: 136–137). How would debt slaves, including children, have even heard about these manumission edicts, and how could they have run away to vindicate themselves in a law court?

Gaozu certainly did not attempt to emancipate all slaves in his edict, only those who had sold themselves into debt-slavery during the civil war, and probably also those who had run away during the chaos and become refugees. If he had manumitted the private slaves of all his newly minted nobles, he would have incurred the wrath of his only power base, similar to the backlash felt by Wang Mang in 9 CE when he attempted to limit the slave trade and slave-holding amongst aristocrats.

Patterson argues that political manumissions like those promoted by Gaozu's edict were very common, and were usually initiated by warring factions trying to enroll former slaves in their armies. In Han China, however, it was not a matter of Emperor Gaozu manumitting the slaves to enroll them in his army, *but to enroll them in his economy*. With vast tracts of land uninhabited and uncultivated, what the Han most needed was peasants, men and women to cultivate the soil, pay their taxes in grain, and fulfill their labor service obligations.

I would like to end this chapter by investigating some of the legal ramifications of Emperor Gaozu's edict. The shorter of the two legal texts found in Zhangjiashan tomb no. 247, titled *Book of Submitted Doubtful Cases*, contains twenty-two legal case records, many of which date from the first decade of the Han dynasty. Before being edited and compiled into this collection, many of these case records were originally appeals sent by local or regional officials to their superiors in the chain of command for clarification and decision. Several of the records clearly mention criminal proceedings that arose in response to Gaozu's 202 BCE edict and the subsequent legislation generated from it. Here, I present a translation and interpretation of two of those case records.

In the first case, which transpires in the summer of 197 BCE, a thirty-seven-year-old former slave named Wu is accused of maliciously wounding a Constable who attempted to arrest him, based on an erroneous denunciation that Wu was a runaway slave, an accusation lodged by his former master, a commoner named Jun.

In the tenth year [of Emperor Gaozu], on the *jiüyín* day of the seventh month, whose first day falls on a *xīnmǎo* day (August 20, 197 BCE), [Magistrate] Yu of Jiangling

[County] and Assistant [Magistrate] Ao dare to submit this [case] for decision by higher authorities:

This year, on the *gēngxū* day of the fifth month (June 17, 197 BCE), Constable Chi declared: “The member of the rank and file Jun made the denunciation to me, which said, ‘[My] adult male slave Wu absconded. I saw him west of your police station, headed west.’ Based on this denunciation, I accompanied Thief Catcher Shi to pursue and arrest Wu. Wu attacked and injured Shi with his sword. Shi also injured Wu with his sword.”

- Now, Wu stated: “Formerly, I was Jun’s male slave. During the time of Chu, I ran off and absconded and surrendered to the Han. I wrote out my name and related accounts and became an ordinary person. It is not fitting that I should be considered Jun’s slave. When Shi attempted to arrest me, I did, in truth, attack him, striking him with my sword and injuring him.” Everything else is as Chi [has stated].
- Shi stated: “Based on Jun’s denunciation, Chi and I pursued and attempted to arrest Wu. Wu attacked with a sword, striking and injuring me. I feared that I might not be victorious over him [in this fight], so, in truth, I used my sword to stab and injure Wu and then arrested him.” Everything else is as Wu [has stated].
- Jun stated: “Wu was formerly my male slave. During the time of Chu, he absconded. I saw him west of Chi’s police station. I considered it fitting that Wu should once again be made my slave, so I made the denunciation to Chi, stating, ‘Wu is my male slave. He has absconded.’ The denunciation, in truth, was carelessly made.” Everything else is as Chi and Wu [have stated].
- Wu was cross-examined: “Even though it was not fitting that you should have been enslaved to Jun, Shi attempted to arrest you based on a denunciation. It would have been appropriate for you to have obeyed Shi and later debated the rightness or wrongness of the accusation with the officials. But instead, you attacked, striking at Shi with your sword and injuring him. This is a case of ‘maliciously injuring another person.’ How do you explain [this]?”
- Wu stated: “I considered that I was not Jun’s absconded slave. I was guilty of no crime. When Shi attempted to arrest me, I felt anger in my heart, and in truth, I did strike Shi with a sword and injured him. The officials consider that this is ‘maliciously injuring another person,’ and in the view of the investigating officials, this matches a crime. I have no explanation to give.”
- Shi was cross-examined: “Wu was not a man guilty of a crime. You arrested him and injured him with your sword. How do you explain [this]?”
Shi stated: “Jun made the denunciation ‘Wu is an absconded male slave.’ An absconded slave is guilty of a crime that warrants arrest. Based on the denunciation, I attempted to arrest Wu. Wu attacked and injured me. I feared that I might not be victorious over him [in this fight], so, in truth, I stabbed Wu with my sword, injuring him, and then arrested him. I have no other explanation.”
- An inquiry [was conducted]: Wu is a member of the rank and file, thirty-seven years of age. The results of the physical examinations [of the sword wounds of Wu and Shi] were as in the statements.
- The case was tried: That it was not fitting that Wu should be re-enslaved to Jun; that Jun made a denunciation to Chi that [Wu] was an absconded slave; that Chi, on the basis of the denunciation, together with Shi, attempted to arrest Wu; that Wu attacked [them], and struck at Shi with his sword and injured him; that Shi

also stabbed Wu with his sword and injured and arrested Wu have all been carefully verified.

- Being in doubt as to what crimes Wu and Shi are guilty of, we dare to submit this [case] to higher authorities for decision. We request a report [of a judgment].

Judiciary Scribe Kuai, in the [appropriate] office, opened [the sealed documents].

- The [commandery] officials made the matching: “Tattoo Wu and make [him] a wall-builder. Remove Shi’s [liability for a crime].”
- [The Commandant of] the Court also made the case known [to the Emperor]: “Wu matches undergoing tattooing and being made a wall-builder. Remove Shi’s [liability for a crime].” (Barbieri-Low and Yates 2015: vol. 2, pp. 1219, 1221, section 4.5)

So, according to the initial statement made by Wu, he was formerly a slave owned by Jun, but during the civil war period, he had run away and surrendered to become a Han subject. Then, taking advantage of Gaozu’s edict of May/June 202 BCE, he had registered his name and age with the local authorities and became a rank-and-file commoner, completing bypassing the status of *shùrén*. He had also managed to acquire and arm himself with a sword, which was the symbol of free male adulthood in Qin and Han-period China. However, his former master, presumably unhappy that he had lost such a valuable asset because of the regime change, caught sight of him several years later and told the local authorities that he was a current runaway slave. According to Wu’s own words, it was because he was so indignant about being treated as a runaway slave that he resisted arrest and wounded his pursuers. He was later told that if he had gone calmly with the authorities, he would have been exonerated, but because he violently resisted arrest, he was to have his face tattooed and be made a hard-labor convict. Wu’s flash of righteous anger as he confronts his pursuers is the only case of emotion detectable in these heavily edited legal case records. Wu was clearly conscious of his newly won dignity, and fought to preserve it, but ultimately that fight cost him his freedom.

In the second case record, a former slave woman named Mei landed herself in an even more difficult legal position than the unfortunate former slave, Wu.

In the eleventh year [of Emperor Gaozu], on the *bīngxū* day of the eighth month, whose first day fell on a *jiǎshēn* day (September 16, 196 BCE), Assistant [Magistrate] Ao of Jiangling [County] dares to submit this [case] for decision by higher authorities:

In the third month, on the *jǐsì* day (May 2, 196 BCE), Lu, holder of Grandee [rank], made a statement, saying:

“In the sixth year, in the middle of the second month (late March–early April 201 BCE), I bought the slave Mei at the place of Dian, a member of the rank and file. The price was 16,000 cash. Then, this year, in the third month, on the *dīngsì* day (April 20, 196 BCE), she absconded.”

I (viz., Assistant Magistrate Ao) sought and captured Mei.

Mei said, “I do not match being considered a slave.”

- Mei stated: “Formerly, I was Dian’s slave. During the time of Chu, I went off and absconded. I surrendered and became a Han [subject]. I did not write down my name or related accounts. Dian captured me, made a report of [my name] and

related accounts, and re-enslaved me. He sold me to Lu's place. I, myself, considered that I did not match being re-enslaved. Accordingly, I went off and absconded." The rest is as Lu [stated].

- Dian stated: "Mei formerly was my slave. During the time of Chu, she absconded. In the sixth year, in the second month (late March–early April 201 BCE), I captured Mei. Mei had not yet registered her name and related accounts, so thereupon I made a report of her [name] and related accounts and sold her to Lu's place." The rest is as Lu and Mei [stated].
- Mei was cross-examined: "You, Mei, were formerly Dian's slave. Although during the time of Chu, you went off and absconded, and surrendered and became a Han [subject], you did not write down your name and related accounts. Dian captured [you] and made a report of your [name] and related accounts. That [he] re-enslaved you and sold you was appropriate. But you went off and absconded. What is your explanation?"
- Mei stated: "In the time of Chu, I absconded. Dian then became a Han [subject]. He re-enslaved me and sold me. I, myself, considered that I did not match being re-enslaved, so then I went off and absconded. I have no other explanation."
- An inquiry [was conducted]: Mei is forty years old. The rest is as in the statements.
- The case was tried: That Mei formerly was Dian's slave; that in the time of Chu, she absconded and surrendered to be a Han [subject], but she did not write down her name and related accounts; that Dian captured [her] and made a report of [her name] and related accounts, re-enslaved her, and sold her to Lu's place; that Mei went off and absconded; and that she is forty years old and was captured have all been carefully verified.
- Being in doubt as to what crime Mei [is guilty of], and having suspended the sentencing of others [involved], I dare to submit this [case] to higher authorities for decision. I request a report [of a judgment]. Judiciary Scribe Kuai, in the [appropriate] office, opened [the sealed documents].
- The [commandery] officials made the matching: "Tattoo Mei on the cheekbone area of her face and give her back to Lu." An alternative [opinion] stated, "She matches becoming a freedman." (Barbieri-Low and Yates 2015: vol. 2, pp. 1189, 1191, section 4.2)

Like the former slave, Wu, woman Mei had also been a slave in Chu-held territory and had run away during the civil war period, and surrendered to Han authority. But for some reason, either because she was ignorant of the details of Emperor Gaozu's edict, or because she was afraid to do so, she failed to register her name and age with local authorities within thirty days of the promulgation of the amnesty ordinance. As a result, her former master, a man named Dian, captured her in March or April of 201 and re-enslaved her, registering her name under his household as a slave. He then sold her to another man named Lu for 16,000 coins. Believing herself to be a free woman, Mei eventually ran away from her new master and was caught by authorities. Perhaps, she had learned, only too late, of Gaozu's amnesty ordinance. The official ruling at the provincial level was that Mei's re-enslavement was authorized because she failed to register herself as a peasant according to the ordinance, and should be punished as a runaway slave, with

tattooing on the face and being returned to her master. A dissenting opinion held that she should be given a second chance and be made a freedman, regardless of her failure to comply with the letter of the ordinance. Eventually, the case would have been decided in the capital by the Commandant of the Court, the highest legal official in the land, but we do not know the final dispensation of the case.

In conclusion, the legal texts from Zhangjiashan tomb no. 247 provide us with an opportunity to look afresh at the problem of slavery and manumission in Han China, revealing the legal mechanisms of manumission, the boundaries of the status of freedman, and the legal complications of large-scale political manumission. In each of these areas, the comparative analysis provided thirty years ago in Orlando Patterson's *Slavery and Social Death* helps us to understand these features, for they match almost perfectly within his cross-cultural findings.

Notes

- 1 All the translations, and other portions of this chapter, were drawn from Barbieri-Low and Yates 2015. More detailed annotation and commentary to the translations can be found in the notes to that publication.
- 2 The “Statutes on Abscondence” probably formed the fourth division of the original scroll, after the “Statutes on Robbery,” with its slips looping half a turn clockwise and ending with the title-slip (no. 173). The important item that details the process for the manumission of slaves should not have been placed in this section. The two slips that make up that item were found on the opposite side of the scroll, far away from any of the other slips. I would argue that they belong with many of the slips placed (provisionally) in the “Statutes on Miscellaneous Matters” (*Za lü* 雜律), which occupy the same area, in the same slip-stratum, and whose items also discuss issues related to slaves and freedmen.
- 3 There is an attention mark (∠) between the words “dependent” and “female slave,” but its significance is unclear: it may mean that the copyist was combining two separate items in the statutes, or it may indicate a reading pause.
- 4 For another interpretation of this item, see Wang Yanhui 2003. The “Statutes on Male and Female Slaves” (*Nubi lü* 奴婢律) is not present in the Zhangjiashan cache as currently reconstructed. It may have been a separate, named statute collection, or this reference could be to those items concerning male and female slaves in some other named collection.
- 5 A “private dependent” (*sīshǔ* 私屬) was the name and status that Wang Mang wanted to apply to all slaves, when he tried to outlaw the slave trade in 9 CE. See *Han shu* (99B.4111); Dubs (1938–1955: 3: 286).

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Ottoman Elite Enslavement and “Social Death”

EHUD R. TOLEDANO

Introduction

One way or another, we have all benefited from Orlando Patterson’s *Slavery and Social Death*; whether we agree with the main arguments or not, we have all had to address them, mull them over time and again, and incorporate them into our own work. For me, this is the main – and highly significant – achievement of Professor Patterson, for which we are in his debt. However, this piece, I am inclined to say “almost naturally,” will deal mostly with my own criticism, developed over three decades of research and writing on Ottoman history and the history of Ottoman enslavement. Some of my points are relevant also to enslavement in other, non-Ottoman, Islamic societies.

Professor Patterson is a sociologist, and – for better or for worse – his *Slavery and Social Death* is a classic work in historical sociology. It would therefore be naively futile to expect that historians of particular societies during specific periods of time would not find faults, misconceptions, or mere inaccuracies in his work. Almost by definition, to historians most sociological work is “decontextualized,” or “ahistorical.”

Indeed, perhaps one of the strongest critiques of Patterson’s work is offered by Joseph C. Miller in his *The Problem of Slavery as History: A Global Approach* (Miller 2012: 20–22, 31–33, 70–71). Patterson’s book, argues Miller, examines slavery on a “sweepingly global scale, though not historically.” The dynamic elements that the work does address, he continues, are not of “a historical sort that would embed

On Human Bondage: After Slavery and Social Death, First Edition.

Edited by John Bodel and Walter Scheidel.

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particular masters and their slaves in specific times and specific places.” This is, in other words, the epic sin of non-historians, that is, extracting “generalized masters and their slaves from the specific situation in which they lived.” As the master–slave dyad is thus isolated from all social context, the enslaved are condemned not only “to the living historical hell of de-contextualization,” but both masters and slaves are also positioned outside “the larger social and temporal matrices in which they lived” (Miller 2012: 20).

So, for a historian of the Ottoman Empire, the Patterson model of global enslavement conforms only partially to the realities of life in the sultans’ domains. To the author of *Slavery and Social Death*, enslavement was, by definition, “the permanent, violent domination of natively alienated and generally dishonored persons” (Patterson 1982: 13). The case of military-administrative elite enslavement, known to Ottomanists as the *kul/harem* system, poses the most obvious challenge to such a view, in almost all of its aspects: *Kul/harem* slaves, for the most part, were not permanently or violently dominated; nor were they natively alienated in the strict and permanent sense of the concept, nor were they generally dishonored. In the following pages, I shall attempt to review three aspects of Ottoman elite enslavement, beginning with the issue of *kul/harem* honor/dishonor, moving on to their being “socially dead,” and ending with the notion of “parasitism,” that in fact enables a far more realistic understanding of Ottoman enslavement in general, not just its elite component.

Given the problematic definition of enslavement offered by Patterson, however, we need first to ask the question whether the *kul/harem* phenomenon can at all be classified as enslavement. Leading Ottomanists have suggested alternative terms to describe the predicament of people in that group, feeling that they cannot properly be lumped together with Ottoman domestic and agricultural slaves. Metin Kunt referred to the *kul* as “the sultan’s servants,” whereas Suraiya Faroqui preferred to call them “servitors” (see Kunt 1983; Faroqui 1994: 564). As against that, my view – shared by Leslie Peirce and Madeline Zilfi (Peirce 2003: 315; Zilfi 2010: 15, 101–102) – is that the *kul* (and their female *harem* cognate) should be regarded as enslaved persons. Both in law and in practice, and notwithstanding the great varieties of enslavement in Ottoman and Islamic societies, elite slaves were “human property ... bound to an owner,” as Zilfi puts it. Yet, and herein lies the famous paradox, they enjoyed at the same time honor and power, by sultanic proxy, delegation, or devolution.

Over the centuries of Ottoman imperial rule, certain aspects of *kul* servitude were gradually being mitigated in practice, with the sultans rescinding much of the arbitrary powers they had held over their *kuls*. Executions and confiscation of property ceased to be the norm in the eighteenth century, finally being abandoned in 1839 with the launching of the *Tanzimat* reforms. As in previous works, here too, my view is that all legally bonded subjects of the sultan should be treated as enslaved persons also for the purpose of social analysis (Toledano 2000: 159–176). This is an integrated, inclusive position, i.e. that there was no *difference of kind* between *kul/harem* slaves and other types of Ottoman slaves, although there certainly were *differences of degree* among them but *within* the category of Ottoman slaves.

Ottoman Elite Enslavement, or the Honor of *Kul/Harem* Slaves

Orlando Patterson's insistence on dishonor as a major, indispensable element in the definition of enslavement is, to Ottoman historians, its main Achilles' heel. This is especially so, since he rightly links honor and power, citing Frederick Douglass' words: "A man without force is without the essential dignity of humanity" (Patterson 1982: 13). For much of Ottoman history, the *kul* were the most powerful men in the realm, formulating high policy, implementing it on a daily basis, and enjoying the greatest honor in the Empire. Their prestige was such that rarely there was need for bare force to compel obedience to their commands among the rank and file of the military-administrative establishment. It is true that they acted in the name of the sovereign sultan, who also was their ultimate enslaver, but that linkage to bondage – stronger in the early days of imperial expansion – became more and more abstract. Perhaps more significantly, it did not detract from the actual power they wielded, the authority they possessed, and the honor and respect they commanded. In a somewhat twisted way, the status of the *kul* as the sultan's bondsmen was the source of their honorable social position, not a blemish on their personhood.

It is Patterson himself who makes both the Egyptian *mamluks* and the Ottoman *kuls* so central to his concept of enslavement, pronouncing them to be "the two most extreme developments of servile power in the Islamic world" (Patterson 1982: 308). To retain that rigid notion of seeming power but without honor, he rails against Halil İnalcık, one of the most respected Ottomanists of the twentieth century. His winning argument, Patterson seems to think here, is to draw a distinction between the Ottoman *intisap*, or patron–client, relationship and that of the "master–slave." In fact, there is no contradiction here at all, since the enslaver–enslaved relationship is an instance of the *intisap* system and has to be subsumed under it (for patronage and attachment, see Toledano 2007: 23–34). When all is said and done, the honor argument in Patterson's model – as applied to Islamic, and specifically Ottoman societies – rests on the single case of İbrahim Paşa, who was Kanuni Sultan Süleyman's famous and powerful Grand Vezir between 1523 and 1536 (Patterson 1982: 313–314).

The anecdote, which may be called "disgracing the *kul* Grand Vezir," relates how one of the most senior judges in the Empire refused to admit the testimony in court of İbrahim Paşa, on the grounds that he was a slave. The humiliated İbrahim complained to the sultan, who told him that "this was a matter of *Şeriat* law" (Arabic, *amr mashru'*), which is left to the *ulema* to determine. To enable İbrahim to testify, the Sultan did manumit his close protégé on the spot, but the judge, apparently a stickler for the rules, demanded that a manumission paper be drawn and validated in council before the Grand Vezir's testimony could be accepted, which was duly and promptly done. To Patterson, this is an undisputable proof that even the highest-ranking *kul* was no more than a disgraced slave. Even if we take

Patterson’s understanding and use of this unique case at face value, the instance is to historians of Ottoman social practice far too weak to carry the burden of the argument. But, there are doubts even about the validity of Patterson’s interpretation of “disgracing the *kul* Grand Vezir,” as I will argue forthwith.

The anecdote is drawn from an exchange among three reputable Ottomanists: V. L. Ménage, who reviewed the work of Basilike Papoulia on the *Devşirme*, or the *kul* recruitment system; and R. C. Repp, who commented on Ménage’s review (Repp 1968: 137–139; citation is from 139). The argument revolved around the question of whether or not the *kul* were actually manumitted, as had been the *mamluks* of the Sultanate (1250–1517) before them – Papoulia asserted they were, Ménage disputed that, and Repp supported Ménage, citing the story about Ibrahim Paşa. Patterson admits that he is using that debate for a different purpose, and that although the anecdote shows that *kul* were not automatically manumitted, it can also serve to show, as he claims, that they had no honor. However, if we check the context of that Ottomanist exchange, we may actually reach the opposite conclusion, i.e. that this type of dishonoring – if indeed this is what occurred – was so rare that it was counter-normative.

The obvious context of the story is legal, *Şeriat* (Arabic, *Shari‘a*) procedure. The case appears in the biographical dictionary of Hanafi *ulema*, known by its abbreviated title as the *Kata’ib*, written by Mahmud b. Sulayman al-Kaffawi (d. 1582), himself a trained judge. The story is cited as part of the biography of Ibn Fenari, *Kazasker* of Rumeli, the second ranking officeholder in the Ottoman judiciary. Indeed, we need also to remember that Kanuni (the Law Giver) Sultan Süleyman was later in his reign especially sensitive to the status of the *Şeriat* and the courts. The issue at hand was of evidentiary procedure, where rules must be applied in court strictly and without prejudice. The case discussed here was a difficult one, and the presiding judge, Ibn Fenari, took a longer than usual time to get to the root of the matter. At one point, the Grand Vezir, who was present in council and had first-hand knowledge of the case, intervened and said that the plaintiff’s claim was true and that he could testify to it, so there was no need for delaying the deliberations any further.¹ It was at that point that the judge – obviously irked by Ibrahim’s interference in the procedure – told the Grand Vezir that according to the *Şeriat*, his testimony was inadmissible because he was a slave.

Kaffawi, the biographer, comments that the judge’s insistence on a full legal manumission procedure before allowing Ibrahim Paşa to testify was a sort of adding insult to injury. While Repp cites the case in order to back Ménage’s position on *kul* manumission, he draws a different conclusion from the one Patterson does:

At the same time, however, both the story itself and al-Kaffawi’s concluding comment on it suggest that the challenging of the legal status of at least the higher-ranking members of the slave institution was *an unusual occurrence*; one may, perhaps, conclude from this that *Ottoman legists of this period tended normally to overlook the technically servile status of such men.* (My italics; Repp 1968: 139)

Kaffawi's concluding comment, to which Repp refers here, is that insisting on legal, in council manumission was an "odder piece of daring" than the original refusal to admit Ibrahim's testimony. To further enhance Repp's very valid conclusion, I would slightly alter his translation of the Arabic *agrab jur'at*²⁰ to "more uncommon in its daring." *Garib* carries the sense, among others, of being unusual, extraordinary, and *jur'a's* semantic field includes insolence and assertiveness. In any event, the meaning is very clear and supports Repp's interpretation. Ibn Fenari was doing something highly out of the ordinary in order to assert the power of *Şeriat* procedures in the face of a challenge to his court by the Grand Vezir who was not part of the judiciary. To any historian of the Empire, it is quite unreasonable to expect this episode to support the assertion that Ottoman *kul* had no honor.

Patterson's notion of honor is even more problematic, certainly to social historians who are interested to know "how things actually worked," rather than whether they conform to certain *etic* definitions. The author of *Slavery and Social Death* insists that elite slaves, "...while they may have been greatly honored by their doting masters, none of these slaves were in themselves honorable persons ... [since] to be honored does not imply that one is honorable" (Patterson 1982: 331–332). Such a distinction – between being honored and being honorable – is so hollow and detached from the realities we recognize in Ottoman and Islamic societies, as to cast doubt on the actual understanding of the status, role, and relational position of *kuls* or *mamluks* as historic beings, both individually and as a socio-political group.

"To the aristocrats who controlled the rules of the honor game," adds Patterson, "elite slaves were always contemptible and inassimilable isolates and outsiders. True honor is possible only where one is fully accepted and included, where one is considered by one's potential peers as wholly belonging." In an imperial context such as the Ottoman or Mamluk, total assimilation is the wrong concept, and the governing elites were anything but "isolates and outsiders." What the *kul* became a vital part of was a highly diverse, hybrid-driven, heterogeneous socio-cultural *mélange* that was held together by loyalty to the House of Osman and unswerving commitment to protecting and promoting Islam. Rather, what we have here is social integration into an office-holding elite – both servile and free – that was not only achievable, but constituted the very ethos on which the Empire stood. Since Patterson's misconception is predicated to a large extent on his notions of natal alienation, kinlessness, and social death, the problem posed by these is next on our agenda.

Social Death and Kinlessness

A great deal of criticism has been leveled by historians of Islamic societies at Patterson's notions of social death and fictive kinship. Hence, rather than repeat what has already been said, I will briefly summarize the main points and try to present the nature of the debate. It is important to understand that much of the

disagreement goes back to Patterson’s restricted, literal, and formalistic view of kinship. This view, hedging notwithstanding, is at its root biogenetic, i.e. kinship is genealogy-driven, and genealogy is authentically blood-based. Uprooting and enslavement create natively alienated “genealogical isolates” (Patterson 1982: 313), who are forever kinless and totally dependent on the enslaver, who – nonetheless – may incorporate them both as enslaved and as freed persons into his “family,” under the label of “fictive kin.” Patterson does, however, suggest that a situation of mutual dependency often arises, under which various degrees of “parasitism” develop and alter the enslaver–enslaved relationship. This will be addressed later as a useful contribution to the debate.

Already at the time Patterson was writing *Slavery and Social Death*, anthropologists have developed different notions of kin and tribe, and historians of the Middle East and North Africa were adapting these new notions to the history of Islamic societies, including the Ottoman ones. In 1981, Dale Eickelman summarized and succinctly highlighted earlier contributions to that conversation, stressing other elements that play a significant role in understanding how kin is conceived and how it functions in a socio-cultural context. He writes:

First, whatever the actual groupings are of people who feel obliged to one another through “family” relationships, these groupings act in cultural terms which have a biogenetic reference. Nonetheless, however people behave towards one another as “kin” and “family” cannot be accounted for entirely in terms of norms of obligation defined in biogenetic terms. Hence, anthropologists must elicit what are the shared cultural notions of family and relationship prevalent in any given society rather than presume their content (for example, shared biogenetic substance) in advance. (Eickelman 1981: 105)

Thus, the understanding was already there that kin contains other, and often more pervasive, components than just “proven” biological, blood links. This also changed the view of what a tribe really is and was, so that genetic genealogy came to be seen as a tool for forging politically based tribal groups and networks, rather than their constituent core foundation. For the Ottoman case, the debate revolved around the question of the origins of the Principality-turned-Empire, with a well-developed ethos of genealogical tribalism. The leading Ottomanist of the first half of the twentieth century, Paul Wittek, produced in the late 1930s what became known as the “Strong Wittek Thesis” (Lindner 2014). Wittek argued against the tribal ethos of the Ottomans, suggesting instead the Holy War (Turkish, *gaza*) as the foundation stone of their emerging state and its main engine of growth and success. More than forty years later, and drawing on recent anthropological reconceptualization of kin and tribe, Rudi Lindner published a critical reassessment of the Wittek Thesis. He wrote:

For nomads such as the early Ottomans, tribal organization was the most natural structure to adopt, since the tribe was merely the political expression of a pastoral nomadic

existence. Fuzzy genealogies allow recruitment of all those who share the tribe's interest in predation, or defense against outside threats, or in making the best allocation of resources for exploitation by peasants and pastoralists. A different language or religion is, in tribal societies, no hindrance to membership. (Lindner 1982: 217)

In other words, Osman's success as a leader who protected and advanced the vital interests of his people added members to his "tribe," a process that was legitimated by patching up a proper and fictive genealogy. Because they serve as political and self-preservation glue, all genealogies and all kinships are fictive, in the sense that they are invented for a purpose and, more often than not, are in truth non-biogenetic.

Thus, the natal alienation and the social death it imposed upon the enslaved, with their intended social and genetic suffocation, need to be examined in each historical context rather than be assumed *a priori*. Or, as Eickelman encourages us to do above – "elicit what are the shared cultural notions of family and relationship prevalent in any given society." Therefore, it is not surprising that some of the critical references to Patterson's model in the Islamic and Ottoman contexts sought to establish the kind of socio-cultural meaning of kin and investigate whether or not they can support the view that *kuls*, or the other various types of *mamluks*, were indeed kinless and socially dead. But, I would like to add, it is far from clear or acceptable that even non-elite slaves in these societies endured the same lethal consequences of being natively alienated that Patterson describes.

Such a practice-driven and realities-bound approach to *kul/harem* enslavement is offered by Professor Dror Ze'evi, who believes that both social death and fictive kinship "are in need of serious qualification as regards Islamic elite slavery" (Ze'evi 2000: 75–76). Ze'evi relies on earlier studies showing that *kuls* not only maintained their own simple (nuclear) families and created elaborate households (based on extended/complex families), but also re-established relations with their original, biological families and helped them to attain elite status (see, for example, Kunt 1974: 233–239 and Toledano 1997: 145–162). Enslaver–enslaved relations within elite households, he writes, "usually evolved not as fictive kinship, but as real kinship of a specific sort, in which other elements substituted for blood ties as the basis of family." Ze'evi enlists Marshall Sahlins's insights to further insist that "[b]y eating the same food, by living in the same surroundings, by breathing the same air, people become united in substance, and therefore related as kin." In the case of elite slavery, he concludes, "integration into the family was a necessary phase," not contingent upon manumission, but rather occurring already during enslavement (Ze'evi 2000: 75–76).

While frowning upon adoption, the *Şeriat* sponsored another inclusion mechanism, that of suckling (Arabic, *rida'*), which bound together as "milk siblings" household children nursed by the same woman, making them *de jure* first-degree relatives (Arabic, *mahram*) (Ze'evi 2000: 76–77). Islamic law encouraged manumission after several years of servitude, usually around a decade, which it considered a remunerable pious act. Enslaved concubines who became pregnant with a child recognized by their enslaver as his own (Turkish, *ümmüveled*; Arabic, *umm*

walad) could not be sold, the child would be free, and upon the death of the enslaver she would be freed as well.

These, plus several paths to self-manumission, not only ensured the perpetual depletion of the enslaved population, but also constituted real and working inclusion mechanisms that, in effect, made social death a dead notion. Or, as some scholars suggested, made social death into a liminal phase, after which the enslaved were socially "resurrected" (see Miller 2012: 22–23 and Mason 2003). Even without formal manumission, *kul/harem* slaves were fully integrated into households via more than one path, including marriage and promotion to trusted positions.²

But, as already indicated above, even enslaved Africans in Ottoman societies found ways to resurrect themselves socially. They formed relationships within households, they organized communal life in urban lodges, they reinstated rituals and festivals from their various origin-cultures, and they deployed a wealth of cultural devices to deal with the trauma of uprooting, enslavement, and exile.³ During the nineteenth-century reforms, known as the *Tanzimat*, the Ottoman state interfered in the enslaver–enslaved dyad to alleviate suffering and minimize abuse (Toledano 2007: chapter 3, "Turning to the 'Patron State' for Redress").

This also occurred in some other enslaving societies around the globe, such as the Viceroyalty of Nueva Granada in Latin America since the late eighteenth century, as Renée Soulodre-La France cogently argues (Soulodre-La France 2001: 87). Criticizing Patterson's notion of "social death," she offers an alternative view of the way enslaved persons dealt with their predicament. Very much alive to their rights, limited as these certainly were, they successfully manipulated the Crown's self-image as Christianizing and humanitarian. It was, as Anthony McFarlane noted in another case, flight to state justice rather than flight from state justice (MacFarlane 1986: 131–151, as quoted by Soulodre-La France 2001: 93). Thus, enslaved persons approached the Spanish Crown to assert recognizable rights within the colonial system. Thereby, argues Soulodre-La France, they were trying to "reclaim a space in colonial society" and make for themselves social life rather than accept "social death." They forced the Spaniards to acknowledge their humanity, even when they resorted to "antisocial, criminal" action, as indeed they have done in the Ottoman Empire.

To avoid an unnecessary "overkill" in rejecting the relevance of Patterson's model to Ottoman and Islamic societies, and before I move to offer a more suitable approach to understanding enslavement in those societies, we should in fairness point out two "redeeming features," or hedging that Patterson includes in his model. First, in at least one instance, the author of *Slavery and Social Death* writes, "...in all *slave societies* the slave was considered a degraded person" (my emphasis; Patterson 1982: 79). That is, he is specifically talking about "slave societies," which could imply that he is excluding "societies with slaves." Since it is fairly common to view Islamic societies as "societies with slaves," we might be able to say that much of the criticism is defused if the model does not apply, at least not in its "strong" version, to Islamic enslavement. Perhaps we could also exclude non-Islamic "societies

with slaves” such as those belonging to the “Indian Ocean World,” where the mode of enslavement, according to Gwyn Campbell and others (Campbell 2003), is quite different from the “Atlantic model,” where the Patterson model might go a longer way.

Another way to mitigate criticism of the Patterson model is through his understanding of the *kul/mamluk/gulam*’s total powerlessness. It is here that he accepts Daniel Pipes’ assertion that the highest-ranking elite slaves were at the total mercy of the ruler’s arbitrary whim, with the important qualification that this was the case only as long as they were under the direct control of the enslaver-ruler (Patterson 1982: 314). So it seems that Patterson allows for some standing power to devolve to the enslaved, provided they were outside the orbit of direct control, which also enabled them to insinuate themselves out of enslavement. Then, presumably, a whole new relationship was created, whereby the dialectics changed, and power shifted toward mutuality and interdependence. “The master’s military dependence on his military slaves,” writes Patterson, “thus has two contrary implications; he never voluntarily relaxes control over them, but they have the means to escape his control against his will” (Patterson 1982: 314).

However, this qualification of the ruler’s absolute power over the enslaved is not entirely clear – is it only or mainly physical, or can it also be abstract? – and not a terribly strong vindication of that aspect of the Patterson model. Its importance lies rather in the path it opens to understanding enslavement as a *relationship*. Although I only accept Patterson’s use of the sociobiological metaphor of “parasitism” (Patterson 1982: 336) in some aspects, it does enable us to offer an improved definition and conceptualization of Ottoman and Islamic enslavement, as the next section will attempt to argue.

By Way of Conclusion: Enslavement as a Relationship

When viewing enslavement as a *relationship*, we should recognize the elements already identified by Patterson in his *Slavery and Social Death*, a concept introduced already by Eugene Genovese, though often not attributed to him. Power is not a “static entity,” Patterson writes, adding that the relationship was “an ongoing social process,” that “its dialectics must be exposed,” that the enslaver-enslaved dyad was “not wholly asymmetric,” and that sometimes the balance tilted in favor of the enslaved (Patterson 1982: 308). Thus, at the end of the process, slavery morphs from a “relation of domination” into a “relation of parasitism.” But Patterson should also be credited for introducing the notions of “mutualism,” “gradation” and “continuum.” In his words, at a certain point, both parties “give up extreme parasitism and move toward mutualism,” creating “cooperation ... between holder/parasite and slave/host.” Also, “the various combinations of parasitic-dependent and parasitized-exploited may be graded on a continuum ranging from a point just prior to true mutualism to one just this side of total parasitism” (Patterson 1982: 336–337).

The use of the metaphor of parasitism drew sharp and prickly criticism from Joseph Miller, who writes (Miller 2012: 21):

Beyond the rich intended irony of rescuing the seemingly dominated slave and placing the nominal master in the position of parasitical dependent of the enslaved, this Hegelian dynamic of twisted psychological interdependence also reflects existential anxieties inherent in the book’s axiomatic reliance on the individualism of modernity (and its discontents).

Miller further argues that Patterson treats masters and slaves as individuals, rather than as “relational beings” embedded in social and historical contexts. These “thoroughly modern” individuals – autonomous, anonymous, and calculatingly self-centered – are in effect dehumanized, and their identities and experiences are thereby obscured and placed beyond the reader’s reach. In other words, this is any historian’s nightmare, the sword to draw against the sociologist’s abstractions. Contrary to Patterson’s insistence on dynamics, Miller continues, what adds to the actual lack thereof is the fact that the abstracted master–slave dyad is presented as a given, “the enslaved [is] already on hand and in hand, unproblematically subject to the master’s compulsion to dominate.”

Not less scathing is John Edward Philips’ assessment of Patterson’s model, leveled again from the perspective of an historian of African Muslim societies, here elite enslavement in the Sokoto Caliphate. He writes:

[Patterson’s] analysis of the eunuch as the perfect symbolic intermediary depended on his acceptance of an analysis of symbolism in myth that I simply do not accept, and which is in any event irrelevant to an analysis of the real world, especially as it has unfolded in actual history. Elite slaves are not fictional, much less mythological. They deserve to be treated by methods appropriate to the study of concrete historical phenomena, rather than by methods devised for the study of fictional or other unreal phenomena. (Philips 2000: 222)

Inter alia, if I may, some of the harsh criticism leveled by historians at Patterson’s sociological, modelistic approach derives from the tone of his argument when presenting historical case studies and quibbling with historians of enslavement in specific societies. A case in point for Ottomanists is his treatment of Paul Wittek and Halil İnalcık, the former arguably the leading Ottomanist in the first half of the twentieth century, the latter the leading Ottomanist in the second half of the same century. About Wittek Patterson writes:

Wittek comments that it [the enslavement of Ottoman Christian subjects as part of their forced recruitment into the *kul* corps; ERT] is one of the unsolved mysteries of Islamic history that the Ottoman sultan who saw himself as the most pious defender on earth of the Islamic faith should so blatantly defy one of the fundamental laws of his creed. The mystery vanishes, however, once one recognizes that to the Ottoman sultan the ultimate good was the maintenance of a powerful empire in the service of

Allah. Breaking the *Shari'a* was surely a minor and pardonable offense in light of what it made possible: the creation of a corps of people who, by being natively alienated, socially killed during the process of slavery and redefined and recreated as surrogates of the sultan, were made into the mightiest force in the service of Allah. (Patterson 1982: 312)

It seems to me – and would probably seem to most Ottomanists who know and admire the genius of Wittek – to be irksome arrogance, for someone with a rather limited understanding of Ottoman and Islamic history to presume that he could so easily resolve a problem that Wittek regarded as an unresolved mystery. As for Inalcik, Patterson dismisses out of hand his position on the servitude of the *kul*, without adducing any real evidence from Ottoman sources.

My own definition of enslavement retains some of the crucial elements proposed by Patterson, but attempts to avoid the pitfalls noted by Miller.⁴ As we move from the *master–slave dyad* to an *enslaver–enslaved relationship*, a few comments are in order. Enslavement is rightly considered to be the most extreme form of domination. From time to time, we revisit the question of other, at times quite harsh, forms of coerced denial of freedom, such as imposed on incarcerated individuals or indentured workers. However, even in its mild forms, enslavement seems to remain such a stark instance of deprivation and coercion that it stands apart from other phenomena of “unfreedom.” Hence, what is perhaps sometimes hard to grasp, or even simply to realize, is that even in these circumstances, the enslaver’s capacity to extract labor was not unlimited, nor was the enslaved person’s powerlessness total and absolute.

Therefore, a better understanding of enslavement can be gained only if we conceive of it as an *involuntary relationship of mutual dependence between two quite unequal partners*. Within this broad definition, there were certainly cases in which enslaved persons had little impact on their lives, as there were other situations in which they had a great deal of influence vis-à-vis enslavers. In all cases, the enslaved person’s ability to stand his/her ground in the relationship depended on the extent to which s/he could withhold his/her labor to achieve what they saw as minimal existential requirements. In other words, their agency depended on denial of services, whether in the fields, the mines, or the household – the last including sexual services, rearing, and nurturing, in addition to the rest of the domestic “package.”

We might go somewhat further in defining the enslaver–enslaved relationship as containing a component of an “unwritten pact,” which was personal, protective, remunerative, and emotional. To varying degrees, but still present in household and field, fishery and quarry, the bond formed between the two was akin to family bonds, implicit to which was trust. It is therefore appropriate to introduce the notion of betrayal by one partner or the other when the relationship failed, or broke down. As these lines were being breached by enslaver’s abuse, enslaved persons resorted to absconding, or even in more extreme cases to acts of revenge and desperation that were criminalized by the state. When the Ottoman government itself, or European agents, assumed the role of patron in a relationship with the enslaved, the same sense of betrayal occurred when expectations were not met.

For the enslaved population in the Empire, social *attachment* was a crucial matter, perhaps more critical than to any other group. This was so because enslaved persons were essentially natively alienated, to use Patterson’s term, and needed to recreate their kinship ties, to use Ze’evi’s and Sahlin’s notion. Non-elite enslaved persons tried to compensate for what the enslaver–enslaved relationship could not provide, in order to cope with the sense of isolation in which they found themselves at the initial stage of their journey into alien enslaving societies. That they did under their communal leaders and by resorting to practices – like healing rituals and spiritual gatherings – that were mediated by their origin cultures, be they African, Circassian, Georgian, Greek, or Balkan.

Although *kul/harem* slaves occasionally resorted to spiritual practices too, they possessed other means to deal with their initial alienation and need to acquire new kin. Enslaved elite officeholders could leverage their position vis-à-vis the sultan and his administration also in other ways. They had no incentive to opt out of the system, i.e. to abscond or act by criminalized resistance, but instead tried to improve their lot within the system by showing efficiency and loyalty. At the same time, they often worked subversively to build up their own personal and household wealth in order to reduce the risks that came with the privilege of holding high office in the sultan’s service. Their performance increased their value to the sovereign and within his administration, which reduced substantially the hazards to their position. But at times, and under various circumstances, the system did not always function rationally, allowing arbitrary decisions to bring down diligent, talented, and loyal *kuls*.

Elite slaves acquired new kin through various means. Bonding with their new household patrons – high officeholders at the center and the provinces – was the main route they took. But as already mentioned, research has shown that it was not unusual for *kul/harem* slaves to renew their original kin ties back home, although the newly acquired kin relationships and *intisap* networks predominated, being the salient feature of Ottoman governance. With the entry of non-*kuls* into the army and bureaucracy fairly early on, the pool of recruits was greatly diluted and compromised vis-à-vis the ideal-type version. This transformation of the elite corps further intensified during the first decades of the seventeenth century, after the demise of the state-run, periodic recruitment campaigns of the *devşirme*.

As already hinted above, enslavement was one of the ways in which both imperial-center and Ottoman-local households (*kaps*) recruited and socialized new members.⁵ The other three modes of *attachment* to a household were biological-kin relationships, marriage, and voluntary offer of loyalty and services in return for patronage. Bonding ensured that loyalty and patronage would flow from top to bottom and from the bottom up in households across Ottoman societies, linking people from various elite to non-elite groups and individuals. In that way, society was cohesively undergirded both vertically (within a household) and horizontally (alliances between households). Not infrequently, individuals were bonded to a household through more than one of these methods, as, for example, when a purchased *kul* retainer, attached to a household enslaver-head, was also given the patron’s daughter in marriage. Attachment to a household gave an individual

protection, employment, and social status. But not less significantly, it gave household members (*kapı halkı*) a sense of belonging and an identity, both social and political, which was a major constituent of their new kinship.

To fully appreciate the great diversity of Ottoman enslavement, we need only mention that in addition to *kul/harem* military-administrative slavery, the other types of unfree labor were: domestic servitude in elite households, the most prevalent in the Empire (performed mainly by African, Circassian, and Georgian women); enslavement in menial labor such as pearl diving, mining, and occasional public works (performed mostly by enslaved African men); agricultural enslavement, which existed in Ottoman Egypt during the cotton shortage caused by the American Civil War in the early 1860s, as enslaved Sudanese were forced to work in the cotton fields; agricultural enslavement among the Circassians, who were exiled by the Russians from the Caucasus in the 1850s and 1860s; and military enslavement in Mehmet Ali's Egyptian army from about 1815 until 1822, where all recruits were enslaved Sudanese males.

This large variety of functions performed by enslaved persons in Ottoman societies, coupled with the equally varied places of origin from where the enslaved were wrenched, constitute the fabric of Ottoman enslavement as a subject of research and study. What bound them all in the same social category was the fact that their status as enslaved persons was engraved in and regulated by Ottoman and Islamic law. In practice, however, they did not share the same lot, and their life experiences varied greatly between one subcategory and another. Rather than think of these as unrelated, disjointed types of enslavement, we should position them all on a *continuum*, with varying origins, cultures, functions, and statuses (see Toledano 2000: 159–176, especially 173–175). Such a differentiated approach can better accommodate the internal contradictions and seeming intractability of a system that mixed high and low status, as well as honor and shame.

To better understand the phenomenon of enslavement in Ottoman societies, I have suggested the following *six* criteria that affected the treatment and fortunes of enslaved Ottoman subjects:

- the *task* the enslaved *performed* – whether domestic, agricultural, menial, or *kul/harem*;
- the *stratum of the enslavers* – whether an urban elite, rural notability, small-scale cultivators, artisans, or merchants;
- *location* – whether at the core areas or the periphery;
- type of *habitat* – whether urban, village, or nomad;
- *gender* – whether male, female, or eunuch;
- *ethnicity* – whether African or Caucasian.

On the whole, the following observations seem to emerge from this matrix:

- enslaved domestic workers in urban elite households were better treated than enslaved people in other settings and predicaments;

- the farther from the core, the lower on the strata scale, and the less densely populated the habitat, the greater were the chances that the enslaved would be treated worse;
- the lives of enslaved Africans of both sexes and of enslaved women in general were more often than not harder.

Thus, in conclusion, it seems to me that such a set of parameters better explains and frames the historical data that we possess for the *problematique* at hand. This is certainly much less ambitious than the Patterson model, but to historians of Ottoman – and, *mutatis mutandis*, of other Islamic societies, too – such an explanation is likely to be more convincing and better reflect “realities.”

Notes

- 1 Repp 1968: 138 (Arabic, *fa-qala lʿ-wazir ya mawlana hadhibi sabiba wa-ana ashhadu biha wa-laysa mahall [li]-taʿkhir*).
- 2 Incidentally, Circassian agricultural slaves, exiled from the Caucasus by the Russians in the 1850s and 1860s, entered the Ottoman Empire with their families, so kinlessness did not exist among them, although they did have to fight against attempts by their landlords to split up families by sale outside the estate (see, for example, Toledano 2007: 97–103).
- 3 All these are outlined and discussed in Toledano 2007: chapter 5 (“Taming the Unknown with the Familiar”), and the various studies cited therein.
- 4 The following pages draw on my previous writings on Ottoman and Islamic enslavement, mainly Toledano 1998: 161–200 and Toledano 2007: 14–15, 24–29, 32–34.
- 5 In addition to the sources mentioned in the previous note, on Ottoman households see in detail Toledano 1997: 145–162.

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The Locked Box in *Slavery and Social Death*

INDRANI CHATTERJEE

Many scholars (including Lewis and Bodel in this volume, Chapters 2 and 4) have noted that Orlando Patterson's classic work made a methodological breakthrough when it substituted the study of slavery-as-property with the study of slavery as an experience of violence, natal alienation, and permanent dishonor. This essay will argue instead that such a replacement is helpful only when strictly limited by time and place. It is not applicable to the early societies governed by Buddhist and Hindu laws that locate slaves as property within a larger category of wealth-in-people. Following *Slavery and Social Death* by eliminating these discussions as part of the "Pandora's box" of property law could be self-defeating for historians of these societies. Furthermore, *Slavery and Social Death* posits the universal experience of slavery in terms of an ontology of alienation and dishonor. This disables historians of medieval South Asia and early modern South Asia from engaging with the vernacular poetic celebrations of servility and dependence that abound in a variety of languages. In what ways can such historians even begin to comprehend lyrics in which male and female devotees alike plead with their deities to employ them as their servants?¹ Patterson's definitive contribution turns out to be even less helpful for such historians. It is only when the definition is located in the colonial world of the nineteenth century – with its British-inspired laws, courts, and codes of personhood – that the productive possibilities offered by Patterson's work can be recognized. It becomes especially critical as a launching pad for the interrogation of colonial British or Anglo-Muhammadan and Anglo-Hindu laws of that century. Yet its relevance is only possible to recognize if historians of colonized South Asian

societies take a long view of the history of property. Only then can they see Patterson's ontology of slavery-as-alienation and dishonor as the fruition of a historic process – the extension, operation, and maintenance of European colonial institutions of property.

The first part of this essay will unpick some of the locks that Patterson had imposed on slaves-as-property. It will survey a range of monastic and lay regimes in South Asia between the second and eighteenth centuries in order to highlight the importance of contracts and documents that went with the valuation of property in people. The second part of this essay will demonstrate that the violation of such regimes by British colonial governors after the 1790s created conditions of social dishonor for erstwhile bondsmen, slaves, and the slave-born in the subcontinent. In arguing thus, I am here intent on refining and correcting my own earlier work on slavery in South Asia (Chatterjee 1999a, 1999c, 2000, and 2004).

Pandora's Box: Property and Slaves in Classical South Asia

Among a wide range of contemporary Vedic Hindu, Buddhist, and Jaina philosophical and epistemic traditions, to deal with property was to deal with an entire *theological framework* set out in the *Dharmasastra* (texts of Hindu jurisprudence): its ideal locus was the “extended family” (*kula*) that performed rituals of birth and death and held property together (Davis 2010: 89–107). Jurists treated property as either mobile (*jangama*) or immobile (*asthavara*). The former included cattle, coin, slaves; the latter included things like houses and trees. Since ownership of property was joint, jurists went to great lengths to protect the co-ownership rights in property. For instance, codes such as the *Arthasastra* (dated between the third century BCE and the eighth century BCE) tried to balance such multiple proprietary rights of owners to their slaves along with the usufructuary rights of those who hired them or took them on loan from the owners. In the context of discussing pledged slaves, the text warns the creditor not to make the pledge work at unclean tasks (such as cleaning dung). It also alerted the creditor that “giving corporal punishment to them, and dishonouring them shall result in the loss of the capital and result in the freedom” of the pledged female – whether domestic servant or share-cropping cultivator (Kangle 1972: 3.13.9–11).

Contemporary Buddhist codes (*Mulasarvastivadin vinaya*) also preserved the property values of such slaves belonging to laymen in the communities living around monasteries. These codes, devised by senior monks for the training and conduct of juniors and novice-monks, spelled out clearly that laymen's slaves-as-property were not to be lured into the monasteries. Schopen has established that the male monastic order may well have benefited from this preservation of laymen's property in slaves, many of who were female. Since owned, mortgaged, sold, or loaned slaves were barred from taking monastic ordination, the monastic lineage stayed thoroughly masculine (Schopen 2010: 225–234). But he also notes that such property was often gifted and bequeathed to the monks. A Vinaya text

had the Buddha direct that slaves inherited by the monastic order (*sangha*) by the provisions of a will were to be held as “property in common” (Schopen 2004: 118, 193–218).

Such holding of property in common tied lay households to far-flung monastic governments of all schools of Hindus and Buddhists in the first half of the millennium, and came to be shared by Muslim Sufis from the thirteenth century (Chatterjee 2013b: 58–98). These monastic orders were based on common characteristics: (1) a direct ritualized relationship between a teacher and a disciple, and through this a series of adherences and associations between the disciple’s household and kin group, and the teacher’s intellectual and social lineage/s; (2) a material economy of gifts that disciples made to their teachers. From at least the second century CE, Mahayana Buddhist lineages had required male subjects to work at a range of disciplines, such as clerical writing, craft-working, construction, and military labor (Silk 2008). These labors also became the subject of gift-giving (*dana*) of disciples who secured merit (*punya*) for such gifts (Walsh 2010). Like other kinds of capital, merit was produced by the ordained and consecrated figure of the teacher-guru monastic, and acquired by both lay and ordained in exchange for lands, grain, herds, manufactured goods, laborers, labor time, and labor services given in *dana*. The process of exchange consolidated the political and economic relationships between donor and recipient, as well as tying their present long life to a future and afterlife.

However, the intersecting relationships of lay devotees and sacred teachers and deities impacted the nature of property laws in four clearly discernible ways. First, as Michael Aung-Thwin had suggested, it made older regimes of adjudication sensitive to the ownership of a slave, whether religious or lay. The question was not whether a person was a slave or not but, “To whom are you bonded and for what purpose?” (Aung-Thwin 1983). This was a significant concern in most parts of the classical subcontinent because sometimes such gifts included entire households or even entire villages. For instance, in the tenth century, the Tibetan Buddhist monk who was also “king” of western Tibet (*Gu.ge-Pub.rangs*) bestowed on *his* teacher, a Hindu *pandita*, Dhanashila of Kashmir (*Kha.che*), 208 households of “subjects” under his divine rule (*lha `bangs*) at Mang.nang (Vitali 1996: 116–117). Such gifts attached intensely valued human laborers to favored teachers and constituted a particular kind of “royal” donation practiced since the earliest centuries (Schopen 2004: 193–218; also 2010: 225–234). This practice of donation constituted the hallmark of generosity, a personal trait that was required of all kings. Thus, from the antipodes of the subcontinent, southern India between the tenth and fourteenth centuries, individual laymen made permanent “gifts” of slaves from among especially favored female slaves, to Hindu and Jain (non-Buddhist) monks, deities, and temples (for extensive historical studies, see Orr 2000; Ali 2006: 44–61). These females were the *tevaratiyal* (Tamil for “devotee”); other terms used were “daughter of god” and “temple-servant”).

Property law was extremely significant for both monastically held and domestically held slaves in the subcontinent for a second reason. This was that most slaves of

laymen were allowed to work and keep the income. The *Arthashastra* assured the slave that he was entitled to enjoy not only whatever he has earned without prejudice to his master's work, but also the inheritance he received from his father (Kangle 1972: 3.13.14). Such a provision allowed male slaves in the tenth to twelfth centuries to work for visiting Syrian Jewish merchants, and even to travel abroad as their appointed agents.² In a similar vein, medieval Tamil temple women used their rights in property to give gifts to the temple in exchange for regular support in the form of food or to secure the right to perform particular kinds of ritual functions. Both support and functions were in turn inheritable.

Such heritability was repeatedly stressed in the classical Sanskrit legal treatises, such as the *Arthashastra*, which promised that the property of a slave shall pass into the hands of his kinsmen; only in the absence of any kinsmen, was a master to take it (Kangle 1972: 3.13.22–23). This was yet another reason for the significance of property law in the subcontinent's history. Where kinship from a slave was important, inheritance from a slave mother or father was guaranteed to the child irrespective of the ritual rank (*varna*) of such a child. The guarantee held secure in terms of jural status as well of such a child. The treatises insisted on freedman status for the son born of a female slave with her master. Exactly in the same vein as the Brahmanic *Arthashastra*, Islamic law incentivized the reproduction of loyalty by divorcing the reproduction of the jural status of the slave (Persian term *banda*, Arabic *ghulam*) from that of the physical reproduction of persons in households containing slave women. Sunil Kumar tells us that Amir Khusraw, the famous poet and courtier of north India, was the child of a Muslim slave father and a Hindu slave's daughter; an Islamic jurist such as Barani too counted him as a freedman-client (*maulazada*) and not as a slave (*banda*) (see further Kumar 2009: 23–52 and Kumar 2014: 60–110). This predisposition in Islamic law favored not only those infants born of slave parents, but also those prisoners of war who entered sultanate bureaucracies as unlettered adults, and acquired Islamic names, titles, and skills in their rise to positions of command and authority. Only such fully educated, domesticated, and trained men could secure the military appointments and administrative offices that the master controlled.

The emphasis on reproduction of loyalty, rather than of the jural status of slavery, raised the stakes in inheritance or property transfers. Legal provisions about property were influenced once more by these provisions. On the one hand, they expanded the corporate group that held property. Embedded in discussions of social relationships, property law counted the “secondary wives” (*upapatni* or in modern English, concubine, mistress) and their progeny, alongside other wives and their children as co-claimants in familial property. Second, since all property was socially and multiply owned, Sanskrit legal treatises also placed the definition of both property and ownership within the same ontological terrain. As Donald Davis puts it, that a certain something was property and a certain person/s its owner/s also rested on concurrent or “practical observation” or cognition by several people, including the owner/s. This had procedural implications for both pre-paper (i.e. pre-Islamic) bureaucracies, where witnessing and personalized

knowledge was to be established in order to first establish “title,” and the integrity of all transactions in property. But even after the arrival and dissemination of paper, this procedural aspect of property transactions remained. Hence documents from a thirteenth-century chancery show deeds of transfers of slaves that have to be fully witnessed by a minimum of five “significant men,” heads of different professions in the neighborhood of the city (*panchamukhanagara*) (Prasad 2007: 269–274).

Respect for Property: Mughal Administrators, Laymen donors, and Ecclesiastical Proprietors of Wealth-in-People

The legal propensity to record and witness transfers of property in the subcontinent was inherited and upheld by all administrations in the entire subcontinent between the late fifteenth and the late eighteenth century. Laymen’s transfers of their wealth-in-people to monastic figures and to deities in sacred estates were keenly watched by their superior lords and tax collectors because they all presided over intensely labor-dependent regimes. Yet such gifts of laboring people to sacred estates and revered monks removed these people from the lay tax collectors’ jurisdictions. It impoverished lay administrators who could not hope to extract either labor or cash, grain or goods from such people. Thus lay administrators often did try to resume such grants or nullify them as part of punitive measures to defeat the over-mighty lay subject. Clever lay donors, on the other hand, often tried to forestall such attempts by including the overlords among the intended beneficiaries of the gift. For instance, lay local military commanders cum tax collectors (called *nayaka*), “donated” a corps of cowherds to a temple, but took care to include both the immediate superior and their common overlord, a king, as gaining spiritual “merit” from such a gift (Karashima 2014: 197).

The directions in which gifts (especially of wealth-in-people) traveled asserted the social dominance of the recipient. This came to characterize the behavior of both monk and layman. Regardless of creed, the giving of people over to another man or household expressed the willingness of the donor to honor the latter and put him/her on a pedestal in one form or another. Thus Jesuit preachers reported at least two instances of such gift-giving in which Catholic fathers were the honored recipients of such gifts. Once, in the coastal state called “Rakhang” (modern Arakan), John Cabral reported that a Buddhist layman-king (Srisudhama) gifted forty “Christian prisoners,” four of whom were Portuguese, to the Jesuit brothers as a “gracious gift” (John Cabral, Appendix in Luard 1927: 421). A second time, the Jesuit, Father Cacella, reported having received such gifts from the Himalayan Tibetan Buddhist monk-administrator, the Zhabs-drung: one was a twenty-year-old ordained monk, “very close to him and the first co-brother of another lama” and the others were a twelve-year-old and a nineteen-year-old, both described as “clever,” “good in learning what is taught him” (see the “Report of Father Estevo Cacella of the Society of Jesus to Father Alberto Laercio” in Aris 1986).

In a terrain in which superiors received gifts of wealth-in-people, the refusal to give such a gift also stood for a certain form of self-respect. Thus, for instance, at the same time as the above, a lay Afghan military commander who considered himself superior to or equal to his (Hindu) Rajput ally, refused to “gift” *his* highly skilled, high-value singing woman in return for aid: insistence on such a transfer would have led to a battle (Sreenivasan 2006: 136).

Clearly, such shared codes of gift giving and the value of wealth-in-people made it even more significant for Islamic jurists, working in plural legal domains, to remain watchful about wrongful transfers or “thefts” of property. For these jurists, the question developed beyond that of the property of the monastic estate and the layman’s household. For them, it became important to determine whose slave or property in slaves was being transferred or transacted with. In fact, the *right to transfer a slave-girl who was not the property of a new bride* had to be expressly claimed in writing and be consented to by the original proprietor before it could be effected. For example, in the early seventeenth-century Mughal port of Surat, a bride’s family secured for her a guarantee in the course of writing the marriage agreement (*kabin-nama*) that the groom, a wealthy merchant, had to consent to in order for the marriage to occur. Four guarantees were secured for the bride: that the husband would take no second wife, nor would he beat the wife, nor abandon her without food and maintenance without her consent, and finally, that if he took a slave girl as his concubine, the wife would be “entitled to sell that slave-girl and take the proceeds in lieu of her marriage-dower (*mibr*), and if she so desires make that slave-girl forbidden (*haram*) to the said husband by manumitting her or by marrying her off or by giving her in gift” (document nos 1–2, in Moosvi 2008: 281–282).

Given the older classical propensity to witness and record transfers of wealth-in-people, Mughal regimes in the seventeenth century also required documentary support for all such transfers. Where documentary support was not available, individual administrators promptly refused to let the proprietor continue his ownership of the slave/s. This was the core of the Mughal imperial aggression against Portuguese naval settlements in southern Bengal (off the Bay) in 1632. The charge against the Portuguese navies was that they had “stolen” people from lands the Mughals claimed as their own. The imperial Mughal navy was sent to recover such “stolen” wealth from the Portuguese and Indo-Portuguese populations settled at Hugli, a port town on the river Ganges. The Jesuit priest, Cabral (b. 1599) who acted as an intermediary in the negotiations between the Mughal commander and the Portuguese of the town, observed quite acutely that the Portuguese navies had “bought up Bengali prisoners” but “could not show the smallest scrap of a document in support” of these purchases (John Cabral, November 12, 1633, in Luard 1927: Appendix, esp. 395, 400). On these grounds alone, the Portuguese owners were despoiled of a fair number of their slaves. If it is hard to estimate the demographic or social impact of such a Mughal-style official “liberation,” it is because there has never been a consensus about the numbers involved: the Jesuit father counted ninety, the Mughal historians, 10 000 (Subrahmanyam 1997: 209).

More important to note, however, is the fact that the Mughal dispossession of the Portuguese property-owners was based on a very strict interpretation of lawful trade: it did not halt all trading in slaves. For while the Portuguese lost their monopoly on supplying slaves to the Arakanese in these years, their place was filled by the Dutch. The efforts of Mughal regimes to maintain authorized legal standards remained. In the mid-seventeenth century, yet another Mughal emperor, an orthodox Sunni Muslim, heard that a Persian (Shi'a) embassy had bought up large numbers of free Indians and was taking them away as slaves; he ordered his officials at the border to dispossess the ambassadors of their goods (Bernier 1999: 151).

Therefore, from the late seventeenth century into the late eighteenth century, Mughal administrators in various localities were even more careful to record and witness all "gifts" of people to monks, monasteries, temples. This became germane to the history of the subcontinent especially in those areas in which Mughal tax collectors and military men co-adjudicated wealth with antecedent monastic Buddhist, Saiva, and Vaisnava Hindu legal regimes and authorities. This was the case, for instance, in eastern India across the valley of the Brahmaputra and Barak river systems (modern Indian Assam and Bangladesh). The extension of Mughal authority in this terrain from the end of the seventeenth century *coincided* with an increasing volume of gifts in people to Hindu ecclesiastical estates by lay devotees and donors. While a donor of 1683 gifted only four households to a temple, by 1735, one donor alone granted a total of 297 households to a revered Vaisnava monastic estate and lineage, while another donor granted 453 households of workers (classified as *sudra paiks*) to yet another temple (Neog 1973: Inscriptions no. 11, 31, 38; Addendum 7–20).

Indeed, the volume of such gifts in people is too large for a fine-grained analysis here. Suffice it to say that the persons "gifted" to the gods included fewer *brahmans* (ritualists and priests) than they did non-brahmans. Furthermore, since households gifted to the gods were *not* available for lay tax collectors and third parties, it is also likely that a dedication of captives or prisoners of war to the temples might have functioned as a permanent commutation of a death sentence – of the kind that Patterson had suggested. Thus in 1683, four households of such prisoners of war (Bengali-speaking Muslims referred to as *goriya*) were gifted to a Hindu deity. But by 1735–1738, the majority of the households were identified as oblates (*bhakats*) and included a vast range of non-Brahman occupations and statuses, clubbed together and identified as *sudra paiks*. Some among this cluster were skilled workers, literate and numerate (called *kayastha* and *bhandar-kayeth*, respectively). Others carried the emblems of authority – the umbrella, the stave, and the trident (*chhatra-dhara*, *danda-dhara*, *trishul-dhara*) – significant in displays of the dignity of the deity. Included among such groups of oblates were also those who worked with waste products (hair, skin, blood, excreta) such as the barber (*napit*), the cobbler (*chamar*), and the sweeper (collectively enumerated as *chandal*). The significance of such detailed lists of the "caste" status of the oblates was the uniformity of their protection from third person use and abuse.

Thus, even those workers with the lowest of “moral” rank – the so-called untouchables of the later nineteenth century – when attached to monastic or religious estates remained exempt from paying labor services or cash dues to the local “state” functionary.

This pattern of attachment of laborers to sacred teachers and religious households was significant precisely because it was also mimicked by lay holders of authority in the greater part of the eighteenth century. Neither lay nor ecclesiastic estate-building, nor lineage-making through a variety of oblates, was brought to an end by legal fiat. Nor were the more gifted of slaves prevented from earning and accumulating substantial wealth in material goods and in claims over people. This was as true of Muslims as it was of Hindus. A child snatched from Turkish or Georgian parents in the South Caspian, having been reared to skilled soldiering in the household of a Mughal governor and having in turn a household of his own, became both a disciple of a Sufi *pir* in northern India and a minor functionary in Mughal Delhi (Chatterjee 2000: 53–86). It remained equally true of oblates and captives either “gifted” to or bought up by significant leaders of Hindu monastic warrior lineages, clustered under the nomenclature of Dasanami (Devotees of the Ten-Named-God) (Pinch 2004, 2012; Aung-Thwin 1983: 64–89).

Vigilant about the quality of all transactions in “people-as-property,” Muslim jurists thus continued to certify each transfer of such property in order to prevent theft and embezzlement. An Englishman representing the East India Company in the mid-eighteenth century was forced to re-instate the “ancient law of the country (which requires that no slave shall be sold without a *cawbowla* or deed attested by the Cauzee signifying place of the child’s abode) if in the first purchase (its parents’ names, the names of the seller and purchaser, and minute description of the persons of both)” (regulations of 1774, in *House of Commons, Parliamentary Papers* 1828: 3).

As in the seventeenth century, so in the eighteenth century, the key issue for Mughal administration was to ensure that no fraud or embezzlement occurred in the transfers of such property in people. It remained the basis of practical law. A Mughal official (*faujdar*) of the major port city of eastern India, Hugli, in 1774 prosecuted a “black Portuguese named Antony” [sic] for trying to take away women “by force.” The charge having been proved against him, the man was imprisoned and the women set free.³ It appeared that at least in the eyes of the late Mughal officials, the enslavement of the non-slave by means of treachery or force – once outlawed in the *Arthashastra* – remained illegitimate. This avoidance of wrongful transfers of property thus also showed up in the writing of the erudite Hindu Brahman lawyers who helped to codify and translate their transmitted legal traditions into English in 1773–1775. In the compendium that resulted, a clause speaks directly to such a concern. The Hindu code they compiled asserted that enslavement by (intra-community) violence was illegitimate: “If a thief having stolen the child of any person, sells it to another, or a man by absolute violence, forces another to be a slave, the magistrate shall restore such person to his freedom.”⁴

Disputed Property: Mughal Guarantees and British Extensions of “Contract” from 1790s

At least till the end of the eighteenth century then, it is clear, Mughal vigilance about preventing theft of slaves as “property” had attended to both classical Hindu and Buddhist notions of “wealth-in-people.” The older regimes of social witnessing of transfers of such property sought to prevent wrongful transfers of such wealth. So absolute was this Mughal official guarantee of property rights in people that they were prepared to secure them for *all* groups regardless of the religious identity of the masters. This was most visibly on display when various European (and Christian) slave-owners in Mughal domains requested Mughal authorities to either catch fugitive slaves, or ensure that the religious status of such fugitives would not be changed by the Mughal officials. Even as late as 1786, the Mughal official who administered local policing in Hugli accepted the petition of slave-owning Portuguese Catholics resident in that port town. When their slaves and bondmaids ran away, they petitioned, “Let it be ordered that at the time of bringing them back, no one should offer resistance nor should any one convert them to Islam” (Nos 586–587, *CPC* vol. 7: 199–201). The Mughal Muslim official to whom this petition was addressed, Muhammad Riza Khan, had been a significant administrative partner of the British East India Company in Bengal since 1770. He had no qualms in guaranteeing the proprietary claims of slave-owners to recover their fugitives, as well as the absolute “freedom” from religious conversion from Catholicism to Islam ensured to such slaves. He issued orders to the officers in the town of Hugli (and Hijli, another port frequented by Portuguese in Bengal) to act according to “custom.”

Yet the same Mughal officer, in 1789, objected strongly when under the guise of preserving “customs and usages of the country,” the British Governor-General Cornwallis sought to extend documentation of transfers to the hire-leases of *all non-slaves* as well (No. 1325, *CPC* vol. 8: 570–572). Cornwallis, it appears, had addressed his law specifically to Europeans who hired non-slave persons as *ajirs* (the entity that is the object of a hire-lease or *ijara*) and then sold them or took them away for sale elsewhere. He required these leases to be executed on paper and signed by both the local district judge and *qazi*. Envisioning the hire-lease contract as a fixed-term contract, Cornwallis devised a clause that would have allowed the hireling to either stay or leave after the expiry of the term; most importantly, the clause was supposed to protect the hireling from being sold as a slave. So the Proclamation warned the slave-auctioneers at Calcutta and other towns that they were not to sell *ajirs* as slaves. The protection of a pawned person from sale was very old. So what did the Mughal officer and ally of the East India Company object to?

It appeared that the clauses of the Cornwallis proclamation were not half as protective of the poor as the Mughal officer desired. Referring to the famines of 1770–1771, and of 1788, in which thousands perished in Company-governed Bengal, the Mughal officer objected that the Cornwallis Proclamation made already

distressed humans “undertake long journeys in order to reach the district judge and then to execute a bond fixing the amount of the wages and the period of the service” (No. 1379, *CPC* vol. 8: 585–588). So the Mughal officer offered an alternate draft to Cornwallis; its clauses showed up the fault lines of the British governor’s attempts at ameliorative legislation. For instance, Cornwallis’ Proclamation of 1789 had remained silent about the obligation of the hirer (*mustajir*) to provide adequate food and clothing to the bondsman: Muhammad Reza Khan’s alternative draft explicitly referred to this obligation on the part of all hirers.

Second, Cornwallis’ Proclamation of 1789 contained a peculiar clause pertaining to the ordering of sexual relations between master and servant, hirer and leased person. Such a clause was unknown in any of the examples of contracts and sales that have survived in the Indian language records. The clause demanded that “if a male person took a female *ajir* to serve him, then the agreement had to specify that he would not cohabit with her without proper wedlock, otherwise the contract will become void.” Cornwallis, representative of a British aristocratic ruling regime, was no doubt aware of the practices of the middle-class British officers, and plebian British soldiers in the service of the East India Company in India in the eighteenth century. These men had often hired or outright bought Indian female servants to labor in their households, and then established some of them as concubines.⁵ These female servants also often came from Muslim households. In aristocratic Muslim and Hindu households in the eighteenth century, such slave-consorts and concubines wielded significant wealth; their children, if any, were acknowledged as junior members of the master’s. Sometimes, as in the ruling houses of late Mughal Bengal, sons of such women succeeded to their fathers’ offices and titles, as did Najm-al-daulah, the son of the slave-entertainer and consort of Mir Jafar, Munni Begam. Yet, British law of the same centuries considered wedlock to be the only source of succession; therefore concubine-born sons were deemed “natural,” an euphemism for bastardy. When Cornwallis demanded that masters refrain from sexual relations with hired female servants, he might have intended to tame the middle-class British males in the colony. But it was not pro-slave within the system of Islamic law and Hindu-Muslim practices that had earlier promised elevated jural status (*umm-i-walad*, mother of an heir) to the fertile female servant-concubine in such a household. Such females were the earliest to feel the impact of official British decrees on inheritance and property in Company-administered parts of South Asia (Chatterjee 1999a, 1999c, 2000, and 2004).

Cornwallis’ disregard of Muslim (and Hindu) legal avenues for the transformation of status of female servants by sexual means, as well as their expectations on behalf of their children, becomes even more glaring when juxtaposed with Muhammad Reza Khan’s attempts to secure a larger protection for such a servant – her (as well as his) physical integrity. Prohibiting sex between master and servant was the least of the Mughal’s objects: for him, much more critical was to secure for the servant some limits on the master’s ability to destroy either his own or another’s property by brutal use and abuse. These were not concerns evinced by

Cornwallis at all in 1789, even though numerous English-language advertisements for brutalized slaves who had fled English masters would have brought this matter to his attention.⁶ Instead, it was Muhammad Reza Khan's alternative draft that proposed such protection. The Khan suggested

anyone found guilty of mutilating the *ajir's* person by cutting off his or her ear or nose, or branding or chaining him or her or committing rape or unnatural offence on *him* or *her* or selling him or her to a foreigner as a slave or forcing him or her to lead a life of sin for earning money will be punished by the District Judge according to the law of the land, the *ajir* will be set free and his bond cancelled.

The British governor-general however chose to overlook the efforts of his Muslim and Mughal ally. Cornwallis told the Khan that he was "happy to note the similarity of their opinion on this subject" (No. 1490, *CPC* vol. 8: 623). But none of the Mughal officers' revisions made it to the formal Proclamation of 1789 (Proclamation 1789). As the recorded effects of the Proclamation reveal, Cornwallis and his council were not thinking of slaves so much as they were of halting the progress of French, Dutch, and Danish commercial shipping in the Indian Ocean.

Yet the differences between the British and Mughal officials' attitudes toward what each saw as the goal of deliberative justice were significant because the former eventually overcame the latter. This simple fact is vivid in the civil and criminal lawsuits in colonial courts around slaves-as-property. Already by 1782, learned English Orientalists, such as William Jones, had expressed their disdain for the Muslim and Hindu textualists who served in the older Mughal judiciaries (Jones 1782: Preface). An older Muslim and Mughal officer's concern for the physical integrity of the slave was thus gradually marginalized even though the physical integrity of the slave constituted the core of the charges brought by local Indians against European males who had injured, maimed, and even killed Indian slaves they had hired or had employed in their households. From 1790, these cases became the special provenance of British criminal law alone, not Muslim criminal law, in courts established by the government of the East India Company. In these cases, the Company-appointed European judges were released from the compulsion to follow Hindu and Muslim *property* laws and practices (for details of the application, see Derrett 1968: 225–320).

By 1793, Mughal and Hindu judicial interpretations were resolutely subordinated to the superiority of British officers in the localities and in the central judiciary established by the Company. The immediate fallout of this judicial restructuring was that European judges bypassed those very provisions by which both slaves and owners had been compensated when *third parties* physically maimed or destroyed them. In their place, colonial European judges, including the famous William Jones, pleaded on behalf of European men's "right to punish" (even unto death) the children and females they had bought, hired, or kept as pledges. Though many local slave-owners and kinsmen of slaves tried to seek compensation from European men who had mutilated or killed slaves, after 1793 such claims always failed.⁷

This was indeed a far cry from the legal regime of a seventeenth-century Surat where a third party had to first secure the right to sell a slave that was not his or her own. From the end of the eighteenth century and well into the late nineteenth, no British colonial man or woman paid compensation to an Indian owner or a corporation for killing the latter's slave and or "devaluing" native property.

This downgrading of proprietary regimes had serious consequences for what came to be identified as "repossession" disputes thereafter. Those persons who had earlier had to navigate older judicial regimes in order to repossess slaves had had to provide significant bodies of witness and documents to establish their claims. Current proprietors could legitimately demand "proof" of ownership from litigants trying to "repossess" old gifts and runaways: the failure of such proof let the slave continue to live on in the society in which he or she (and her children) had made a life for themselves.⁸ The older judicial conditions had thus maintained the importance for slaves and the slave-born to be incorporated into membership of the kin group of the owners, even as its junior members. Yet from the late eighteenth century, such membership became tenuous – first with the slave-born children of the Englishmen working for the British East India Company, whose aristocratic officers introduced a novel doctrine of "illegitimacy" to gradually remove the control of inheritance from the hands of their own Indian slave concubines and of their children and into male and official control.⁹ Once in power after 1790s, these Englishmen's codes were applied to many Indian freedmen and women, and those born of slave mothers, especially where substantial fortunes were to be made.

Most dramatic, and least studied so far, were the Company resumptions of monastic estates such as those in the Brahmaputra and Barak river valleys in the early nineteenth century (for a beginning, see Chatterjee 2013). Driven by the need to collect taxes in a region annexed by war after 1826, the Company's officers were unwilling to maintain the tax-exempt status of the laborers attached to these monastic estates. Nor did they think that the lands owned by the monks and deities, and cultivated by attached laborers, were profitable when compared to the sugar-producing estates of the Caribbean and Atlantic colonies. Intent from the 1830s on turning the lands in eastern Assam and Bengal to the cultivation of tea, to mining and to metallurgy, the Company subtly transformed corporate holdings of monastic estates into British-governed "private" estates. By the mid-nineteenth century, most of these private estates were in British hands. Thus once more, colonial taxation policies impoverished members of once-flourishing households and transformed them into the "natal aliens" they had not originally been.

This was the background within which the British Act V of 1843 unfolded. A two-clause act, it declared that no slave could be claimed as a slave in a British court of law. This further disabled both the (monastic and lay) owners of such slaves as well as the slaves attached to either monastic or lay household. On the one hand, the legal slaves of the temples, monks, and deities could no longer use that status to bring claims for maintenance and inheritance against the managers or trustees of the temples. On the other hand, it allowed the legal despoliation of the

wealth of older temple-women (Soneji 2013: 87 and throughout). Those who stood to gain from this despoliation of property were also those members of the English-educated Indian middle classes who partnered with Protestant Evangelical and transatlantic movements to “liberate” the ecclesiastically held laboring groups from their “spiritual” thralldom to the Brahmans, monks, and temples (Viswanath 2014). These non-Brahman groups became in turn the leaders of a new politics of property redistribution that continues into the present.

Conclusion

It should be clear from the above that Patterson’s avoidance of the discussion of slaves-as-property prevents historians of the Global South from understanding the specifics of colonial transformations. Only by beginning with the treatment of slaves-as-property can historians understand the significance of the British Indian courts, the role of criminal and civil laws, in devaluing certain regimes of safeguarding property in the region. Many of the older values of property in slaves were tested in lawsuits in the British Indian colony in the eighteenth century, for instance when proprietors charged individual Englishmen with having injured or murdered a proprietor’s slave-servant. When Company judges and officials bypassed those very provisions and practices of adjudication of older Mughal regimes by which both slaves and owners had been compensated when third parties physically maimed or destroyed them, they also introduced novel legal principles in their place. Thus, where once a Mughal official had argued for the physical integrity of a hired person, colonial European judges introduced the idea of the “right” to punish and destroy slaves. Not once was the question asked in a colonial court: whose slave was being destroyed?

The subcontinent’s legal traditions of property were commercially inconvenient for private British traders, incommensurate with British military needs and theologically incomprehensible to most nineteenth-century Evangelical churchmen. Their marginalization left behind the undignified and isolated conditions that are at the core of Patterson’s definition of slavery-as-alienation in *Slavery and Social Death*. Therefore, if we are to appreciate the possibilities opened up by Patterson’s text, we should begin by unlocking “Pandora’s box,” and follow the multiple lay and ecclesiastical property regimes that flutter out. Only then will we understand that Patterson had captured a particular moment in a postcolonial world.

Notes

- 1 For studies of servile affect, *dasyabhava*, in the literary canon, see O’Connell 1985: 1–74; Dimock 1975 and 1989; Hawley 1988, 2005, and 2015.
- 2 Ghosh 1992: 159–220; for other documents of other male slaves see Goitien and Mordechai 2008.

- 3 No. 857, from Khan Jahan Khan to Warren Hastings, *Calendar of Persian Correspondence* (henceforth *CPC*) vol. 4: 151.
- 4 Halhed 1776, 160. Clauses regarding slaves were re-transcribed versions of older clauses in *Naradasmriti* and *Arthashastra*.
- 5 For slave-born members in households set up by Englishmen in India, see Chatterjee 1999b; Ghosh 2006.
- 6 See advertisements of May 7, 1789, July 12, 1792, in Seton-Karr, vol. 2: 498–499, 538–539.
- 7 For Mydee vs. Lieutenant Arctander for killing a six-year old boy in 1795, see *Parliamentary Papers, Slavery in India* 1828: 61–72; for Bibi Bhagwan Kour who accused the indigo-planter, W. O. Hunter, of mutilating women she had owned and from whom they had been hired by the planter, see OIOC, Bengal Criminal Judicial Consultation, October 14, 1796, nos 19–19B. I thank Anand Yang for bringing this case to my notice, and my undergraduate students in the Slavery and South Asia seminars at Rutgers University and at the University of Texas at Austin who have enabled me to work through it. In all these cases, European judges and juries acquitted the European men.
- 8 See judgment against the plaintiff suing for repossession of a slave sent in a marriage dowry in Jayaswal 1920: 246–258; for legal texts cited, see translation and annotated discussion of the judgment in Lariviere 1984: 60–80.
- 9 For slave-born members in households set up by Englishmen in India, see Chatterjee 1999b; Ghosh 2006.

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Honor and Dishonor in the Slavery of Colonial Brazil

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Thing or Zumbi?

An absolute lack of honor and power, as Orlando Patterson has indicated, are the key elements of slavery; dishonor and domination, then, are at the center of his definition of the system (Patterson 1982: 1–5). Recent studies examining Brazil's system of slavery show that there were unlimited scales of power and honor on one side, and an utter lack of it on the other, both among slaves and between the slave and free populations (Lara 1989: 4–19; Slenes 1999; Figueiredo 1993; Paiva 1996; Graham 2002; Furtado 2009). Slaves in colonial Brazil provide many examples that can make this duality far more complicated than might seem imaginable.

Prior to the 1980s, the historical literature on slavery in Brazil accentuated the inhumanity and cruelty of the regime but limited its interpretations of the theme to what was dubbed the *thing/Zumbi* binomial (Lara 1989: 4–19). In other words, either the slave was submitted to the violent coercion of a master and animalized so brutally that he was stripped of all humanity and rendered a simple *thing*, with neither power nor honor; or the captive fled to a maroon colony, the only safe haven in which to recover lost personhood, a veritable oasis of freedom in an otherwise oppressive society – as in the case of *Zumbi*, a legendary maroon Brazilian slave.¹ The problem with this type of study is that, by denying the slaves their human condition, the historiography also deprived them of their history – a history undoubtedly steeped in the violent exploitation to which they were subjected as

slaves, but which also evidenced resistance to captivity and, in some cases, even release from it, situations that evidently bespeak something other than a total lack of honor and power. By reducing the world of slavery to a simple economic factor (Gorender 1980), these studies overlooked the complexity of the social relations established both individually and collectively by captives. Post-1980s scholarship in this vein has served to recover the experience of many slaves from the limbo to which traditional historiography had relegated them.

The dichotomy that traditional historiography foisted upon the conditions of slavery and liberty, casting them as opposing poles of the slave-based society in Brazil, does not hold up in light of recent scholarship. In fact, the social and cultural practices of slaves and freed former slaves expressly contradict those entrenched ideas, as they operated in a range of economic sectors and fulfilled a broad variety of social roles, some bordering on the illicit, which opened up niches of autonomy even within the bounds of slavery: a gamut that included slaves for hire, housekeepers, street-hawkers, haberdashers and grocers, prostitutes, midwives, beggars, witches, and other service providers. Many of these slaves lived apart from their masters, earning their daily bread in wider society, in roles more resembling those of free workers than slaves per se (Soares 1988; Furtado 2006). These were slaves who exploited chinks in the system to establish mechanisms that could lighten the burden of captivity, or even lead to manumission.²

The lives of many slaves and freed people in colonial Brazil often confront us with the need to revise our presuppositions and preconceived ideas about slavery. One of these is the notion of their reification, i.e. complete submission to their masters, inability to exercise even minimal control or power over their own destinies, and absolute lack of honor. One particular case, studied by Sandra Lauderdale Graham (2002) in her book suggestively entitled *Caetana Says No*, clearly illustrates the kind of autonomy that female slaves could attain over their private lives. In 1835, at Rio Claro Ranch in the Paraíba Valley in the Province of Rio de Janeiro, the slave girl Caetana did her master's bidding and agreed to marry a fellow captive named Custódio. So far, nothing out of place: two slaves bowing to their master's will, regardless of their personal feelings. But that is not what happened. Caetana refused to consummate the union and eventually won the support of her master, who helped her have the marriage annulled by the curia in São Paulo. What we see here is that Caetana, despite her condition as a slave, was able to "say no" and impose her will, refusing to succumb to a forced marriage. Neither was she exceptional; many other slave women also managed to make choices of their own, however limited (Graham 2002).

This article explores several individual or collective cases of slaves in eighteenth-century Brazil, whose condition was not an impediment to their exercising some control over their lives or even to wielding certain power over others, occasionally including their master. Such cases have been revealed in ever-increasing numbers by historians who have recently been studying Brazil's slavery system and challenging many of the consolidated notions around the condition of the Brazilian slave.

The Honor of Being a Slave: Slavery as a Negotiated Choice

An intriguing and paradigmatic case that defies our notions of lack of honor and power as tied to slaves' condition occurred in Belém, in the captaincy of Pará in the North of Brazil, in 1780; it sheds a great deal of light on the paradoxes that the conditions of slave or freedwomen might present within slave society, operating as more than mere opposing poles. However strange it may seem to us now, in this case, a Cafusa (in the terms of the day, a cross between Black and Amerindian parents) named Joana Baptista appeared at the town registry and had herself legally sold to one Pedro da Costa.³ On that occasion she declared that she had been "free from birth and exempt from all captivity," a condition she was now relinquishing of her own free will. Joana's decision to become a slave, the reasons she gave in the document addressed to the judge, explaining why she decided to give up her freedom, and the conditions she stipulated in exchange allow us to challenge our preconceptions about the lack of power and honor tied to the slave condition.

As she wrote in her petition, concerns about the onset of old age and infirmities, along with the fact that she had neither a livelihood nor family to fall back on, since both her parents were dead, led Joana to take the drastic decision to give up her freedom. But this was not all her petition contained, as she did not believe she would be able to go on fending for herself while maintaining a decent quality of life. She had clearly weighed the pros and cons, laying out the relative importance that each of these factors held for her according to her own value system. The biggest gain was that she would be able to "live in peace," insofar as captivity released her from the uncertainty of constantly living hand-to-mouth. Second, she would be able to "put herself in the service of God" and carry on a virtuous life. In other words, her liberty was the price she was willing to pay to preserve her honor and blameless life. Her actions not only reveal her concerns for the future, but also an awareness of the master's obligation to ensure the well-being of his captives in return for their services (which also meant protecting his investment).

Joana claimed that honor was the crux of her decision. In this case, honor holds a dual connotation. On one hand, it meant the capacity to accumulate sufficient material assets to enable her to live with dignity – that is, above the poverty line – not just in the present, but in her old age as well. The sum she would receive from the sale would be enough to ensure she had sufficient money, clothing, and goods. On the other hand, honor also entailed living a moral and proper life, which meant placing herself in the service of God and preserving her virtue. So honor was obtained in the private sphere through material gain, and in the public domain through the upholding of prevailing moral values, something that Joana obviously insisted upon. In these terms, honor as moral behavior was not the exclusive province of the free, white ladies of the elite; a slave might aspire to it as well. However lowly her social condition, she made an effort to be recognized as leading a virtuous life, and she understood that she could have it only as a slave with some assets – and not as a poor free woman.

She also declared that her decision to sell herself into slavery “was taken of her own free will, without duress.” So by giving up her freedom, was Joana surrendering her humanity, allowing herself to be reduced to a mere *thing*? After all, what about slavery promised more dignity than she could ensure for herself as a free woman, especially when we consider that she was “submitting herself to all the Laws and penalties of slavery, and was [relinquishing] her selfhood and whatever rights were hers to claim”? What guarantee did she have that her master would fulfill her needs and treat her well? What modicum of power could she exercise over him? Even when not necessarily a feature of everyday life, violence (the symptom of total lack of power) was an instrument inherent to slavery, always present among the array of possible punishments. Joana does not come across as the kind of person who would simply hand over the reins of her life. An examination of the conditions she imposed upon her future master, as well as the sum she received in payment, show that she fully intended to remain an active subject in her own destiny. She was securing what she felt was important: the preservation of her honor and dignity, the upkeep of her moral and spiritual values, and the assurance of her material sustenance. The deeds of her sale imposed certain limits on her master’s will. One of the provisions was that if either party proved dissatisfied with the arrangement, she was to “be sold to the next willing buyer as his slave,” with violence against her being expressly prohibited.

Joana’s decision shows that she was quite aware of the world she was living in, in which slavery was not necessarily intolerable, nor liberty always free of problems and paradoxes. Many free and freed people lived in abject misery, compelled to subject themselves to humiliating conditions in order to survive. For freedwomen, besides the stigmas of race, color, and social standing, there was also the issue of gender to contend with, such that many a freedwoman found herself even worse off than the average house slave. The life of Rosa Tibaens, a freed black woman living in the village of Tejuco, in the southeastern captaincy of Minas Gerais in the eighteenth century, is one of thousands (Figueiredo 1993) that attest to the hardships faced by these women in the world of the free.⁴ Sergeant Major José da Silva de Oliveira, a wealthy white man, took pity on her poverty and, expounding charity as a Christian virtue, allowed her to build a shack on his land, near the local church of Bonfim.⁵

Joana Baptista’s decision to submit to slavery was not an isolated event. Another important example, extensively discussed by Brazilian historiography ever since Stuart Schwartz discovered the documentation related to it, has to do with a 1789 case involving a group of runaway slaves from the Santana sugarcane plantation, located in the Brazilian northeast, in the captaincy of Bahia (Schwartz 1977: 69–81; 2001: 101–109). After escaping to the bush, instead of building a maroon society in the vast and wild Brazilian savage interior, they decided to send a messenger to negotiate with the owner. They presented 19 written demands; if their terms were accepted, they would agree to return to their former condition as slaves. Again, we have people negotiating to freely submit themselves to slavery! Among the items they proposed were the right to own a net and a boat, allowing

them to fish; being allowed to farm certain crops on the plantation apart from sugarcane; the ability to work for themselves on Fridays and Saturdays; the right to sell their products directly to the local market in a canoe of their own; and another “thirteen demands related directly to the organization of the labor force,” all of them trying to lighten the burden of their heavy labor. In a show of power, they even asked for the right to interfere in the choice of overseer and to have control over farm equipment (Schwartz 2001: 106–108). The master accepted the terms and the slaves returned, but after a while he sold off each of the slaves involved in the rebellion and sent the leader to the prison in Salvador, the capital. These events (the slaves’ decision to surrender their newfound freedom, the master’s willingness to negotiate with slaves, their return to the farm, and finally the master’s betrayal) speak to the paradoxes and limits experienced by both masters and by slaves in a tug-of-war over parcels of power. While the master ultimately won, on one hand, he did have to negotiate and submit himself to his former slaves’ conditions in order to have them back. On the other hand, the case suggests that freedom in a maroon society was not always ideal, as the slaves decided to return and submit themselves to the slavery system after the acceptance of their demands.

Slave Ownership among Slaves

Another traditional conception that has been challenged by the recent historiography is that captivity created a natural aversion to slavery among the population of slaves and former slaves. In this respect, it has been seen that their approach to slave ownership did not differ from the whites. Indeed, slaves, especially once freed, were quick to acquire slaves of their own whenever possible, as they shared the white master’s aversion to manual labor. This habit allows us to reflect on the fact that, to look at the opposite direction, merely entering the world of the free was not a sufficient guarantee of honor for ex-slaves. The free population was also arranged under a range of gradations (free vs freed, color, economic status), but distancing oneself from the world of labor was the first step, essential in distinguishing oneself from a slave. An interesting fact can be gleaned from the census records for the village of Tejuco,⁶ located in the diamond-mining region of the captaincy of Minas Gerais, where freed women not only accounted for a considerable percentage of household heads, representing 38.6% of the total, but only one of the town’s 197 freed black and mulatto women was listed as having an occupation.

This was Joana Gertrudes, a mulatta who owned a house on Amparo Street, which she ran as an inn. The fact that almost none of these women exercised an occupation or a profession indicates that they lived off the work of slaves, having achieved what all freedwomen wanted: namely, to distance themselves from the toil of their former lives as slaves and take a step closer to the world of the whites. A look at the last wills and testaments of twenty-four of these women supports the hypothesis of widespread slave ownership among them. Though they all earned their freedom by their “own agency and work,” once freed, they sought to acquire

a slave stock of their own and live off the proceeds of their hired labor. The slaves of Maria de Souza da Encarnação worked as washerwomen, while some of those belonging to Jacinta da Siqueira panned for gold. Both women were Africans from the Coast of Mina. The inventoried belongings of the Creole Inês Fernandes Neves, who owned four slaves, included a trumpet, while those of Rita Vieira de Matos featured a carpenter's hammer and a clothes iron, these being the tools of the respective trades plied by their slaves.⁷ The habit of owning slaves persisted across various generations of freedwomen. In her will, Inês Fernandes Neves states that her parents, João Frutuoso and Joana Fernandes Neves, both from the Coast of Mina, had been slaves to a mulatto and his Mina-born wife. Elsewhere we learn that Ana da Glória Santos, a black Mina woman, had spent a year and three months waiting for payment for services rendered by one of her slaves hired out to Florência da Cunha. Her inventory contained a cotton gin and a spinning wheel, which would indicate that she grew cotton and that her slaves wove fabrics. *Pano-da-costa* (cloth from the coast of Mina) was used to make apparel for slaves and freedpeople, and the business was largely dominated by African women who had chosen to carry on their trade in Brazil, supplying the local market and profiting from their expertise (Furtado 2001: 81–121). An intriguing case was that of Josefa Dias, a black woman from the Coast of Mina, who had two daughters in captivity but chose to use her savings to purchase a slave girl named Quitéria rather than buy the freedom of at least one of her own children.⁸ The famous Brazilian slave Chica da Silva and her mother were properties of a black freedman named Domingos da Costa (Furtado 2009: 60); and Donna Francisca da Silva de Oliveira, as Chica is often referred to in the official documents of Tejuco after being freed, owned not only a house in the village, but also a significant number of slaves. Between 1754 and 1804, many of Chica's slaves were registered in baptismal, death, and marriage records, and religious brotherhood rosters now stored in the Ecclesiastical Archives of the Archdiocese of Diamantina (Furtado 2009: 146–161).

What this shows is that freedom only meant something if it signaled release from work, which is why the freed insisted on purchasing slaves. Owning slaves was an essential mechanism in the pursuit of insertion into the world of the free, where a disdain for work and for living by one's own craft reigned supreme. Immersed in a society in which the sphere of privacy was restricted and life ran freely through the public space, the freed assumed the values of the whites and sought to emulate them. Another conclusion is that, contrary to what would be nowadays expected, the experience of captivity did not create an intrinsic repulsion of the framework of slavery. This behavior was typical throughout Brazil for the duration of the slave system.

African Religiosity as a Form of Power and Solidarity

In the slave quarters (*senzala*), where the captives lived in such cramped proximity, they shared their ancestral values, keeping the African culture alive in the religiosity they practiced and passed on to their descendants, which of course was not uniform,

given the plurality of African origins among the slave population. This culture was also in continuous transformation, molded in captivity and limited by an enforced Catholicism (Souza 2002a). There are countless references to African rites, cults, and religions being practiced by slaves in Brazil. Repression could be harsh, as the Catholic church was intolerant toward African religiosity and sought to eradicate these practices, which it considered demonic. But a measure of tolerance was the rule; authorities implied that, given the intellectual limitations of the African and Indian populations, their sense of religion was necessarily imperfect and incomplete.

The ritual practice and exercise of African cults were not only a form of maintaining one's religion while on Brazilian soil, but also posed an opportunity to exert some power over others, including white men. Many masters feared the magical powers of healers and sorcerers among African slaves, or opted to use them in their favor. According to the Portuguese doctor Brás Luís Abreu, as they had done in their native Africa, "the witches and spellmongers, wheedled by demons, would steal, for their maleficence and cruelty, the teeth, hair, fingernails, bones, skulls and rotting flesh of the dead" (Ribeiro 1997: 91).

Fear of magical slave powers could be seen in the village of Tejuco, where Joana, a slave who belonged to Maria de Cavalgante, joined with Antônia Mina, a jeweler and captive owned by João Teixeira da Silva, to concoct spells that witnesses say caused the deaths of Joana's mistress and various other slaves of her stock. To do this, they buried a pot full of skulls sprinkled with roots, powders, and leaves. But the extent of generalized reliance on their services could be seen in the case of one black slave sorcerer. Inácio de Sam Payo, who lived in Vila Rica, the capital of the province, called on the slave Antônio Luís to cure his slave Lucrécia, who had several wounds on her chest that refused to heal. Antônio Luís was a famous sorcerer-healer in the captaincy of Minas Gerais, called upon by several masters to cure their slaves (Grossi 2001: 97–98).

Antônio Luís was not the only black African sorcerer who went through the captaincy living off cures for several years before being denounced to the Holy Inquisition. There were several African healers like him at that time. Further examples include Ignacio Mina, who also lived in Vila Rica, and Matheus Monjolo, a resident of the village of Itaveraba. In the end, many people came before Inquisition authorities to denounce the crimes that both committed during several years in different parts of the captaincy, although the first denunciation was long in coming. This suggests a high level of complacency among the inhabitants, as both cured many people during this period – blacks, mestizos, and also important white figures – indicating the levels of power he could exert in the local society. The sorcerers used herbs, powders, roots, hair, bones, and teeth, as "they had learned in their home land," Africa. They moved freely throughout the captaincy and also received money for their cures. Matheus Monjolo's owner even took on part of his payments as a healer. Ignacio Mina traveled everywhere on a horse of his own, which was not only very expensive but also a status symbol commonly restricted to white men (Grossi 1999: 118–131). One interesting case is that of an African

medicine woman named Inácia Mina, a resident of the city of Mariana in Minas Gerais and the slave of one Antônio de Oliveira Andarilho. Inácia's spells were feared by the local population, which accused her of having caused deaths and other maladies among slaves in the region. One day, Inácia was sought out by a man named Antônio Roiz; he complained that a cup of *aguardente* with a hair in it, which she had given to one of his slaves to drink, was actually a spell meant to do him some harm. If the slave fell ill or died, he warned, she would have to pay him. Inácia's response was that should the slave die, she and her master had plenty of gold with which to compensate him. From this we can observe that not only did her master not forbid her from practicing, he was an accomplice to her spells. The gains that she might reap from sowing ills were not financial but symbolic: she and her master became feared and respected in their community. The logic of slavery was thus inverted: the slave woman, with her witchcraft, conferred power on her master.

Another aspect to be emphasized is the fact that these healers were publicly recognized as powerful figures because they – as doctors – had the ability to cure illness, were able to manipulate spiritual forces in order to accomplish this, and were the only ones able to identify illness caused by malign forces. But they were also feared precisely because of those same abilities, as they could just as easily use them to inflict illness. The African witch Josefa Maria, hailing from the Coura nation, created a cult in Minas de Paracatu attended by many people over the years, whites included, in which they practiced a dance called *de Tunda* or *Acotunda*. The ritual honored the god of their homeland, represented by a clay doll set atop a sword and wrapped in a white cape. To the sound of drums, with the women all dressed in cotton, the Africans danced frenetically in a ring and slipped into a trance as they received the spirits. At this point, Josefa Maria collapsed as if dead, only to gather herself up and start preaching in the African tongue. The cult survived for years with the complacency of the local inhabitants and authorities until it was finally denounced to the Bishopric (Mott 1986: 124–147).

While the majority of black healers denounced to the ecclesiastical authorities were men (Sousa 2002; Nogueira 2004), women were a significant part of the whole and nearly rivaled men. Separations by gender do not bespeak a drastic difference: André Nogueira found that out of 117 witch healers active in the captaincy over the course of the eighteenth century, 60.7% were men and 43.5% were slaves. As for their origin, 71.8% were black Africans and 6.8% of African descent, coming to 78.6% of total cases and revealing the prevalence of African sorcery, as opposed to European. Of the thirty-two cases of variations of a sorcery ritual of African origin examined by Laura de Mello e Sousa, known in the captaincy as *calundu*, twenty-seven men and thirteen women were involved, but the latter were the majority in the instances of what she referred to as “evident *calundus*,” as opposed to those with just a few, or a single element of the original cult. Among the women heading up these *calundu* rituals was Luiza Pinta, one of the rare black women born in the colony to be condemned by the Lisbon Inquisition for the crime of sorcery (Mott 1994; Sousa 2002; Marcussi 2006; Daibert Jr 2012).

Luiza's aides were nearly all slaves of hers – a practice, as noted, that was quite common among former slaves, and indicates the possibility that she was able to accumulate wealth and property by charging for her services, the going rate being two *oitavas* of gold. Luiza Pinta's sentencing by the Inquisition might allow Patterson to argue that there is a major difference between the honor recognized and awarded by the free community and the awe inspired by liminal powers and activities that did not bring honor by the free community, but rather repression when pressed.⁹ Those who sought out Luiza Pinta were ailing people who credited their sicknesses to evil spirits or spells. Although scholars now draw connections between the ritual she was recreating in Minas and Bantu religious practices from central Africa, especially Angola, her country of origin, her clients were not all Angolans, nor were they exclusively African, slaves, or freedmen of African descent. She was also highly sought after by white men and women, even those of Portuguese descent, who clearly recognized her publicly, respecting her status as a medicine woman. Luiza, like other medicine men and women of African origin active in the colony, thus obtained a certain power within the community where she lived; and that community tolerated her unorthodox rituals for long periods of time, until the ceremonies were denounced by religious authorities, generally from elsewhere, as was the case with the bishops or visiting officials who swooped in to punish misdeeds and lapses in faith. Interestingly enough, even local parish priests could be complicit in such heterodox lapses. In some cases, priests finding their exorcisms against African spells to be of no avail would call in *calundu* practitioners to treat those patients, one example being Brother Luís in Cotegipe, Bahia (Sousa 1986). This also happened with Luiza Pinta, who first succumbed to the "*calundu* disease" during a Sunday Mass. Not knowing what other recourse to take, a black *calundureiro* named Miguel, the slave of Manuel de Miranda, was called in to cure her.

A rare case of African sorcery limited to a single community of origin was identified by Laura de Mello e Souza, also in the city of Mariana, seat of the bishopric of the same name. Ivo Lopes and Maria Cardoso practiced *calundu*, curing "the blacks who hailed from their nation [and] barring those who did not." Here, it is evident that these sorcerers were seeking recognition solely within their group of origin. The rite served to reinforce African separations and tribal distinctions among slaves on Brazilian soil. While limiting the practice of the rite to their own did not serve to distinguish sorcerers (whether freedmen or slaves) in foreign lands, it may have lessened what Patterson refers to as "natal alienation" by reintroducing social practices and rituals from their land of origin, alleviating the sense of rootlessness brought on by slavery.

Control over unknown earthly and spiritual forces was often used by African slave sorcerers as a mechanism to gain power not only among their own, but even over their masters. Equally feared in the captaincy of Minas Gerais for the spiritual forces they manipulated, and publicly recognized as such, were the "mandinga" slaves, those who hailed from the old Mali Empire in northwest Africa, an area converted to Islam. This presents a very interesting case of a cross-cultural element between Africa and Brazil, used in favor of the slaves themselves. It was commonly

believed that the Mali sorcerers were able to produce spells that could close off the person's body, making it immune to bullets or any injury. Here we see an ability displayed by an African caste – the sorcerers – that in Minas Gerais came to be identified with all the men of this origin. Because of this belief, around the time of the first settlement of the captaincy, when the newly arrived Portuguese were struggling with settlers from São Paulo for control of the region, the leader of the former, a Portuguese named Manoel Nunes Viana, formed an army of “mandinga” slaves. People believed that his army not only made him immune to bullets, but also allowed him to see what happened inside people's homes. They also believed that these powers provided by African warriors supposedly made him so powerful that only God was above him, and both the governor and the king of Portugal stood below him. Eduardo França Paiva calls attention to the amount of power Manoel Nunes Viana was able to muster within Minas Gerais by manipulating African cultural elements (Paiva 2006: 118–127). This is a particularly interesting case; a white Portuguese man recently arrived in the captaincy was able to use his knowledge of African beliefs to boost his own power among the free people of the captaincy. Here the logic of slavery is inverted once again, with slaves transmitting and adding to the clout of their masters as they shared their native beliefs with the free (generally white and Portuguese) population.

Conversion to Catholicism

In the slave society of Portuguese America, the obligations of a good Christian master included ensuring that his slaves had access to all the religious sacraments. The Catholic church strove to punish those who failed to baptize their slaves, prevented them from attending Mass, or denied them marriage and the last rites, thus damning their souls. Slaves had to profess the Catholic faith, and baptism was the symbol of their acceptance. For those newly arrived from Africa, this moment of enforced conversion was usually their first contact with the new religion. Baptism could take place at different junctures throughout their long journey between the African coast and the slave house. For example, Maria de Souza de Encarnação and Ana Glória dos Santos were baptized in Bahia, while Rosa Fernandes Passos was only inducted into the faith upon arrival in Paracatu, Minas Gerais (Furtado 2001: 81–121).¹⁰ Baptism was also the rite that symbolized entry into the world of slavery, when the Africans had to abandon their old names and be known thereafter by a Christian name. However, even here some vestige of the African past was retained in such ethnonyms as *mina*, *ladá*, *courano*, and *nagô*, which were used almost as surnames.¹¹

Though Catholicism was often imposed upon slaves by their master, there were cases of voluntary conversion among black and mulatto slaves. The wills many of these freedpeople left included devotional artifacts, such as oratory icons of Our Lady of the Conception or other saints. In certain cases, extreme religiosity on the part of these women was met with a reaction most unlike that reserved for the

whites. In 1751, the black slave Rosa, owned by a woman called Ana in the village of Infeccionado, near Mariana, took the baptismal name of Rosa Maria Egipcíaca da Vera Cruz. However, despite her genuine conversion and self-perceived saintliness, Maria Rosa ended up in an Inquisitor's jail. Her color and less than erudite appearance, not to mention her saintly pretensions, sparked the ire of the church authorities, regardless of her being a genuine example of an African who had truly embraced the Catholic faith (Mott 1993).

Another indication of true faith among slaves and former slaves is the fact that some of them are a constant presence in the baptismal records as godparents to new arrivals, and therefore as their mentors in the world of captivity. But that is hardly the extent of it. The presence of slaves and ex-slaves as godparents to new arrivals reveals that, in the world of slavery, old ties and social hierarchies might be renewed, and new ones established. These, for their part, could provide at least partial imitations of the frameworks of their communities of origin. A quick examination of a sample of baptismal records for adult slaves (i.e. of African origin) conducted in the main churches of Tejuco, Rio Manso, and São Gonçalo do Rio Preto (all diamond-mining sites in the northeast of the captaincy of Minas Gerais), between 1740 and 1785, can give us some idea of the typical characteristics of the godparents and their relationship with the baptized (Furtado 2006). Out of the 119 adult slaves baptized in the period, the majority of them, a total of seventy-six cases (63.9%), were escorted at the baptismal font by two godparents, generally a couple (godmother and godfather). Slightly rarer were those adult slaves with only one godparent, with twenty-five cases, or 21%. Slaves only lacked godparents entirely in eighteen cases, or 15.1% of all baptisms in the period. It is evident that when captives were baptized in the village of Tejuco, the administrative center of the Diamond District and its most populous settlement, it was easier to find godparents; the same was not always the case in nearby settlements. In any case, the vast majority of slaves (84.9%) had at least one godparent and most had two, demonstrating that in spite of their status as captives, they or their masters were able to find figures to guide them and care for them within both the Christian community and local society as a whole.

A slightly more detailed look at these godparents provides for interesting reflections on the world of godparenting relations in the District. Although most of the recently arrived adult captives were able to round up one or two godparents, the latter were generally slaves as well, as was the case in 61.6% of the godparents, 109 out of 177. Slaves were not only more numerous in the area, they were also more available; generally, during the period in question, baptisms were held around centers of mining operations, and in smaller villages where the slave workforce was concentrated. The predominance of slave godparents may be an indication of masters' negligence in seeking out more distinguished godparents who might be able to effectively protect captives as they embarked on this new life, on one hand; on the other hand, it may attest to owners' difficulties in rounding up better godparents. Above all, however, it reveals the importance that certain slaves took on in relation to new arrivals, lessening the loss of ties of blood and affection within their

groups of origin and potentially easing the effects of natal alienation, since new forms of sociability and hierarchization emerged within slave communities. It is hardly strange, then, that the majority of recently arrived slaves should have been introduced to the new life they were beginning in the company of, and guided by, just one or two godparents of the same status.

The cases of free godparents were rarer yet, coming to seventeen in all. The majority (six) of the ceremonies where free men served as godparents came from Tejuco, which seems to be something beyond coincidence. Of course, residence in the largest urban nucleus in the region facilitated the establishment of vertical bonds of solidarity. Baptisms, like all public ceremonies of the period, were ideal events for the establishment of alliances, and for making public the social bonds established between individuals. It seems clear that in these six cases, the masters (two of them former slaves) were most concerned with obtaining godparents of a higher social rank who might effectively protect the baptized slave, making sure that godparenting would function as expected. Only one former slave appears as a godparent: namely, João Correa, a freed Creole who served as godfather in Rio Manso in May 1773 to José, a slave belonging to José Antônio Faria, who had the free woman Tereza Teixeira as his godmother.

It is interesting to note the cases in which a single slave baptized successive recently arrived slaves, sometimes from the same group. These may well have been *ladino* slaves, the period designation for those who not only spoke Portuguese but plied a trade, serving as go-betweens from the world of the masters to that of the recently arrived Africans. In Rio Manso, on August 2, 1769, the slave José Dagomé served as godfather to fellow slaves José, Joaquim, and Basílio, all owned by military man José Luís Saião. The same José Dagomé would return to the temple some days later, on August 11, this time to serve as godfather to Pedro, the slave of Posidônio Pinho. An exemplary case of a *ladino* slave responsible for guiding new arrivals is that of Antônio the *furriel*, the slave of diamond contractor João Fernandes de Oliveira in Rio Manso.¹² *Furriel* was the term designating those who headed up one of the three regiments of *pedestres* (on foot) guarding the district, and his military position evidenced not only leadership, but also commitment to maintaining the system. In 1763 he served as godfather for José and Gonçalo, slaves to Antônio Peixoto, and the next year found him godfathering Bernardo, Joaquim, and Francisco, belonging to Matheus Pereira, and Antônio, owned by Manoel Oliveira Pena. In serving as godfather to these many recently arrived slaves, Antônio the *furriel* effectively increased his power within the slave community. At the same time, however, the position also went toward increasing the power that his master, the influential diamond contractor, wielded over the slaves who served him. Here, as Patterson would say, we can glimpse the limits that were imposed on those slaves who might attain greater distinction – their power was reined in, limited by their masters and put to their service.

An important point may be gleaned from these baptismal records. Although each baptism is documented separately, all signs seem to indicate that, as in the case

of the slaves belonging to José Luís Saião, Matheus Pereira, and Antônio Peixoto, the ceremonies were often collective, and apparently held shortly after the arrival of a load of slaves acquired by a single master. Thus, August 2, 1769 saw the baptisms of José, Joaquim, Basílio, Roberto, and Antônio, all belonging to José Luís Saião. The latter two had the slave Domingos as their godfather; in 1767, Domingos would also baptize Antônio, the slave of Manoel Francisco da Cruz. On September 20, José Pinto Brandão baptized two slaves of his, José and Antônio, and both had the same godparents: the Benguela slave José and a Creole freedwoman named Rosa da Cunha Pereira. On August 15, 1761, the contractor João Fernandes de Oliveira ushered two of his Nagô slaves, Luís and Miguel, to the baptismal font, with the mulatto slave João Leite as their godfather. Many cases like these can be found in succession in the records.

The ceremonies where godparent and baptized were owned by the same master, meanwhile, were even less common, this being the case in only eleven of the ceremonies. From those I would highlight three: Felipe, slave of Manoel Pires Sardinha, baptized by José, a slave from the same group; José, slave of Manoel Feliz Rosa, who was godfathered by João Sabaru, his companion in the slave quarters; and Tomás, who had the Nagô slave Antônio as his godfather, both being the property of José Luís Saião. The evidence that it was more common for godparents to be chosen from amongst those outside the lot of the slave being baptized makes it clear that the owners had no interest in establishing lines of vertical solidarity within their groups, which might facilitate insubordination and even uprisings. There are no cases in which the master himself served as godfather to a slave. This was widespread in the period, since the practice of godparenting, rooted in camaraderie despite its hierarchical form, was incompatible with the principle of authority that structured the master's power over his slaves. Godparentage would weaken, not strengthen, the bonds between master and slave; that meant that it was systematically avoided.

Godmothers are seen less often than godfathers: seventy-eight women as opposed to ninety-eight men. This largely reflected the gender breakdown in mining society, where men were far less numerous than women amongst both whites and slaves. The proportion was only inverted amongst the freed population, with women comprising a majority. This explains the significant presence of freedwomen as godmothers to a number of recently arrived slaves (with just a single freedman godfather). Of the godmothers, forty-three were freedwomen, twenty-eight were slaves, and just seven were free. One may conclude that while men made up the bulk of the slave and free godparents, freedwomen were the majority among the godmothers. This also bespeaks the centrality and importance of freedwomen in mining society, and in the diamond mining community in particular (Furtado 2001, 2006, 2008). The records for Tejuco throughout the eighteenth century are a good example of how freedwomen appear more than once as the godmothers of slaves: Josefa Coelho de Magalhães (five cases), Paula Pereira (four), Rita de Araújo Costa (four), Francisca Alves (three), Rosa Oliveira (three), Maria da Costa (three), Ana Lopes (three), and Rita Sial (or Leal) (three). Though the

total of baptisms with freedwomen as godmothers numbered forty-three, these were spread out over just eighteen different women. Of these, the vast majority (72.3%) were black Africans (thirteen), while a further three were Creoles (Furtado 2006: 223–250).¹³ Though this shows the importance and predominance of Africans among the region's freedwomen and the ability to free themselves, it could be an indication of something more. Might this not also be a return to the power of African mothers (Faria 2001), a vestige of the matriarchal power in African traditions, reproduced in Minas Gerais through the role of the godmother?

While godparentage could create mechanisms for solidarity, it could also reflect bonds of affection and sociability, friendship, and power tempered by trans-Atlantic crossings and captivity, bonds that often lasted for a lifetime. We can see that “affinities wrought within the colonial society, through cohabitation, toil and family” (Faria 2001: 289) not only forged new forms of sociability among Africans and African descendants from various different regions, they also fostered bonds of affection and power. This overlapping of compadrehood and sentiment is exemplified by the relationship the former slave Chica da Silva established with the Creoles Francisca Pires and Maria, her companions in captivity since a tender age.¹⁴ Even after gaining their freedom, the three godmothered each other's children, both reinforcing the close ties they had shared as slaves and assuming fresh commitments to the next generation (Furtado 2009: 127–128).

Rosary Brotherhood and the Kings of Congo Feasts

One of the peculiarities of Brazilian slavery raises important questions about the limits of social death as a way of understanding slavery: that of fraternities and sodalities involving slaves, which in Brazil had a corporate existence acknowledged by the state, and that of slave nations with rituals for electing their leaders (e.g. the Kings of Congo), who were recognized by the authorities in various ways.

Every year at the Rosary Brotherhood feasts, a King of Congo and a Queen Ginga were chosen in many Brazilian cities, including Tejuco in the captaincy of Minas Gerais; Rio de Janeiro; Recife, Pernambuco; and Salvador, Bahia (Souza 2002b). These Brotherhood celebrations were a clear throwback to the political organization of the African tribes and kingdoms, mixed in with Catholic symbols and rituals. “The kings of Congo coronations were, in reality, a symbolic projection of the missionary policy created in Africa by the Portuguese crown and the Catholic church” (Tinhorão 2008: 108), and were used in Brazilian ceremonies to show the conversion of some African kings to Catholicism, one example being Queen Ginga (1582–1663) of Angola, baptized as Ana de Sousa, who embraced Catholicism during part of her life. If among the slave population this remembering of Africa costumes and political organization was used to empower their Christian conversion and their acceptance both to Catholicism and to slavery, can't we argue that the way in which Brazilian slaves tried to acquire honor and annul natal alienation led them to focus on identities (religious, ethnic) beyond their slave identity?

C. Fromont argues that “the articulation of Portuguese- and central African-derived music, closing, and choreographed pageantry in black king festivals among central Africans in fact reenacted core conceptions of power, prestige, and legitimacy characteristic of the most influential polity of their region of origin” (Fromont 2013: 190). It was a discourse of power, not always understood by the Luso-Brazilian elite, as the reproduction of African symbols— instruments, clothes, dances, rituals — allows the African elite even submitted to slavery to rearticulate their expressions of strength, power, and prestige. Throughout the duration of the festival, the Emperor exercised real power over his “subjects,” even going so far as to free the village prisoners, which scandalized imperial officials (Andrade 1967: 643–644) but effectively reconstructed African hierarchies on Brazilian soil. In 1771, the parish priest Mariano Leonardo de Azevedo Castro remarked that, in Tejuco:

This is a custom and every year the king frees whomsoever he pleases, among a thousand other follies [;] they are venerated like real kings and even the white men must bow to them as they pass. They make them a throne bedecked with dossal, where they sit with crown and mitre, dispatching petitions, giving audience to whites and blacks alike and dispensing them all. (Andrade 1967: 644)

In Recife, “the feast took on even greater pomp when the slaves’ owners lent out jewels, adornments, and sumptuous clothes for the public presentation of the monarchs, who would be taken along the streets to the church so as to be crowned by the vicar.” The participants would be presented “to the public in special dress, with a mantle, crown, scepter, staff, and rod” (Soares 2000: 155). In Salvador, the court led a solemn procession, proudly displaying their titles with all due splendor, bearing standards and flags. In the city of Sabará, Minas Gerais, the Queen Ignacia Codeço had religious flags painted with figures of saints. (The carrying of flags at public ceremonies was also an African custom.) Condeço rented a house to “establish her palace,” located behind the local Rosary church; there she held court and received her subjects, as was customary. She ordered five painted round metal shields to be used in the *congo* dances, and also hired a Portuguese man to play guitar, one of the few European instruments used in the dances, and to organize the dance rehearsals.¹⁵

These Rosary festivities “always involved dances, music, processions, pageants, [liberal] consumption of food and drink” (Souza 2002b: 257), and the celebration consisted of Catholic religious ceremonies, such as Masses, and some elements of African origin as the *congado* (or *reinado*), which involved a reconstruction of the battle between the black and white monarchies and various dances, such as the *caboclos* and the *catopê* (Ávila 1994/5: 276). The military officer Carlos Julião has left us some images of the feast in Tejuco and Rio de Janeiro. We can observe some African costumes, such as the shading of the monarchs with colorful parasols, the use of African instruments, and the colorful Mina Coast fabrics, evidencing how African rites, customs, and objects might be reconstructed by slaves in Brazil, drawing them closer to the customs and social relationships of their lands of birth.

Slave Women in the Household and as Slaves for Hire

While the idea of a racial democracy in Brazil is untenable (Costa 2000: 234–246), it is important to note that Gilberto Freyre, in *The Masters and the Slaves* (Freyre 1996), was the first author to draw attention to the role played by house slaves in sugar-growing society, helping to soften the rigid structures that were meant to underpin the status quo of the slavery system. As cooks, nurses, and chambermaids, but also through the licentious relationships the slave women often maintained with their masters, they were a point of intersection between the free and slave worlds. By fulfilling these roles, these slave women were also important vectors in the cultural transmission of African customs, beliefs, behaviors, languages, and material culture.

While in agricultural society, slaves found some autonomy in household chores, in the urban world they encountered a gamut of functions that were necessary for the smooth running of city life, and from which they could derive some advantage. In the coastal towns (Rio de Janeiro and Salvador da Bahia are the most studied cities), male slaves did most of the hired labor. In Rio de Janeiro, for example, of the total of 2868 hired captives at work between 1851 and 1870, only forty-five were women (Soares 1988: 139). This overriding male presence largely comes down to the nature of the work in question, most of which required great physical stamina and strength: litter bearers, boatmen, oarsmen, stevedores loading and unloading ships, fishermen and the so-called tigers, who were encumbered with disposing of human waste. Other trades required more specialized knowledge, something only men – even among the slaves – had access to. For instance, the barber's job description went far beyond trimming hair and beards to include bloodletting and the application of bloodsuckers and leeches. Other specialist craftsmen were carpenters, wood-turners, stonemasons, and painters. Many of these hired slaves received daily wages for their work, and often lived apart from their owners. In Rio de Janeiro city in 1830, the slave Henrique was the owner of a store that sold manioc flour on Lavradio Street, and he hired a slave named Maria to take care of the household chores and help out with the customers (Soares 1988: 132). In other words, not only did Henrique not live under his master's roof, he was also the owner of a business premises and the leaseholder on a hire slave, conditions normally associated with free whites.

While this masculinization of hired slave labor may have been the norm in the coastal towns of the eighteenth century, the reverse was true in the backlands of the captaincy of Minas Gerais. There were many reasons for this, one of which was that male slaves were essential in the mines, and that was where most of the men were sent, although many women also worked in mining. Indeed, there was a superstition among the earliest miners that there was no hope of finding gold unless there was a Mina woman on the crew. Today, many scholars believe that behind this superstition lay the traditional knowledge of African women from the gold-rich Coast of Mina, as they knew how to spot the richest alluvium (Paiva 2002: 187). Another aspect that contributed greatly to the considerable female presence in

hired labor was the proliferation of urban settlements – Minas was the most urbanized captaincy in the country in the eighteenth and nineteenth centuries – and of the jobs that went with them, tasks that had to be performed by freed and slave women, since the men were away at the mines. The women did the housework, hawked food and beverages in mines and in the towns and villages, served in or ran the stores (so-called hillside markets), and worked as washerwomen, weavers, messengers, water carriers, and as mules for countless other goods. Another reason for this predominance was that many free men had no access to mining activities, as it took a lot of capital to buy a mine and the slaves to work it, but they were able to acquire one or two slave women (cheaper than men) to work in the villages, where there was a growing demand for goods and services. Recent research shows that there was a proliferation of small slave stocks (one to five slaves) at this time, with each slave employed in a different line of work. This meant that those barred from mining-related activities could still share, however indirectly, in the wealth they generated.

However, there is one other important reason for this inverse proportion between the coastal cities and the ones in Minas Gerais; namely, the mining rush left the free and slave population of these regions massively skewed on the male side because the ephemeral, itinerant, and adventurous reality of such a pursuit appealed far more to men.

Censuses carried out in Minas Gerais in the eighteenth century show that men outnumbered women in the captaincy, both amongst the gentry and the slaves. The latter comprised the bulk of the population and were generally, though not exclusively engaged in the mining operations. However, the opposite was true of the freed population, where women were the majority. The proliferation of manumission throughout the captaincy and over the course of the century and the growth of a class of freed slaves in Minas Gerais were caused by various factors, and subject to certain gender conditions. Concubinage, for example, was one of the most common ways a female slave could earn her liberty. The scarcity of women, especially white women, in the demographic composition of the mining settlements meant that illegitimate relationships became widespread, giving rise to many couples involving white gentlemen and black or mixed-race slave women. A slave concubine was generally granted manumission upon her master's death, though usually only after buying her liberty at a price stipulated in the will of the deceased or after providing a certain number of extra years of service to his heirs, who were sometimes the slave's own children. There were some cases, however rare, in which no compensation, whether in specie or service, was demanded of the slave. Rarer still was for manumission to be granted during the master's lifetime, though there were some cases. The generalization of concubinage between whites (mostly men) and "coloreds" (mostly female) had a significant impact on the mining society, which became considerably diverse and miscegenated. It was thus, as the eighteenth century wore on, that a growing class of freedmen and women emerged in the captaincy (Russell-Wood 1982) The fact that this social segment was predominantly female indicates that the mining society afforded slave women more opportunities to earn their freedom than it did their male counterparts.

The most common way for slaves to obtain their freedom, even for slave concubines, was to buy their way out of slavery. This was possible because many slave men and women received payment for providing services and doing odd jobs around the mining towns and villages. Part of this payment (*jornais* – the daily rate) was handed over to the master, while the captive kept the rest. These were the so-called slave earners; those who managed to save up a certain reserve by selling services or products on the streets so that they could buy their freedom. As most of these services and tasks were provided by women, manumission was especially frequent among adult female slaves.

It was also common practice for landowners to free the illegitimate offspring of their relationships with slaves and this usually occurred at the baptismal urn. In this case, the preference was to manumit illegitimate sons. While it was much harder for slaves working the mines to save a financial reserve and buy their freedom, it was not impossible. Not infrequently they were able to lay their hands on some gold or a diamond during the extraction process, which they would put aside for the purpose of buying their liberty, and some masters even let their slaves mine for their own account on Sundays, which enabled them to accumulate some funds. The lack of women, especially white women, led to widespread concubinage, usually between white men and black or mulatto freedwomen or slaves, and many women were purchased for this very purpose. Father Antonil, the first chronicler of life in Minas Gerais, noted that the discovery of gold caused social disorder, leading to the greatest sacrileges, such as the exorbitant and superfluous expenditure by spendthrift miners “on the purchase, at twice the going rate, of a mulatto woman of ill use, with whom to multiply continuous and scandalous sins.” These “wrong-living black and mulatto women” were to be seen cavorting in “necklaces, earrings and other trinkets” in greater profusion “than the ladies of the manor” (Antonil 1974 [1711]: 194–195). Yet they managed to accumulate a lot more than jewelry; many of them, through concubinage (usually with their masters), and by peddling their wares in the streets, succeeded in saving up enough funds to buy their manumission. Many of the freed and slave women used their ability to pass freely through the streets where many slaves perform their duties, and sold goods and services to the public, in order to save up the extra income they needed to buy their freedom and, after being freed, to buy a slave to work for them.

Between Social Disqualification and Classification

Captive and freed women had a role to play in the overall dynamics of slavery-based Brazil. It is interesting to note that street trade, a sector in which they thrived, had already been a predominantly female activity in both Africa and Portugal (Pantoja 2001: 45–67). Women street peddlers were known as *negras de tabuleiro* (“tray women,” essentially). The economic autonomy afforded by this kind of commerce allowed women to put aside a sometimes considerable nest egg (Figueiredo 1993; Paiva 1996) and enabled them to respond in a sense to the misogynistic and

moralistic discourse of the church and Portuguese state (Figueiredo 1993; Priore 1989). Many of the customs that so scandalized the authorities, such as bigamy and concubinage, were throwbacks to matrifocal traditions these women were trying to preserve, remnants of the power and position they had once held in Africa.

As many slave women lived apart from their masters in order to sell their wares or provide their services, they were able to eke out a certain autonomy, even if the trades they plied were often demeaning, such as prostitution – something they were often forced into by their owners. One mulatto slave woman named Lourença Batista, living in the village of Tejuco, is a good example of this autonomy, which she paid for with her own body. Batista was taken as a mistress by her master, the sergeant-major João Fernandes de Oliveira. When she became pregnant, she was married off to a fellow slave, probably from the same stock. João Fernandes accepted the child as his own, though he could never be sure of this, as the mother had “always been on her own, and freely walk through the village.” Despite the relationship they maintained, Oliveira was never able to control what other partners Batista took or where she went, confirming that she, like many of her fellow slave women, lived in relative freedom about town, evidence of the power that those women exercised over their masters as their concubines (ANTT. Registry Office. Wills. Book 300, 30). The same was the case with Bonifácio Antunes, a married Portuguese resident of Sabará and the father of six children. Antunes manumitted his slave, Antonia Mina, with whom he had fathered a mulatto boy. In his own words: “The son she says to be mine, fathered while still unmarried, I [accept as an heir] on her word, even though, at the time of his conception, she was working about town in total freedom, hawking her wares” (APM. Câmara Municipal de Sabará (CMS). Cod. 24, 86–87v).

In addition to their bad habits and prostitution, street-peddling women were also accused of all manner of disorder, such as goading slaves to buy from them “with the most scandalous terms”; “blaspheming against the Lord God”; and facilitating diamond embezzlement, as they roamed freely among the mines, despite the prohibitions (APM. SC.21, 10). Though a threat to the social order, peddling was part of the urban landscape in the colonies, as it was the main source of income not only for slaves and freedwomen, but for their owners too, who, besides the cash proceeds, also saved on the slave’s upkeep.

Slave women also worked in stores, either as owners or as managers of their masters’ establishments (Figueiredo 1993). They frequently ran the so-called hill-markets on the outskirts of town, which specialized in foods and beverages, but also sold dry goods and hardware (Furtado 1999: 255–260). Just to give some measure of the female predominance in these markets, in Serro do Frio, in 1736, sixty such stores belonged to or were run by women, mostly freed black women or slaves (representing 80% of the shire’s sales) (Furtado 1999: 256).

These saloon-like grocery stores were also places where slaves and freedmen and women would meet up to drink, dance to drum music, gamble, and have sexual trysts, often leading to fights and disorder. Hence they were considered hubs of permissiveness and were constantly raided by authorities keen to take the edge off

public behavior in general and the antics of the slaves in particular. This is reflected in the records of the inquisitions held throughout the captaincy of Minas Gerais during the eighteenth century, which list some forty grocers/haberdashers among those brought to trial. Of these, eleven (27.5%) were store owners, and eight of these were women (six slaves and two freedwomen).¹⁶ Antônia Mina, owned by Manoel do Rego, was “severely punished” for the disorder that erupted at the store she ran (AEAM. Devassa de 1742–1743. Prateleira Z, n.1, 54v). Manoel Gonçalves de Sam Payo, a resident of Furquim village in Minas Gerais, suffered imprisonment and exile for having “provided merriment for black men and women at his house and store” (AEAM. Devassa de 1742–1743. Prateleira Z, n.1, 23).

These slave women of color were to be found at the heart of the urban centers of Minas Gerais. This was where the tensions pent up by the slave system spilled out into the streets, often reflected in less than orthodox behaviors. Metropolitan authorities did their best to keep the slaves in check, but this was often a hard task to accomplish. Some captives went so far as to commit terrible crimes, even against their masters. But if crime was sometimes the only weapon they had with which to tackle the adversities of captivity, it was not their only means by far.

Concubinage

Though subjugated as slaves, these women often used their power of seduction over white men to their advantage. One cannot underestimate the interest the African woman’s physique would have held for the newly arrived Portuguese, especially when allied with youth. One foreign chronicler noted, “twelve is the age at which the African girl blossoms, and some have such allure that one forgets the color... The black lasses tend to be shapely and pert, with features denoting amiability and movements full of natural grace, their hands and feet sculpturally beautiful. Their eyes gleam with such peculiar fire, and their bosoms heave with such ardor that it is hard to resist such seductions” (Mott 1979: 64).

If the most paradigmatic case of the physical attraction these women exercised was the long and stable relationship between the slave Francisca – Chica da Silva – and her master, the diamond contractor and chief judge, João Fernandes de Oliveira (Furtado 2009), this was not a rare case. The examples in Minas Gerais alone are many (Furtado 2008: 149–162). For instance, shortly after Vila do Príncipe was founded, the judge Antônio Quaresma moved the pillory elsewhere, far away from the village of Ribeirão, the settlement from which the town had grown, “and all at the behest of a black lady-friend named Jacinta.” Jacinta was a slave from the Coast of Mina, and she was one of the longest-standing residents of the region, where she went on to make a nice living off a gold mine. Though she never married, Jacinta had four illegitimate children with white men, perhaps some of them with the judge himself, in the memory of whose soul she paid for ten masses (Furtado 2000: 295–296). Chica da Silva and Jacinta da Siqueira were by no means exceptions, as can be seen from the cases of concubinage uncovered in

Tejuco between 1750 and 1753, and which give some indication of just how widespread inter-racial relationships were. Of the fifty-seven couples that came to light, almost all consisted of a free white man (fifty-four) and a freedwoman (thirty-nine) or slave (fifteen).

Many slave women knew how to milk some advantage from their affairs with white men. Not only did it give them more freedom of movement, but it also enabled them to amass a patrimony of their own, which was one road to manumission. This was exactly the case with Chica da Silva, freed not long after her purchase by João Fernandes; and with Maria de Souza da Encarnação, who became a mistress to Domingos Alves Maciel, who promptly purchased her for a hundred and five-eighths of gold and set her free (Furtado 2001: 81–121).

In the gold mining region, manumission was always more accessible to female slaves, although paid slaves or those employed in mining often managed to save up money enough to buy their freedom, as few were ever released in return for the services rendered to their owners. As the mining stations began to grow, with women – especially white women – in short supply, concubinage became widespread and many white landowners ended up freeing their slave mistresses. This was generally officially done on their deathbeds and a date was usually set for the concession of liberty, thus ensuring a few more years of service for their heirs. More rarely, manumission might be conceded during a gentleman's lifetime (Higgins 1999).

In virtue of this, Minas Gerais presented much more diversity and a greater degree of miscegenation than the slave societies of the Brazilian coast, the Caribbean, and the Southern United States (Klein 1986). In these regions, the generalization of monocultural exportation accentuated the gulf between the worlds of the free, dominated by the whites, and of the slaves, made up of blacks. As the eighteenth century wore on, a demographic of freed mulattos and blacks began to emerge, of which Chica da Silva was but a single example.

Cases of concubinage among freed and slave women on one side, and white men on the other, were far more widespread. On one hand, this was the result of the proliferation of unequal relationships between white men and colored women (Higgins 1999), but, on the other, they also indicated the active role these women were assuming in marital relationships, even if cemented on the fringes of the law (Figueiredo 1993; Furtado 2009). One case of note is that of Thereza de Jesus, slave to Romana Tereza, a resident of Tejuco village. In 1750, she was having affairs with two men at the same time – the cobbler José Ribeiro and Sebastião de Sam Payo. Three years later she was guilty of the same crime, though with a different accomplice, Antônio José (AEAD. Livro de Termos do Serro do Frio. Caixa 557. 1750, 29–31v, 98v). On Contrato Street, the official goldsmith, Caetano Francisco Guimarães, had “a slave woman under his roof named Teresa, with whom he had illicit relations and who, having already borne him a son, now found herself once more pregnant by that same gentleman” (AEAM. Livro de devassas. 1750–1753, 41). Though the couple was sentenced in 1750, they were still living together at the time of the next inquest. They were penalized again, though this time more severely for being reoffenders, charged twice the customary fine (AEAD. Livro de

termos do Serro do Frio. 1750. Caixa 557, 99–100). When Manuel Pires Sardinha was denounced to the Catholic church for practicing concubinage with his slave Francisca (i.e. Chica da Silva), Manuel Vieira Couto declared “that [he] had bought her for that express purpose” (AEAM. Livro de devassas. 1750–1753, 43v–45v).

To avoid drawing the attention of the church and in order to keep up appearances, many of these couples lived separately, creating an original family structure that went beyond the single household in a plural and dynamic shift: the *fractioned family* (Figueiredo 1995: 157–163). A case in point was that of the ex-slave Maria Parda, a mulatta freedwoman, who lived in a rented house while her partner, the surgeon José Gomes Ferreira, lived in his own home on Rua Luís Gomes with their two-year-old son (AEAD. Baptismal records for the village of Tejuco. 1745–1765. Box 297, 49, 76v, 96v).

While many such arrangements were temporary and ephemeral, some led to stable, lasting relationships that ended up meeting with informal social approval, as in fact occurred with Maria Parda and José Gomes Ferreira, whose relationship went on to bear also a trio of daughters: Rosa, Matilde, and Francisca. Another example was that of Chica da Silva and João Fernandes de Oliveira, whose partnership lasted seventeen years and produced thirteen children before his return to Portugal (Furtado 2009). Like them, many couples were warned and condemned for concubinage by the Inquisitional authorities.

The result was an increase in the number of illegitimate children, which in turn led to a proliferation of orphans and foundlings. In Sabará, for example, while illegitimacy among whites was roughly 11%, the rate rose to 57.1% among slaves and 74.7% among the freed. While canonical law stipulated that birth records had to name both parents, they usually featured only the name of the mother, which brought down the statistics for white fathers, but corroborated the inference that most illegitimate children were born to slave women or freedwomen and white men (Pereira 2010: table 5, 47). This would also attest to the fact that slave women ended up assuming an important role in family arrangements, a reflection of the matrilocality so deeply entrenched in many African tribes.

Slave women in Brazil succeeded in fighting for their rights and eking out a pathway to freedom. Various studies have shown that the balance of manumissions in Brazil was tilted in favor of women by a ratio of two to one (Schwartz 2001: 178). Though they were the minority in the slave population, liberty was far more accessible to females. It is interesting to note that this tendency to grant manumission more readily to women than to men was more accentuated in rural regions. Generally, these women bought their freedom, as opposed to having it granted to them on good will alone, even in cases where the master was also the woman’s partner. In her last will and testament, the freedwoman Ana da Glória gives us a sense of how she interpreted her life. When speaking of her arrival in Brazil, her marriage and conversion to Catholicism, she used only passive verbs, though switched to the active voice when describing life after manumission, showing that, like many other freed slaves, she was now in control, exerting

almost complete power over her own destiny, unfettered by captivity (AEAD. Death records for the village of Tejuco. Box 521, f.397v–398v).

Notes

- 1 November 20 is currently a federal holiday in Brazil, celebrating black consciousness, being the day that Zumbi was killed in the maroon colony of Palmares.
- 2 The idea of these fissures in the slave system emerged among North American slavery scholars, who realized that life on Caribbean sugar plantations actually afforded slaves the chance to grow and sell produce of their own, in what came to be known as “peasant breaches.” Of note on this topic are Mintz 1989 and Price 1979. This observation inspired Brazilian historians to look for a behavioral equivalent among Brazilian slaves. See Cardoso 1982: 45–47 and Schwartz 1996: 82–93.
- 3 Lisbon. Arquivos Nacionais da Torre do Tombo (ANTT). Papeis do Brasil. Pasta 7, n.1. (The references that follow concern this document, a transcription of which can be found in Pontes 1971: 328–330).
- 4 The mindset of the day distinguished clearly between the free and the freed. A freedman or woman could never attain the status of the freeborn, as the stigma of slavery was indelible.
- 5 Belo Horizonte. Arquivo Público Mineiro (APM) (Arquivo Público de Minas Gerais). Seção Colonial (SC). 260, 3v–4v.
- 6 Lisbon. Arquivo Histórico Ultramarino de (AHU). Manuscritos Avulsos de Minas Gerais (MAMG). Box 108, doc. 9, 1–9.
- 7 At that time in Minas Gerais, Creole designated the child of two African slaves born in Brazil.
- 8 Diamantina. Arquivo Eclesiástico da Arquidiocese de Diamantina (AEAD). Death records for the village of Tejuco. Box 521, 76v–77v.
- 9 The crime of sorcery was usually punished with death, which did not happen in this case. Luiza was condemned to *degredo*, or exile, but that sentence was not based on her having recreated an African religious cult in Minas Gerais, but rather the fact that the inquisitors found evidence of a demonic pact in those ceremonies.
- 10 AEAD. Last Will and Testament of Rosa Fernandes Passos. Death records for the village of Tejuco. Box 521, 102v–102v.; AEAD. Last Will and Testament of Maria de Souza da Encarnação. Death records for the village of Tejuco. Box 350, 34–35; Diamantina. Biblioteca Antônio Torres. (BAT). Last Will and Testament and Inventory of Ana da Encarnação Amorim. Cartório do 1º. Ofício. Pack 4.
- 11 The terms notaries used to refer to slaves arriving from Africa are dubious and imprecise. To specify where they hailed from, the port of departure was applied as a qualifier. Thus *mina* designated the port of São Jorge da Mina, which was where slaves from the Benin Gulf were shipped from. Other markers were language groups, such as *nagô*, the Ioruba language family; religions, such as *malé*, which referred generically to Muslim slaves; ethnicity or nation, such as *tapas*, also known as *nigés* or *nepes*, from the banks of the Niger; phonetic translations of African words, such as *cobu*, used to refer to natives of Cové, a Mahi-speaking region; and even kingdoms, as was the case with Daomé (Dahomey).

- 12 From 1739 to 1772, diamond extraction was turned over to private parties through a contract system – hence the term “contractors” for these administrators (Furtado 2009).
- 13 The origins of two of these are unknown.
- 14 Diamantina. Arquivo Eclesiástico da Arquidiocese de Diamantina. AEAD. Baptismal records for the village of Tejuco. 1745–1765. Box 297, 21.
- 15 Sabará. Museu do Ouro. Casa Borba Gato. OB/ABG – LIB (02) 32, 1803, f.3.
- 16 Mariana. Arquivo Eclesiástico da Arquidiocese de Mariana (AEAM). Devassa de 1748–1749. Prat. Z, n. 4 and Devassa de 1742–1743. Prat. Z, n. 1 and Devassa de 1722–1723.

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(Child) Slavery in Africa as Social Death?: Responses Past and Present

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The 1982 publication of Orlando Patterson's *Slavery and Social Death* marked a groundbreaking intervention into the study of slavery. Prior to its publication, slavery had been studied largely as it had existed in particular times and places. Patterson's achievement involved bringing together in one volume through comparative analysis the innumerable studies that had been published up to that time. Even more significantly, he articulated a definition of slavery that side-stepped the traditional focus on forced acquisitions of persons and their labor, humans as property, and the role of race. Instead he defined a slave as socially dead in so far as "[he or she] had no socially recognized existence outside of his master ... he became a social non-person ... not only was [he or she] denied any claims on, and obligations to his parents or living blood relations, but, by extension, all such claims and obligations on his more remote ancestors and on his descendants..." Patterson added to this by noting, "The outsider status of the slave was a critical attribute of his condition..." (Patterson 1982: 5, 6) Thus, "[social death had] two modes ... the slave was conceived of as someone who did not belong because he was an outsider [in the community where he or she was enslaved] ... [at the same time] the slave became an outsider because he did not (or no longer) belonged [to his natal community] (Patterson 1982: 44).

Scholars studying slavery in Africa have made frequent use of Patterson's ideas to structure their own analyses. Many have found the concept extremely useful. In his 1985 review, Martin Klein, historian of slavery in Francophone West Africa wrote that *Slavery and Social Death* was "... the first comprehensive study of slavery since

H. J. Nieboer[’s 1910 study], *Slavery as an Industrial System* ... [It is] a work of great breadth and learning ... [and] totally persuasive” (Klein 1985: 249–250). Twelve years later, in her 1997 book on slavery in South Africa, Pamela Scully remarked, [as Patterson has stated] “Slavery is the permanent, violent domination of natively alienated and generally dishonored persons. The natal alienation of the slave resonated particularly in this pre-industrial society where both slaves and slaveholders appear to have conceptualized identity through membership in a community constituted by corporate kin and household relationships” (Scully 1997: 26). Ten years after Scully endorsed Patterson’s focus on natal alienation, and twenty-five years after its publication, Edward Steinhart, historian of East Africa, still found great utility in the notion of slavery as social death. In his 2007 article published in the volume, *Slavery in the Great Lakes Region of East Africa*, Steinhart was still describing the book as a “... seminal work...” where “... the central manifestations of slavery [as noted by Patterson]... ‘natal alienation’ and the lack of honour suffered by the slave ... continues to embitter the social relations and political struggles of contemporary Nyankole society...” (Steinhart 2007: 193).

Yet, Africanists have also had their concerns about the book. In 1998, thirteen years after issuing a review in praise of the book, Martin Klein, in his *Slavery and Colonial Rule in French West Africa*, expressed reservations. He compared the work of Patterson with that of Africanist Claude Meillassoux, by noting that:

Meillassoux [argues that] ... slavery is the antithesis of kinship. Like Patterson, he sees slaves as persons socially dead and excluded from all prerogatives of birth. They had neither ancestors nor descendants and thus had no rights to either fields or marriage... My data clearly suggest [however] that slaves formed long-term unions and had emotional ties to each other and to their offspring. They often fled in family units or ... tried to reconstruct family units created in slavery. (Klein 1998: 9–10)

John Mason, who was perhaps the first to actually directly address the issues outlined by Patterson in the title of his own book, *Social Death and Resurrection: Slavery and Emancipation in South Africa*, argued that the term social death is better seen as a literary metaphor than a social theory. He noted:

Metaphors are by nature inexact, both allusive and elusive, and are not to be taken literally. As a metaphor, social death powerfully evokes those aspects of the social order that did the most to shape and define the slaves’ outer lives. It has little to say, however, about the slaves’ inner lives, despite Patterson’s eloquent acknowledgement of slaves’ psychological autonomy. (Mason 2003: 9)

More recently, Ugo Nwokeji has followed the lead of Klein and Mason by arguing in 2010 that the formulation of “... slavery [as social death] as an alternative to [physical] death ... is too rigid...” and that “the enslaved in [Nigeria’s] Aro society ... were not usually – if ever – ‘denied all claims ... on his more remote ancestors’...” (Nwokeji 2010: 95).

More recent empirical studies on the enslaved throughout Africa reinforce these concerns about the social death thesis. In many instances, the enslaved were able to retain, rebuild, or build family ties not only with one another, but to maintain these ties across the generations. Evidence of this can be found in Sean Stilwell's study of royal slaves in the Sokoto Caliphate of West Africa. There, according to Stilwell, emirs "wanted royal slaves to remain powerful only for a single generation," but "over time, [these particular] slaves partially overcame this disability and found other means to ensure that their sons would have access to important slave titles... Thus, by the middle of the nineteenth century, the sons of senior slaves could and did follow their fathers to positions of power and could preserve at least some of the gains made during the father's career" (Stilwell 2004: 75, 131). Slavery in Africa was also unable to strip the enslaved of their affective and spiritual connections to their ancestors. We see this most clearly in the religious orders known as Fofie and Mama Tchamba. Both were based on the idea that removing persons from their communities did not erase the spiritual connections that linked them to their natal homes and families. Instead, spiritual forces were believed to move with the enslaved. As stated by one of the priest of the god, Fofie:

[The] god traveled with the slaves and the slaves came from the north... If you buy a slave from the north, the spirit will enter the house [with the slave] and you must perform rites for the slave. You dig a big hole, and protect the god in this hole. The god comes [in the form of] a leopard and stays in the shrine... [It] has great power; it can call you and you must do whatever it says ... [otherwise] it can kill.¹

Members of the Mama Tchamba religious order believe the same. Enslavement could not and did not strip the enslaved of their natal spiritual connections. In fact, the enslaved used these belief systems to create a space for themselves that gave them a degree of spiritual and psychological independence from their masters.

These examples, and those found in the studies of Africanist historians, support the notion that the concept of social death is a powerful one (if only metaphorically), but it does not contain sufficient emphasis on agency. It fails to recognize the ability of the enslaved to take advantage of various opportunities to defy social death and effect, in John Mason's words, their own resurrection.²

Much has happened in the more than thirty years since the publication of *Slavery as Social Death*. In the rest of this essay, I examine, briefly, some of these post-1982 trends within the field of history generally and in the area of African history slave studies, more particularly. I then focus on the issue of child slavery. Research in this relatively new area of interest emphasizes the point that child slaves did indeed experience social death, but under very particular circumstances. These findings, in turn, strengthen the validity of the critiques offered by Africanist historians.

New Trends in History and in the Study of Slavery in Africa

Many influential shifts have occurred in the kinds of topics that have engaged historians of all stripes since 1982. Of particular interest here has been the increasing focus on the history of emotions, especially their role in influencing events as well as social relations. The historical study of emotions “came into its own,” with the publication in 1985 of Peter N. Stearns and Carol Z. Stearns’ article, “Emotionology: Clarifying the History of Emotions” (Stearns and Stearns 1985: 813–836). Since then, many other studies have followed.³ Some have focused on discussing the historical and social context that influenced how individuals expressed themselves. Others have examined the language used to express or discipline emotions. Still others have examined the political use of emotions in past conflicts, or have written histories using emotional language to bring their readers into the worlds and experiences of those they are studying.⁴ Patterson was not unaware of this still nascent research area when he wrote *Slavery and Social Death*. In chapter 3 of his book, he explored the nature of one particular set of emotions, honor and degradation, by examining its role in slave societies, and in the master–slave relationship. He defined honor as “a sentiment,” a feeling that is “both internal to the individual and external to him” (Patterson 1982: 79). He then elaborated by noting that “to belong to a community, is to have a sense of one’s position among one’s fellow members ... to feel a sense of satisfaction if that claimed position is accepted by others and a sense of shame if it is rejected.” Within slave societies, “the master’s sense of honor was derived directly from the degradation of the slave ... [and] even the poor who may have owned no slaves felt a sense of honor in the presence of slaves” (Patterson 1982: 95, 92). Slaves too yearned for dignity, for honor, but as individuals defined as outsiders, as having no socially recognized existence outside of the master, they could attain it, according to Patterson, only in their own eyes by engaging in a “psychological struggle” with the master in which the enslaved had to wear a mask, showing “not a ripple of emotion,” or by attaining freedom and with it “the consciousness that real life comes with the negation of social death” (Patterson 1982: 98, 208). In this discussion, Patterson focused largely on the honor felt by slave masters and other free individuals in relationship to the enslaved. As indicated, he did acknowledge that slaves too sought honor. He also noted that historical sources existed in which “we [can] hear the voice of the slave ... [and that] what invariably surfaces is the incredible dignity of the slave” (Patterson 1982: 100). Patterson stated as well, “There is absolutely no evidence from the long and dismal annals of slavery to suggest that any group of slaves ever internalized the conception of degradation held by their masters” (Patterson 1982: 97). Still the question that most intrigued him was how the master was able to get the slave to live his dishonor, day in and day out. But is it possible to say more about the enslaved, their emotions, their feelings, their psychological states while in slavery? How did they, in fact, establish a sense of honor and dignity for themselves?

Was “wearing a mask” the only means? Do sources exist that allow us to obtain a deeper understanding of the emotional lives of the enslaved? I believe so.

The study of child slavery is another area that has seen growth since the publication of *Slavery and Social Death*.⁵ This has been especially true in African history even though the sources available to Africanist historians have meant that they have paid more attention to the place and experience of children in the trade for slaves than to the history of child slavery within Africa. During the era of the slave trade with Europe, the definition of a child varied considerably from community to community. The Portuguese government defined children as those below the age of ten or fifteen and those who had not yet reached puberty as evidenced by the existence of facial hair on boys. Britain used height: children were those under four feet, four inches. Infants constituted a separate category. African communities had their own definitions, many of which have been difficult to ascertain except by assuming that late-nineteenth and early-twentieth-century anthropological accounts are accurate for both that time and earlier periods.⁶

We also know from the statistical work of work David Eltis, David Richardson, and Joseph Miller that between 1663 and 1700, children constituted an estimated 12.2% of the slaves exported to the Americas. This percentage increased to 22.7% between 1701 and 1809, and rose again to 46.1% between 1810 and 1867 (Lovejoy 2006). We know the regions from which they came, and in what percentages over time. West central Africa had greater than average exports to the Americas than other regions, reaching 50% in the nineteenth century. Large numbers of children were also enslaved in Madagascar with others caught up in the Indian Ocean slave trade (Campbell 2010; Allen 2009). Several studies discuss how children were enslaved. Some were sold by their families because the region was wracked by drought; others became debt pawns; still others were kidnapped, or captured in war or as a result of slave raids (Ojo 2012). We also have some idea of how were they treated in the coffles in Africa, and on slave ships. Children were often thrown aside and left to die if they impeded the movement of the coffles transporting slaves from one location to another. They were allowed to starve to death if they were considered to be of much less value in comparison with others when food supplies dwindled. Rarely were they chained along with adults because they tended to stay with the coffer without such restraints. On slave ships children were often allowed to stay on deck rather than below as they were rarely considered a suicide threat, but they were frequently abused when being used as servants and sexual objects by the crew.⁷

Debates continue to exist concerning the factors that brought changes over time in the overall supply and demand for enslaved children. Miller has argued that the emergence of the coffee industry in Brazil in the nineteenth century led to an increased demand for children, who were cheaper to purchase and more adept at picking the beans than adults. Jelmer Vos suggests other factors. He claims that “decreasing shipping costs ... a reduction in crew size and ... fear of abolition on the part of Cuban and Brazilian planters” is said to have led to “ever-larger purchases of children because they cost less, were easier to control and provided a longer-term investment than adults” (Vos 2012: 48). Demand within Africa also

increased in the nineteenth century as the wider participation in the export of “legitimate goods” gave a much larger number of African women and men the financial means to purchase enslaved children. The motives for such purchases were numerous. Many purchased children for the same reasons they had purchased women and men: they wanted their labor. Some bought a boy or girl to obtain a child after the death of his or her own child. Others sought a future marriage partner for themselves or their sons (LaRue 2009; Klein 2011).

Patterson was certainly not silent on the topic of child slavery, but in discussing this demographic group, he focused on the factors that influenced how child slaves were treated. He noted that the mode of the acquisition of enslaved children impacted the opportunities made available to them by their masters. He stated: “...a distinction was made between the slave bought as an adult and the slave born in the household or acquired as a child and brought up in the master’s household. Ties of sentiment usually developed between the master (and his family) and the house-bred slave ... slaves acquired as adolescents or even as young adults ... [could thus be] trained as soldiers became the trusted aides and confidants of their masters...” (Patterson 1982: 174). Recent studies on slavery in Africa substantiate this claim. African child slaves (whether born into the master’s household, acquired at a young age, or obtained as an adolescent or young adult) did have such opportunities. But what of the vast majority who did not? How did they respond to their plight? Did enslaved children have a sense of honor, that felt need for connection to and acceptance by others? Did they respond to their social marginalization as did many adults slaves, by “wearing a mask,” or did they engage in other “face saving” efforts? How, indeed, did children respond to their own social death?

These questions remain unaddressed. Answering them, however, would allow us to bring two sets of literatures – one on child slavery and the other on the history of emotions – into conversation with Orlando Patterson’s ideas about slavery as social death. In the remainder of this essay, I address these questions by focusing specifically on child slavery in nineteenth-century Africa. I argue that Patterson’s notion of slavery and social death is certainly applicable to African child slaves. An examination of the narratives written by and about those enslaved as children is especially revealing about the emotional devastation wrought by their experiences of capture and abandonment. But such emotions emerged under very particular circumstances. These same texts are equally revealing about the actions that they were prepared to take to gain, if not honor and respectability, then some semblance of control over their own lives.

Child Slavery in Nineteenth-Century Africa: A History of Emotions and Suicidal Ideation

Evidence from oral sources, travelers’ accounts, and court records as well as biographical and autobiographical texts written about and by the enslaved suggest that boys and girls were quite aware of their own “social death.” They saw with

their own eyes their families and friends being killed in war; they were kidnapped and sold from person to person; they found themselves stripped ritually of their identities and forcibly incorporated into new communities where they knew they, and not others, could be resold for an unpaid debt, used for a ritual sacrifice, or be forced to endure a poison ordeal on behalf of their masters. They had to know that they were in an extremely vulnerable position, having no immediate access to their kin and natal community. And they certainly knew that socially their status was far below other free individuals within their new communities. Many adapted. But the limited evidence available from the few narratives by and about enslaved children in Africa that have been uncovered to date indicate that before their adaptation to their circumstances, if they remained alive, they suffered the kind of trauma that manifested itself in quite specific ways: frequent suicidal ideation.

One such testimony was written by Samuel Ajaye Crowther. Born in 1806, Crowther was captured at the age of fifteen during a war. His efforts to commit suicide appear to have taken place in 1821 when he was about sixteen. In 1837, sixteen years later, he recorded the despair he had experienced that led to thoughts of taking his own life.

...Your humble servant was ... caught – with his mother, two sisters (one an infant about ten months old) and a cousin... The last view I had of my father was when he came from the fight to give us the signal to flee... I never saw him more...

[Then] before we got half way through the town [as prisoners marched away from our home], some Foulahs ... hostilely separated my cousin from our number...

[Later]...on our way, we saw our grandmother ... for a few minutes ... at a distance, with about three or four of my other cousins taken with her, [but then] she [disappeared in] the crowd, to see her no more...

In a while, a separation took place, when my sister and I fell to the share of the Chief [of the town of Dada] and my mother and the infant to the victors ... thus was I separated from my mother and sister for the first time in my life... We dared not vent our grief by loud cries, but by very heavy sobs. My mother, with the infant, was led away, comforted with the promise that she should see us again when we should leave Iseyin for Dah'dah [Dada], the town of the Chief. (Curtin 1967: 301–304)

Crowther's mother's intuition that she would see her son again proved to be accurate. The chief who took the boy exchanged him for a horse, but when the animal proved unsatisfactory, he returned the horse and reclaimed Crowther, who he then brought with him back to the town of Dada where he was able to rejoin his mother and baby sister. After two months in Dada, however, his master left with him for another town, Ijaye, where he sold Crowther to a woman who then took him to yet another town, Itoko. Here, he recalled: "... I lived [for] ... about three months; [and often] walked about with my owner's son with some degree of freedom."

In Itoko, Crowther seems to have sought to re-establish a sense of belonging. By commenting on his friendly association with his master's son, by noting that he could move around the town without being constantly reminded of his slave status, he marked the beginning of his efforts to transition from feelings of despair about

the loss of his natal family to wanting to be accepted by those with whom he had been forcibly connected. It was only when his new master talked of going to Popo country on the coast to buy tobacco that his fears were renewed that he would be sold there to Portuguese traders. Such a possibility meant he would not only lose any possible future contact with his natal family, but would also lose the fictive kinship ties he felt he had begun to establish with his master's son. Thus, on hearing of his master's plan he remembered:

...my appetite forsook me... I determined with myself that I would not go to the Popo country; but would make an end of myself, one way or another. In several nights, I attempted to strangle myself with my band; but had not courage enough to close the noose tight, so as to effect my purpose... I determined next I would leap out of the canoe into the river, when we should cross it on our way to that country. Thus was I thinking, when my owner perceiving the great alteration which took place in me, sold me to some persons... After my price had been counted before my very eyes, I was delivered up to my new owner, with great grief and dejection of spirit... After having arrived [at yet another town] I renewed my attempt of strangling, several times at night, but could not effect my purpose... (Curtin 1967: 307–308)

The deep despair that Crowther felt on losing contact with every member of his family, and then having to face the likelihood of also having severed the fictive kin ties he had just begun to establish with the son of his master was not unique. Many enslaved children were also moved around frequently and unexpectedly, and they too, in losing their families, and in facing the likelihood that no respite would ever be in sight, experienced suicidal ideation and/or actually attempted suicide.

A child slave by the name of Kuku, captured in 1870 at the age of about nine or ten in what is now southeastern Ghana, remembers once attempting to do the same and having suicidal thoughts quite a few times thereafter. The vast majority of such thoughts came when he despaired about being separated by death from his family, and thus abandoned to a fate over which he had absolutely no control (Greene 2011: 21–43). Perhaps the most well-known West African enslaved child, Olaudah Equiano, describes similar feelings when he was forced onto an America-bound slave ship manned by whites whom he presumed were cannibals who would kill and eat him (Edwards 1967: 17, 19). Two East African accounts describe the circumstances that prompted the same feelings in a girl by the name of Swema and an unnamed Makua boy, both of whom were about eight or nine years old.⁸ After suffering capture, enslavement, and the loss of their families, they abandoned completely their will to live and abstained from consuming food (Alpers 1983: 195, 196, 200; Madan 1887: 40–41).

How are we to understand these testimonies? Were their recollections really representative of what they were thinking at the time? Or was this just talk, offered in narratives written decades after their enslavement as children to reinforce the anti-slave trade and anti-slavery movement for which their narratives were to be used by those who recorded and published them? To what extent were accounts of suicidal ideation or suicide attempts influenced largely by local discursive norms?

Such norms allowed one to talk about suicide, but only to emphasize the honor and respectability that the person was prepared to not have violated by others (Greene 2011: 40). Is this what these memories of suicide were about? How do we unravel what is going on in these narratives? One approach is to use studies in child psychology. These studies can be useful in helping to interpret some of the information found in the accounts, but one must assume that the findings in these studies are not culturally specific, but are applicable to the analysis of childhood and childhood experiences across time and space. Using such interdisciplinary methods allows us to expand upon the ideas offered by Patterson, specifically the notion of social death and natal alienation, by seeing how the enslaved themselves, in this case enslaved children, emotionally reacted to their situations. So what do these studies say?

Research data analyzed by psychologists on the phenomenon of suicidal ideation and child suicide indicate that:

Suicidal behavior [by children] is ... an attempt to escape from a trap... [it emerges from] a feeling of being both "defeated" and "closed in." This feeling of being defeated can arise from external circumstances ... or from uncontrollable inner turmoil. The important aspect of such stress is that it signals to the individual that he/she is *defeated* in some important aspect of her/her life... To trigger a full-blown "defeat response," in which the person will tend to give up, there also needs to be a sense of being trapped in the situation: the person expects that there is nothing that he/she will be able to do to escape from the things that are most disturbing. Further, the person believes that there is little likelihood that he/she will be "rescued" from the situation by other people or circumstances... (Williams and Pollock 2000: 89)

[It is events] such as moves, death, loss of relatives, illness of significant caretakers [that] may increase the likelihood for suicidal behavior among pre-pubertal children. (Pfeffer 2000: 241)

These were the very circumstances under which the few testimonies we have indicate that children while enslaved in Africa contemplated taking their own lives. More importantly, these traces of evidence speak to phenomena that were probably much more common than what these few testimonies reveal. According to recent studies on suicide, boys between the ages of five and fourteen are three times more likely to commit suicide than girls. But the rates of suicidal ideation are higher for girls. Boys simply make more serious attempts and are more successful at committing suicide than girls (Pfeffer 2000: 239–240). Given the fact that girls were in much greater demand locally within Africa as slaves, it would suggest that while our sample includes four boys and one girl, this is both unrepresentative of the ratio of boys to girls enslaved within Africa and also unrepresentative of those who both contemplated and then attempted suicide (Robertson 1983: 223; Miller 2007: 1–40).

Suicidal ideation was probably great among enslaved children in nineteenth-century Africa. The violent separation of a child from his or her family, the feeling that life was no longer worth living because of this separation, and the lack of control over or understanding of how they were being treated could lead many to the kind

of despair experienced by Crowther, Famfantor, Swema, and others. The fact that child slaves, as Patterson suggests, may have, and in some instances, did indeed develop sentimental ties with their masters (and their families) should not obscure the fact that child slaves did experience social death. Such feelings could also lead to a child's actual demise by their own hand well before there was an opportunity for such ties to develop with a master.

Child Slavery and the Issue of Agency and Context

Orlando Patterson has noted that slavery operated as a dynamic institution, shaped by the actions of slavers and enslaved alike, but for many Africanist historians his analysis placed too much emphasis on the power of the enslaver and the concomitant powerlessness of the enslaved. He described those in bondage in terms of their "isolation," their "strangeness," and their "de-socialized" and "depersonalized" character." The enslaved was said to have "an original, indelible defect which weighs endlessly upon his destiny." Even when incorporated into the society of their master, the slave was thought to have operated in a liminal position, "in the hem of society, in a limbo, neither enfranchised ... nor true aliens" (Patterson 1982: 38, 46). Even for slaves who were born into their condition or those enslaved as children, adolescents, or young adults who became trusted aides and confidants of their masters, Patterson noted that such "proximity to the master ... carried enormous risks and disadvantages." They were subject "to greater and more capricious punishment and humiliation" than others (Patterson 1982: 175). The emphasis throughout was on the power of the master. As noted, Africanist historians have argued that Patterson gave too little attention to the agency of enslaved adults.⁹ He failed to acknowledge that adult slaves established alternative bonds beyond those that linked them to their masters. They sought out and reconnected with family and friends even while enslaved; they struggled to exchange news and information; they formed communities (surreptitiously or openly) as alternatives to the master-slave dyad outlined by Patterson. Some sought acceptance within the communities into which they had been absorbed as slaves by converting to the local religion; others adopted the prevailing social and moral norms, but manipulated them for their own benefit.¹⁰ One can also argue that Patterson gave too little attention to the agency of enslaved children. We know that children did much to avoid being permanently defined as socially dead and natively alienated. Patterson notes himself that children often became "the trusted aides and confidants of their masters." But this didn't happen by itself. The children must have worked at achieving this goal. In doing so, they resisted their own social death. This was one form of resistance. Were there others? Was one such form child suicide? In contemplating taking their own lives, did children use this as a means of defying social death, or rebelling even if unconsciously, against the kind of severing of natal ties that occurred when they found themselves so totally isolated? Studies suggest that this is indeed the way to understand child suicide ideation. According to the findings of

psychologists Williams and Pollock, “the less ‘serious’ suicidal behavior evident in all of the five narratives discussed above can be understood not only as an active form of resistance, but as an insistent attempt to re-establish escape routes following defeat or rejection...” Psychologists call this the “protest” phase of the psychological script that follows defeat and threatened helplessness.¹¹ So as much as adults fought their condition and used whatever means, physical, social, psychological, spiritual to resist social alienation, so too did children.

Suicidal ideation and suicide attempts, of course, constituted only one form of agency exhibited by enslaved children. Another form of resistance involved negotiating new identities for themselves. This is evident in the life history of Kuku, who was enslaved in Asante as a child. After being violently separated from his parents and siblings, he repeatedly sought news of their whereabouts. And even after he began to adjust to his new circumstances and his master, he risked everything to reunite and remain with his father once contact had been re-established (Greene 2011: 32–35, 88–92). No doubt such opportunities were rare for children, but Kuku’s efforts were not unique. In the British West African colony of the Gold Coast, we see evidence of similar initiatives. After 1874, when the British abolished slavery, they established courts that began to hear cases of slave dealing. A number of children used these courts to sever their connections to their master. They did so by running away and establishing ties with others whom they had heard were from their home communities, or they sought connection with another, more lenient adult, even if that person was to be another slave master. When their former masters went to court to retrieve them, their advocates used the colonial laws against slavery to rebuff their master’s efforts (Getz 2010: 157–172; Public Records and Archive Administration).

These cases indicate that enslaved children had a felt need for the kind of attachment and protection that was available only at that time from an adult. Attachment was critical. In the absence of the kinds of associations children wanted for themselves with regard to an existing slave master, they sought alternatives. In doing so, they refused to accept fully the social identities imposed upon them by their masters. They rejected the notion that they were solely the slaves of their masters, and after the European abolition of slavery, that they were now to be known as one of their masters’ children. They were in a position to reject such identities, in part, because they could see for themselves how they were treated differently from other non-enslaved children. And when the opportunity presented itself to effect a change, they seized it. They sought out and constructed their own identities, by attaching themselves to others whom they chose themselves, even if they were often forced to operate within the confines of a system that offered them the only alternative of finding another adult to serve as their master.

This refusal by some to have their identities defined solely by their status as socially dead to their natal communities and liminal in their new homes is also evident in their efforts to retain memories of their homes. Several accounts exist in which children assertively maintained memories of their origins. In an 1863 article published by the North German Missionary Society, the author reported that of

Table 10.1 Enslaved African children purchased by the North German Missionary Society, including age and origin, 1863.

<i>Name</i>	<i>Age when purchased by the Mission</i>	<i>Origin</i>
Heinrich Theodard-Barnabas	c. 8–9	Koama, N. Ghana?/attacked by Dagboma
Petrus Neuenkirchen,	?	Safi in Avatime
Karl Seehaufen,	c. 10	Adoniko (?location?-non-Ewe)
Gottlieb Treu	c. 9	Can't remember home
Albert	c. 9	Can't remember home
Kwadyo	c. 8	Kwou in Atakpame
Benjamin	c. 9	Agu-Nyogbo; enslaved at 5
Henry Knecht	?	Agu-Nyogbo; enslaved at 7

the ten enslaved children purchased by the Mission for whom we have biographical information, only two could not remember where they came from. Perhaps these two were too young to remember their natal homes; perhaps they were unwilling to discuss their past in any depth. Still most remembered and were prepared to share this information with others (Table 10.1).

A. C. Madan, a missionary who worked in East Africa in the late nineteenth century discovered the same. He interviewed thirteen boys; all remembered their origins (Madan 1887: 40–41). The fact that most of the children for whom we have interviews remembered where they came from reinforces the concerns expressed by Africanist historians that the theme of social death, while generally useful as an analytical tool, overlooks the inner lives of the enslaved. No master could totally control the thoughts and remembrances of the enslaved. The latter were often able to retain memories of home. Some were even able to use these to return home. Samuel Ajaye Crowther did so, as did many other Yoruba speaking individuals, who were enslaved as children, sold into the Atlantic slave trade, rescued and relocated by the British Anti-Slave trade squadron to Sierra Leone. They then used the western education they received there to establish the contacts they needed to return home to what is now Nigeria, where a few were even able to reunite with their relatives. Evidence of this same phenomenon exists with regard to the remembered origins of those uprooted by war during the Asante wars of 1869–1871. In that conflict, a large numbers of Ewe-speaking peoples were abducted in mass and relocated to the rural areas in Twi-speaking Asante. Assigned as slaves to serve particular Asante leaders, in time they lost their natal language and culture, and came to see themselves as citizens of their new home. But memories of their past persisted in ways that allowed them to retain another set of identities, as original Ewe-speakers. Slavery did not erase that aspect of their inner lives. Slavery did not prevent those identities from being passed down from generation to generation. Slavery did not prevent these communities from using that knowledge to reconnect in the twenty-first century with their ancestors' original homes.

Slave masters and slave institutions were powerful in their ability to shape the lives of the enslaved. But that power had limits. The agency of the enslaved must be acknowledged.

Equally important to acknowledge is the importance of context.¹² As noted, suicidal ideation occurred, according to the data we have, at specific points in the lives of the enslaved children: when separation from family and friends, and when lack of attachment to others seemed permanent and unredeemable. When circumstances allowed, however, when circumstances changed, not infrequently because of the enslaved themselves, women, men, *and* children seized the opportunity to define their own lives. They defied social death by reconstructing their lives in ways that gave them either a self-defined space outside the dyad of the master–slave relationship or they redefined their relationship with their master to be more beneficial to themselves (Greene 2015; Stilwell 2004: 124–157). Similarly, while manumission in nineteenth-century Africa occurred largely through the imposition of colonial rule, and operated in some places, as noted by Patterson, as part of a “gift exchange triad” in which the slave traded physical life for total obedience, an exchange that “only deepened the ties of dependence between ex-slave and ex-master” (Patterson 1982: 294), this happened only under very particular circumstances. Those circumstances included situations in which former slaves found it physically, socially, economically, or psychologically impossible or undesirable to relocate elsewhere away from their masters’ communities (Rossi 2009; de Bruijn and Pelckmans 2005). This did happen, and in many instances dependency remained, even if in modified form. But in some places like Sudanic West Africa where more than a million of the enslaved left their masters, emancipation came to some not as a gift, but as a seized opportunity, a chance to reconnect to their past and/or to build a new future (Klein 1998: 173). Even those enslaved as children did the same once they reached adulthood, again, if circumstances allowed. Analyzing context is critical for understanding the factors that influenced how both enslavers and enslaved operated in the world. To introduce context into the study of slavery allows one to examine the institution not simply as structure, but as a phenomenon subject to both continuity and change. In the words of Joseph Miller, the analytical focus necessarily shifts from “abstractions, institutions or structures” to “humans *acting*,” from an analysis of “an institution frozen in timeless analytical space” to a full assessment of “contexts [so as] to identify all [those factors] ... [that are] significant in motivating what people may be observed to have done” (Miller 2012: 25, 26).

Conclusion

Orlando Patterson’s *Slavery and Social Death* has had a monumental impact on the study of slavery and how Africanist historians study this institution. Through all the critiques, amendments, and caveats, the power of his idea remains. As indicated above, enslaved adult men and women did indeed face social death. So did child

slaves. A review of the few narratives that exist by and/or about the experiences of enslaved children in nineteenth-century Africa reinforce this point. Recollections of suicide attempts provide evidence of the fact that enslaved children felt deeply their social isolation. Such feelings were most strongly felt under very particular circumstances. The caveats offered by Africanist historians about both agency and context are important for pointing out that as powerful as slave masters were in controlling the lives of the enslaved, their power had its limits. Masters were unable to dominate totally the lives of their slaves. They could not control their inner lives, their emotional states, or their memories. Child slaves – like their adult counterparts – resisted being brought fully into a slave–master dyad by remembering where they came from, and when the opportunity presented itself, many enslaved and formerly enslaved embraced a life free of their master’s physical and psychological control.

Notes

- 1 See Greene 1987; see also Rosenthal 1998; Rush 2013: 164–177; Brivio 2013: 149–162.
- 2 Patterson clearly includes some degree of agency in his analysis. He notes, for example, “The slave was [never] a wholly passive entity. He might in relative terms, be powerless, but he always had *some* choice” (Patterson 1982: 173). Still the emphasis in the analysis denies the ability of slaves to influence the very structures of the institution. That slaves could have such an influence has been debated perhaps most vigorously in studies on slavery in the Americas. See especially Drescher and Emmer 2010.
- 3 On the historical study of emotions, see, for example, Stearns and Lewis 1998; and Frevert 2011. In African history, the study of emotions, most particularly honor, is discussed in Illiffe 2005.
- 4 Other historians have also incorporated scientific approaches to the study of emotions, including evolutionary biology and the cognitive sciences. See, for example, Walton 2004; Oatley 2004.
- 5 See, for example, Higman 1979; Campbell *et al.* 2009; Lawrance and Roberts 2012.
- 6 Lovejoy 2006: 197–217; Campbell 2006: 261–285; Klein 2011: 125; Harms 2002: 247.
- 7 Examples of such treatments can be found in Lovejoy 2006; Campbell 2010; Allen 2009. See also Diptee 2006; Deutsch 2006: 54, 60, 63, 76; Moton 2009: 58; Harms 2002: 313.
- 8 Recent research has cast doubt on the validity of the account of Swema’s enslavement. But I include it here as an example of a narrative, that if not accurate with regard to Swema herself, is nevertheless illustrative of the experiences of enslaved children. For a discussion about the accuracy of this account, see Kollman 2005: 128–132.
- 9 A focus on agency as an alternative way to approach the study of slavery is one that has been offered in response to Patterson’s *Slavery and Social Death* by Africanists and non-Africanists alike. An example of this in the Africanist scholarship can be found in Johnathan Glassman 1995: 86–96. For an example of a non-Africanist perspective, see Brown 2009: 1231–1257.
- 10 For examples of this kind of responses, see Glassman 1995, as well as Stilwell 2004: 119, who argues for the development of a separate culture among royal slaves that Glassman did not find on the Swahili coast.

- 11 According to Williams and Pollock 2000: 89, suicide attempts that fail, most often from lack of serious effort, should be understood as different from lethal suicide attempts. The latter represent the “cry of pain” from a person who feels completely defeated, with no escape routes and no possibility of rescue at all.
- 12 Joe Miller, in his most recent book, *The Problem of Slavery in History*, emphasizes the need to study slavery in its appropriate contexts, in which the scholar understands “societal frameworks as dynamic and manipulable outcomes of historical actions [by both slavers and enslaved] rather than as “constraining structures,” or ‘as an implicitly static institution, that is, sociologically...’ (Miller 2012: x, 24, 25).

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Slavery and Freedom in Small-Scale Societies

CATHERINE M. CAMERON

Orlando Patterson's rich and authoritative *Slavery and Social Death* (1982) commands data on slavery from a myriad of cultures. Drawing on accounts ranging from small-scale societies of a few hundred people to the large-scale slave-holding societies of Greece, Rome, and the Americas Patterson finds global commonalities in the nature of slavery. His subsequent work, *Freedom in the Making of Western Culture* (1991), investigates the correlation between slavery and the concept of freedom. It begins by characterizing slavery in small-scale societies and considers the problem of how a slave and the slave–master relationship might have been justified and accepted in such communities. In the decades since Patterson's books have been published, and especially in the past ten years, there has been an explosion of studies of slavery in small-scale societies that allow us to revisit and update some of Patterson's conceptions of these groups (Brooks 2002; Cameron 2008; Donald 1997; Ekberg 2010; Ethridge and Shuck-Hall 2009; Rushforth 2012; Santos-Granero 2009 and Chapter 12 in this volume; Snyder 2010).

Focusing specifically on small-scale societies in North America and aiming at the time before intensive European contact, I explore Patterson's idea that slavery would be unusual in such groups or would require special consideration or compensation (1991: 11). I agree with Patterson (1991: 12) that marginal people and outsiders may always have been essential in defining social group boundaries. As outsiders living in the heart of a small community, slaves were especially effective in providing group members with a negative template against which they could judge their own behavior (Cameron, 2016). But rather than wondering how

On Human Bondage: After Slavery and Social Death, First Edition.

Edited by John Bodell and Walter Scheidel.

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small-scale societies reacted to the first slave in their midst, I argue that in spite of a sometimes egalitarian ethos, small-scale societies commonly included marginal people (as well as powerful and influential people) and that slaves were simply an additional category of such wretched beings. In the following discussion, I will emphasize (as Patterson does) that there was no dichotomy between slavery and freedom among such groups. The slave remained an outsider because she was not part of a kin group. Slaves in the small-scale societies examined here not only created honor for their master or mistress by their lowly and debased position, but also produced wealth for them; unlike state-level societies, however, wealth was not accumulated, but given away to create prestige for the master.

Patterson suggests that, at least in complex societies, women were the first to become alive to the reality of personal freedom because they were shut out of civic freedom (1991). In small-scale societies, in contrast, I show that at least some women were as invested in the politics and status relations of their communities as were the men. It seems unlikely that they developed fellow-feeling with slaves.

Finally, I will highlight variability in small-scale North American societies in terms of the slave's opportunity for escaping the land of the socially dead. In some cases slave status was absolute and chances for escape or manumission were minimal. Other societies permitted their slaves to redeem themselves by incorporating them into kin groups, although generally in a marginal or inferior social location. These differences seem to relate largely to sources of wealth, whether derived from material goods or from group size (Watson 1980: 11–13), although non-material causes may also explain this difference.

Equality and Slavery in Small-Scale Societies

Until recently, anthropologists have argued that societies at the smallest scale (social formations that were once called “bands” and “tribes”) were largely egalitarian; difference in social status was based primarily on age and sex (Renfrew and Bahn 2012). Even in slightly more complex social formations often glossed as “chiefdoms” leaders are described as having limited power. This foundational principle has defined our thinking on these societies and is the primary reason we are so surprised to find slavery in such groups. I use four North American examples to show that the “egalitarian ethos” attributed to small-scale societies is misunderstood. In spite of the fact that there may be few visible differences in wealth or lifestyle, every member of such a group, even at the smallest scale, would be acutely aware of who was powerful and who was insignificant. The constant demand to give away accumulated wealth was not exclusively a leveling mechanism, but a way of increasing status and power. As Marcel Mauss (1925) explained almost a century ago, the giving of gifts is glue that binds societies together. Status accrues to the individual who gives the most; the person with nothing to give is correspondingly relegated to the lowest status. Patterson (1991: 11) muses about the difficulty small-scale societies must have had coming to terms with the introduction of a

slave in their midst and with the unusual hierarchical relationship between slave and master. For many small-scale societies, I argue, this relationship was simply an extreme among individuals who were already keenly sensitive to status differences.

Equally important for evaluating Patterson's link between freedom and slavery in small-scale societies is to stress the different meanings that "freedom" has in comparison to more complex societies. While Patterson emphasizes efforts by slaves in non-state societies to escape, suggesting that they yearned for personal "freedom," there was no freedom in the sense used in western societies today. Patterson believes that what he has defined as "civic freedom" – "the capacity of adult members of a community to participate in its life and governance" (1991: 4) – could not exist in small-scale societies because they lacked politically centralized governmental institutions (1991: 18). I argue, in contrast, that one was "free" in small-scale societies only to the extent that one could participate in the daily social interactions that made up community life. There was no life outside the community. To "escape" was to rush into a void unless a slave's society of origin was willing to accept her back. This was rarely the case because, as Patterson (1991: 12–13) notes, the stain of slavery followed the slave everywhere she went.

In *Slavery and Social Death* (1982: 120), Patterson acknowledges that slaves around the world are far more often women than men, but makes little of this fact and throughout the book uses the male pronoun to refer to slaves (this is not a criticism of Patterson – at the time he wrote the book the male pronoun and word "men" was intended to include both sexes). In *Freedom in the Making of Western Culture* (1991) he proposes that women were the first to develop the concept of personal freedom because they were only one step above slaves in terms of personal power. I suggest, instead, that women in small-scale societies were just as invested in the systems of ranking and stratification under which they lived as men were. Rather than developing fellow feeling with slaves, women were just as eager and able to increase their status by contrasting it with the lowly status of the slave. The intimate life of a small community gave daily opportunities to do so. Rather than seeing themselves as outside the civic life of the community, women had their own, often hidden, ways of manipulating social life, ways from which they could easily and effectively exclude the slaves in their households.

A brief example from a recent ethnoarchaeological study illustrates how women in small-scale societies exert influence in otherwise male-dominated societies. The Conambo of the tropical rainforest of eastern Ecuador are a small horticultural village of some 200 people comprising two ethnic groups, the Achuar and the Quechua (Bowser 2000). The women are gardeners and men hunters and as in many such groups, men appear to be in control of political interactions. The region experienced large-scale raiding and headhunting until the 1960s and feuding is still common. Because of political factionalism and the history of deadly hostility, the residents of Conambo are constantly engaged in political discussion and negotiation. A pregnant and unmarried girl, accusations of witchcraft, or other upheavals can have fatal consequences in this small village if not discussed and resolved. Although men and women operate in separate political spheres and "men lead

among men and women lead among women” both men and women are actively involved in daily political interactions (Bowser 2000: 230). Discussions are held in gender-segregated, open-walled houses. A women’s influence on the other women who visit her home to discuss the important events of the community, as well as her influence on her husband’s decision-making, mean that she is well-aware of her political voice and its power. If women’s roles in Conambo politics are representative of other small-scale societies, it seems unlikely that such women would find common ground with slaves.

Slaves and Status in North America

Ethnohistoric accounts from four indigenous North American societies illustrate that significant status differences not only can exist in small-scale societies but that they can dominate social relations in these groups. Slaves, generally taken as captives from other groups, are a common category of social person located at the bottom rung of the social ladder. I consider two culturally distinct North American regions that include a number of what we might consider social or “ethnic” groups (although, as scholars are beginning to recognize, our contemporary concept of ethnicity was far less important to small-scale societies than kinship): the northwest coast and the southeast. I also consider two specific social groups, the Tutchone of the Canadian Yukon and the Comanche of the Southwest Borderlands. The accounts I use come from secondary sources and were written by Europeans, but describe early encounters with indigenous people (this is especially true for the northwest coast and the Tutchone). To respond to arguments that European contact was largely responsible for indigenous warfare (Ferguson and Whitehead 1999 [1992]), where possible, I also include archaeological data that provide evidence of warfare, captive-taking, and likely enslavement prior to European contact.

The northwest coast

At the time it was first encountered by Europeans, the northwest coast of North America was densely settled by complex hunter-gatherers who relied on fish and sea mammals, but especially salmon, which were available during “salmon runs,” that occurred at specific times of the year (Ames and Mashner 1999). The coastal area from the Gulf of Alaska to what is now northern California has been defined by anthropologists as a single culture area. Although they practiced no agriculture, northwest coast peoples lived in sedentary villages that ranged in size from a few dozen to more than 1000 people. There was no overarching political organization that connected villages to one another, but within villages there was a complex system of ranking and stratification (Ames and Mashner 1999: 177–180; they emphasize that in ranked societies there is differential access to prestige, authority, and power; in stratified societies, such differences are institutionalized).

Northwest coast societies consisted of two strata: free and slaves. Slaves constituted between 15 and 25% of the population (Donald 1997: 34). Free people consisted of titleholders (an elite rank) and commoners, but the divisions among these groups were not nearly as stark that between slave and free. Titleholders (so named because of their possession of intellectual property rights – “titles”) held variable power and influence with their status subject to frequent challenges, validation, and negotiation. Commoners were numerically the smallest social group in northwest coast societies. Archaeological data suggest that social inequality may have existed on the northwest coast for at least 2500 years (Ames and Mashner 1999: 185–194). Evidence for the presence of slaves has been suggested by the study of human remains (Donald 1997: 203). In one burial population in which 40% of the individuals had fractures likely obtained in warfare, the ratio of males to females was also high. This suggested to the analyst that there may have been a class of enslaved women who were not given formal burials (Cybulski 1990: 58, cited in Donald 1997: 203). Words for “slave” also seem to be ancient in northwest coast languages (Donald 1997: 205–209).

A group of low status people has been described at the very bottom of the “free” or commoner status that highlights the sort of marginal people that may exist in most small-scale societies. This description supports the argument that low-status people, even when not slaves, may always have been a common social element of small-scale societies and, contra Patterson (1991: 11), these societies may not have been the least surprised by the introduction of slaves. The Tlingit are a northwest coast group that occupied the coast from what is now southern Alaska to northern Canada. In addition to titleholders, commoners, and slaves Tlingit villages included people called *nichkákáawu yahaayí* (Kan 1989: 98). This category of persons included illegitimate children, criminals, and the lazy or incompetent. While *nichkákáawu yahaayí* translates as “image/reflection/spirit of an outcast” (Olson 1967: 48, cited in Kan 1989: 98), such people were called also “dried fish slaves” because of their need to sell themselves to their kin for food. They existed on the margins of Tlingit society, although they could redeem themselves through hard work. In contrast, real slaves were completely outside Tlingit society and were not considered persons at all. They were distinguished from the rest of the population by their appearance (their hair was kept short), their behavior, and their activities (e.g. typical gender roles did not apply to slaves; Donald 1997: 134–135).

Slaves were war captives or the descendants of war captives. Warfare was endemic on the northwest coast, generally undertaken as part of male status striving. The capture of slaves for their prestige enhancing powers was part of these endeavors. Women and children were preferred captives and while many males were killed during raids, others were enslaved (Donald 1997: 112–113). Slaves were often captured over and over again because they were the most vulnerable individuals when a settlement was attacked. Slaves functioned both as items of prestige and units of labor. Slaves served as personal attendants to their master or mistress and were a daily reminder to the community of the superior status of the master. In order to maintain their status, titleholders had to hold feasts (such as the famous

“potlatch”; Barnette 1968 [1938], cited in Donald 1997: 327) at which their titles and status were validated. Slaves helped amass the food and other goods that were necessary for the feast, they were given as gifts to other titleholders invited to the feast, they could be exchanged for furs and other goods to be given away at the feast, and they might be killed to demonstrate the wealth and power of the titleholder host (Donald 1997: 297).

“Freedom” for northwest coast slaves did not mean the ability to do as one chose, but to be considered a functioning member of the community in which one lived. As in most small-scale societies, in northwest coast villages, humans could only exist as part of a community; because slaves were not part of the community they were not human. Slaves on the northwest coast were socially dead and their children, if any, were born into a slave status. Slavery was permanent and slaves had few options for bettering their situation. Slaves were severely limited in their options for escaping social death. Especially high-ranking captives were sometimes ransomed by their families but the costs were steep and the process had to be completed before the slave became stained by the slave role (Donald 1997: 95–98). Slaves in the northwest coast were manumitted almost only during rituals and there is considerable evidence that this occurred primarily during the post-contact period (Donald 1997: 235–237). Prior to this, slaves were killed instead of freed at such ceremonies. Although there is evidence that slaves did try to escape and even sometimes killed their masters to do so, there is little evidence that they did so often, partly because they had little chance of success (Donald 1997: 98–99). A runaway slave would quickly be picked up by another group and resume enslavement; some groups even used magic to entice runaway slaves into their hands. Furthermore, even if the slave managed to reach home, their family would not offer them an enthusiastic welcome as they brought the stain of slavery back with them (Donald 1997: 99). Donald (1997: 100–102) argued that avenues toward incorporation were closed to northwest coast slaves at least partly because ownership rights to prime salmon fishing spots, as well as to intellectual rights such as titles, were strong. The owners of such property would never volunteer to share them with a slave.

Far from sympathizing with the plight of their slaves (although some of them must have) free northwest coast women were deeply involved in the stratified system that defined their societies (Ames and Mashner 1999: 179–180). Women could occasionally be heads of households (or “house chiefs”) and women of high status could wield great influence and authority. High-status women were attended by slaves who followed them everywhere and relieved them of most labor. For example, among the Chinook who occupied the area near the mouth of the Columbia River slaves relieved women of work and increased their status.

The women here are not generally subject to that drudgery common among most other Indian tribes. Slaves do all the laborious work; and a Chinooke matron is constantly attended by two, three, or more slaves who are on all occasions obsequious to her will. In trade and barter the women are as actively employed as the men, and it

is as common to see the wife, followed by a train of slaves, trading at the factory, as her husband. (Ross 1966: 92, cited in Donald 1997: 132)

The slave in northwest coast society, I argue, did not cause women to bemoan their lack of ability to engage in civic activities of the community, but instead gave them a means to achieve power and prestige that, while not as extensive as that of men, was still significant. Given the discussion above of women's use of indirect methods to assert their authority, it seems likely that northwest coast women did not feel disenfranchised, but instead used all methods at their disposal to influence the outcome of daily discussions and disputes. Slaves had no such abilities and it seems unlikely that free and especially high-class women felt any comradeship with those non-humans.

The Tutchone Athabaskan

These hunter-gatherers lived in the harsh sub-arctic environment of the Upper Yukon of Canada (the following discussion is taken from Legros 1985). They were first described by Europeans in the mid-nineteenth century and at the time consisted of just over 1000 people spread over an enormous territory; their population density was less than one person per 100 km². The Tutchone hunted large mammals (moose, sheep), small mammals (beaver), and fished in lakes and rivers. Their diet was about half meat and half fish and only 10% consisted of gathered plant food. Particular resources that could only be accessed at particular times of the year were important as trade goods and indicators of status: wolverine and marten fur, swans for making ceremonial jackets and shaman's paraphernalia, native copper, ochre, and easily split white birch wood, which was used for making tools (including bow frames), toboggans, and other goods.

In spite of what would appear to be an exceedingly simple lifestyle and an impoverished inventory of material culture, the Tutchone were a highly stratified group in which a few powerful people controlled the best resource extraction areas, dominated trade relationships, and demanded goods and obedience from other members of the society. Tutchone society consisted of wealthy families, poor families, and slaves. While the leader of each local group was called *dan čo* or "big man," the exceptionally powerful *dan čo* were called *dan noži?*, which meant "rich man" or "prince." The spouses of *dan noži?* might also have this term applied to them if they came from similarly powerful families.

The *dan noži?* were powerful because, through carefully controlled intermarriage, they were able to build groups of three or four closely related nuclear families (as many as fifty people) that monopolized the best fishing, hunting, and special resource areas. Fish were taken in a number of ways, but were abundant only where they gathered to spawn, where a fish-weir could be built, or where, in winter, nets set where a lake narrowed could be used to catch migratory fish. In the large Tutchone territory there were only ten or eleven lake narrows where such reliable

fishing methods were possible and they all featured semi-permanent camps of large interrelated families headed by *dan noži?*. These powerful families also controlled and managed (to avoid over-exploitation) the best beaver extraction locations, the pyrite and native copper quarries, the few lakes that contained swans, the spots where splittable birch could be found, and the mountaintops where Dall sheep roamed. The *dan noži?* monopolized human resources and an especially powerful *dan noži?* might have as many as twenty wives and five or six slaves.

Poor families were called *čekayde* and were controlled by the *dan noži?* in whose region they lived. Some resided within the *dan noži?*'s camp while others lived autonomously within the region. Regardless, all were under the control of the *dan noži?* family. The *čekayde* who lived in a *dan noži?* camp could be told what labor they had to do and they worked harder than the *dan noži?* family. Their production was likely appropriated by the *dan noži?*, as it is apparent that the rich Tutchone may have done much less work yet were able to maintain a food surplus even when the poor in their camps were starving. *Čekayde* who lived in their own nuclear family camps were shut out of the best resource areas and eked out a precarious existence in the sparse areas that remained, moving camp frequently and subject always to the fear of starvation. Another fear for all *čekayde* was their ruthless unpredictable *dan noži?*, who could kill them for hunting in a restricted area and could and did appropriate their women.

At the bottom of the Tutchone social strata were the *yandye* or slaves, who comprised as much as 10% of the population. Some had been captured, usually as children, from other Tutchone groups or from Athapaskans during raids; others were purchased from *dan noži?* residing in other regions or from Tlingit traders visiting from the coast. Still others could be considered debt slaves – *čekayde* who had fallen on hard times and put themselves under the protection of a *dan noži?* who took most, but perhaps not all of their the resources they produced. Slaves were physically marked by their worn-out clothing and their short, singed hair. They did all the hard work including hauling water, gathering firewood, checking and clearing their owner's traps and fish-weirs; female slaves prepared meat and dressed hides. As in the northwest coast, the *yandye* that a *dan noži?* owned relieved their master or mistress of the drudgery of daily living. Slaves could be beaten or killed at the whim of their master and were reportedly "treated like dogs" (Legros 1985: 61).

The wealth and power of the *dan noži?* was increased significantly by their control of external trading relations, either with Tutchone in other regions or with trade delegations from the coastal Tlingit. Trade goods among the Tutchone consisted of furs, embroidered and beaded clothing, and imported goods such as Tlingit blankets, muskets, and tobacco. The *dan noži?* had specific trading partners and these partners were inheritable and the relationships could continue through generations. The *dan noži?* controlled absolutely all trading relationships in his region. He bought goods from *čekayde* and sold them to his trade partners at inflated prices; he appropriated goods from *yandye* keeping all the profit.

While the attitude of the *dan noži?* toward slaves was clearly one of contempt, Legros (1985) provides no evidence of slaves' feelings about their position or

attempts to extract themselves from it. He suggests that there may have been some social mobility out of the *čekayde* category, there is no evidence that slaves could better their position. Captives and purchased slaves were generally taken far from their homes. Captives were oftentimes orphans whose families had been killed in the raid in which they had been taken; they had no home to return to. Legros (1985) does not discuss it, but it is clear that a slave would have almost no options for escape. Where would she go? If she made her way successfully away from her current situation, she had only the option of being taken in by another Tutchone group where she would again be enslaved. There is an ambiguous suggestion that *dan noži?* men might take slave women as wives (Legros 1985: 55), yet they (and *čekayde* wives) were not considered “true” wives and were apparently treated accordingly. As on the northwest coast, “freedom” would have consisted of becoming a participating member of a Tutchone family; there is little evidence that slaves ever had that option. Like the northwest coast, the lack of avenues toward incorporation into Tutchone society may relate to restricted locations where resources could be procured. The incorporation of slaves into the local kinship system would give them access to limited resources and disadvantage prominent *dan noži?* families.

Although Legros (1985) spends little time describing the role of women in Tutchone society, it is apparent that they could be considered *dan noži?* and could own slaves. The fact that female slaves undertook many of the tasks of female members of a *dan noži?* family suggests that slaves relieved these prominent women of work they otherwise might have done. Like the high-status women on the northwest coast, women in a *dan noži?* family would seem to have had no reason to sympathize with the plight of a slave, but instead benefited from the slave’s labor. While Legros (1985) does not emphasize it, both male and female members of a *dan noži?* family, like all slave owners, likely gained considerable status by the daily display of their superior position in contrast to their slaves.

The Comanche of the Southwest Borderlands

At the time of European contact a variety of groups with different subsistence bases occupied the Southwest Borderlands, ranging from sedentary horticulturalists to mobile hunter-gatherers. Warfare and captive-taking formed part of the social fabric of the region and the Spanish intrusion only added a new cultural entity to the mix of raiders and raided/captives and captors (Brooks 2002). I will focus here on the Comanche because their captive-taking practices have been well and recently studied (Brooks 2002; Hämäläinen 2008; Rivaya-Martínez 2012). The Comanche were mobile hunter-gatherers who originated in the Great Basin and relocated to the southern Plains late in the seventeenth century. Apparently a highly adaptable group, the Comanche quickly adopted the horse and, during the course of the eighteenth century, became one of the most successful groups in the region. They were mounted and nomadic hunters who exploited the vast bison herds of the southern Plains and raided widely throughout the region taking horses and captives,

as well as other goods. Their success in dominating the southern Plains created what Hämäläinen (2008) has called an “empire.”

Comanche society was one with considerable social inequality. As Rivaya-Martinez reports, there were “three ranks: the wealthy (*tsaanaakat#*) consisting largely of successful raiders and their immediate relatives; the poor (*tahkap#*); and the extremely poor (*t#bitsi tahkap#*)” (2012: 49). But these ranks were not inherited and were not fixed. In fact men constantly evaluated their standing in relation to that of other men and their status, endlessly negotiated, could improve or worsen depending on life’s vagaries and their responses to them (Hämäläinen 2008: 265; Rivaya-Martinez 2012). Comanche society was focused on military achievement. Young men achieved social acceptance, including access to a wife or wives, only through raids in which they took horses and captives (Hämäläinen 2008: 267), and it might take a young man several years to gain enough horses to leave the lowest ranks of Comanche society (Hämäläinen 2008: 263)

Captives formed another stratum of Comanche society. Comanche primarily captured children and young women, killing adult males (Rivaya-Martinez 2012: 49). They apparently preferred boys aged five to twelve who could serve as tenders for the enormous herds of horses that Comanche raiders amassed (Rivaya-Martinez 2012: 52–53). The act of taking and displaying a captive brought considerable prestige to the captor, but they were also valuable for other reasons. There was a brisk trade in captives that the Comanche sold as slaves to the Spanish colonists in New Mexico and to the French on the eastern border of the Comanchería (Brooks 2002: 61; Brugge 1993: 98). Prestige could be gained by giving away captives or by marrying or adopting them, thereby increasing tribal size (Rivaya-Martinez 2012: 50). Others were retained as abject slaves and drudge labor for the duration of their captivity. In the early nineteenth century, slaves comprised between 10 and 25% of the population of the eastern Comanchería and a significant but unknown portion of the western margins of the territory (Hämäläinen 2008: 250–251).

Unlike captives of northwest coast groups or of the Tutchone, some of the captives taken by the Comanche could escape the social death of slavery by being incorporated in Comanche society. Resources in this region were not restricted and larger group size could translate into greater success in raids and warfare, making incorporation of captives more appealing. Those who were adopted or married into Comanche society attained variable acceptance as a group member, however. Although some became prominent warriors and others valued wives, there is evidence that their foreign origin was not forgotten (Rivaya-Martinez 2012: 55–61). Captive wives tended to occupy the lowest rank in polygamous marriages and male captives who succeeded in war still tended to have less power than full-blooded Comanche. Those captives who were not incorporated but kept as slaves could improve their situation by showing the characteristics that the Comanche valued, including skill in the Comanche language, mastery of Comanche cultural practices, stoicism, success in war, and especially for women, skill at the many tasks that were expected of them (Rivaya-Martinez 2012: 51–53).

Rivaya-Martinez notes, “Comanche recognized the value of women’s work and often rewarded outstanding female workers” (2012: 49). Still, women in Comanche society did all of the drudge labor and as the Comanche became more involved in acquiring and trading horses, men who were already accustomed to polygynous marriages aspired to have even more wives. Both Hämäläinen (2008: 250) and Brooks (2002: 72) argue that female captives were taken largely to be used as laborers for men engaged in the horse and hide trade (although Rivaya-Martinez (2012: 57) argues that they were valued more for their reproductive abilities as potential wives). The status of Comanche wives decreased as they began to be valued more for their labor than as companions for their husbands (Hämäläinen 2008: 248–250). This might give Comanche women reason to find common cause with slave women who labored beside them, as Patterson (1991) suggests for Greek women. Yet not all Comanche women were powerless drudges. Senior wives controlled the distribution of food and the labor of their co-wives and slaves; they owned some horses and could trade some of the products of their labor (Hämäläinen 2008: 249). These prominent women must have valued slaves for their labor, just as their husbands did, for the slaves reduced senior wives’ workload at the same time increasing their status. As in other small-scale societies discussed here, at least some women were likely to have been as invested in a social system that included slaves as men were.

The southeast

The southeast region of North America was a diverse but generally rich natural area that included vast forests, extensive swamps, slow-moving rivers, and abundant plant and animal resources (Hudson 1976: 14–15). The indigenous people of the region grew corn along the rivers, but much of their diet was derived from hunting, fishing, and gathering wild plants (Hudson 1976: 291). When first encountered by Europeans, the area had a large population organized into dozens of warring chiefdoms. Chiefly territories consisted of towns and villages of varying size and there were unoccupied areas between territories that apparently served as buffer zones (DePratter 1991: 53; also Bourne 1904: 60–64). At least one ceremonial center was found within each chiefly territory consisting of a mound or open space around which houses were built. Towns were often built on high ground along rivers and the war-like nature of the region’s inhabitants was emphasized by the palisades that surrounded many of them (DePratter 1991: 42; Hudson 1976: 210–211).

The chiefdoms of the southeast were more complex than the villages of the northwest coast but consisted of the same social levels: elites, commoners, and slaves (Snyder 2010: 21). The chief and his (or occasionally *her*) family were the highest ranking and most privileged members of the society. Others were arrayed below the chief and all members of the group had the same obsession with rank and status. As Hudson (1976: 203) reports:

Within a chiefdom, Southeastern Indian men ranked themselves in terms of a strict hierarchy, from highest to lowest, partly with respect to age, and partly with respect

to their accomplishments as warriors, leaders of men, and as religious and medical practitioners. These men were most determined in their pursuit of rank, and they avidly bedecked themselves with symbols of their attainments and standing. These symbols included names or titles, tattooed designs on their bodies, and the seats they occupied in their council houses. (Hudson 1976: 203)

The chiefs received highly deferential treatment from their retainers and followers. They often lived atop mounds, were carried about on litters, they ate, dressed, and lived considerably better than other members of their community (Anderson 1994: 57; Bourne 1904; Gally 2002: 29). Rulers were able to punish unruly or recalcitrant followers, organize and deploy labor, and demand tribute (DePratter 1991: 121–138).

At the lowest end of the southeastern social stratum were slaves taken in warfare. Warfare was apparently an activity of long standing in the southeast. Archaeologists in the southeast call the centuries before contact the “Mississippian Period” (900–1700 CE) and they have found abundant evidence of warfare during this interval (Jeter 2012). Chiefdoms are unstable political entities and warfare was apparently constant. In addition to palisaded villages, archaeologists have found trauma on human remains that indicate violent death, weapons of war, and images of violence painted on pottery or expressed in figurines (Alt 2008; Dye 2004). These vivid images include bound captives and people being clubbed to death or decapitated. Clearly warfare and captive-taking were long-standing practices in the southeast.

Like the northwest coast, “freedom” for a southeastern captive meant being offered a place in one of the matrilineal clans that made up the society. Like the Comanche (and unlike the northwest coast), this *was* a possibility for some captives and for the same reasons – lack of restricted resources and desire for more group members. Women had important roles in deciding the fate of the prisoners. When they were brought back to their captor’s community, captives were inspected and sorted by high-ranking women who decided who would live and who would die, who would be adopted and who enslaved (Snyder 2010: 93). Male captives were more often killed or enslaved and women and children more often adopted, but a captive of any age or sex could face any of these outcomes. Women in the southeast did most of the horticultural work and slaves, regardless of sex, could be put to work in the fields where they increased the agricultural productivity of their captors. Slave status was not passed on to the children of slaves.

Like the “dried fish slaves” of the northwest coast, the southeastern chiefdoms had a low-ranking strata of commoners who represented remnant groups that had been incorporated into more successful societies (Snyder 2010: 114–122). Snyder (2010) describes this practice during the colonial era when disease, warfare, and dislocation decimated many indigenous southeastern chiefdoms. Yet prehistoric warfare and the impact of demographic upheavals on any small population suggest that remnant populations were likely common even prior to contact. The well-established ideology and practices that southeastern societies exhibited for incorporating outsiders

provides strong evidence that such low-status people were likely always present (Snyder 2010). The disdain that these outsiders experienced in their adopted home is evident in the names applied to them: “worthless,” “homeless,” or “slave people” (Snyder 2010: 120). Captives violently taken and enslaved in southeastern societies were not entering an egalitarian community where the socially dead would be an aberration. Southeastern chiefdoms, like other small-scale societies were acutely aware of differences in status and highly experienced in the business of determining who would be allowed inside the group and remain socially alive and who was to be kept outside or become socially dead.

Women in southeastern societies were not without power and influence and they not only had a role in creating the slaves who lived among them, but also benefited from slaves’ presence. The fundamental social unit in the southeast was the matrilineal lineage (Hudson 1976: 189). While men retain superior status and power in all matrilineal societies, women were not without impact in the social arena in the southeast. In matrilineal societies women from the same kin group live together and recruit husbands from other clans, meaning that related women living together in the same house begin with a significant social advantage not available to the unrelated men who marry in. In the historic southeast, women occupied positions of honor in their societies and among the Creeks and Cherokee, high-status “beloved women” wielded considerable influence (Hudson 1976: 186–187). It was such women who determined the fate of captives (Snyder 2010: 93). During the Mississippian period women may have had considerably more power than they did in the historic period. The first Spanish expedition to explore the southeast described a female chief in the town of *Cofitachequi* (thought to be located in modern South Carolina; Anderson 1994: 58), who traveled with her “female slaves” (Bourne 1904: 70). When she went to greet the Spanish, she was carried on a litter and had a retainer who carried a special stool for her to sit on (Hudson 1976: 110). Similarly, among the Calusa of Florida, enslaved female captives acted as retainers for high-ranking women, accompanying them everywhere and attending to all of their needs. Far from seeing in slaves a lack of freedom that they themselves experienced, such women must have received considerable benefit from the slaves they controlled.

Conclusions

The ethnohistoric examples presented here suggest that social status, beyond that conferred by age and sex, was a fundamental element of a significant number of small-scale societies in North America. Far from being surprised or baffled by the introduction of a slave into such societies, the members of such groups were accustomed to evaluating the status of everyone in their community. Even the numerically tiny Tutchone had had high- and low-status families. The fundamental glue that held such groups together was kinship, whether real or fictive, and slaves captured from another group were easily categorized as outsiders, beyond the pale of humanity. As kinless slaves they were, in Patterson’s (1982) powerful expression, socially dead.

In many of these societies, archaeological evidence and other data suggest that warfare, captive-taking, and enslavement were common long before European contact.

In the small-scale societies described here there was no concept of “freedom.” A slave could escape her social death only by fleeing back into the society of the group she left or through incorporation into the society of her captors. Among the peoples of the northwest coast, such transformations were extremely rare and may have been essentially impossible until after European contact. Although little evidence is available, the situation was likely the same among the Tutchone. More options were open to captives of the Comanche and the chiefdoms of the southeast, where marriage or adoption were avenues for incorporation, but many women, children, and men still became slaves. The reasons that some small-scale societies created avenues for incorporation while others did not has to do, at least partially, with sources of wealth (Watson 1980: 11–13). High-status people on the northwest coast and among the Tutchone controlled vital resource procurement areas, especially prime fishing locations. Expanding kinship rights to slaves would give those slaves access to restricted resources and would dilute the power of the elite people who owned them. In the areas where the southeastern chiefdoms and the Comanche operated, resources were less restricted. The prevalence of warfare meant that increased group size had significant advantages in terms of the number of warriors the group could muster (Hämäläinen 2008; Snyder 2010). Other factors, including group ideology and attitudes toward outsiders also played a role in whether avenues toward incorporation should be offered to captives (e.g. Santos-Granero 2009).

I attempted to evaluate whether Patterson’s (1991) idea that women in state-level societies were the first to recognize the value of the concept of freedom applies to small-scale societies as well. In each of the four groups at least some women, those occupying the most prominent positions, would have been empowered by the presence of slaves under their control and likely as invested in the existing system of stratification as were their husbands. Yet in order to give full consideration to the application of Patterson’s idea, we should also consider the attitudes of other women who did not occupy high-status positions. While these women lived more difficult lives than those women above them in status, the presence of slaves in small-scale societies raised everyone’s status and likely lightened, to some extent, the workload of even low-status women. Although evidence is lacking, I wonder whether even these low-status women would question the stratified system in which they lived.

Orlando Patterson’s *Slavery and Social Death: A Comparative Study* (1982) transformed the study of slavery and continues, more than thirty years after its publication, to be highly influential. The recent focus on slavery in small-scale societies provides an opportunity to reevaluate some of Patterson’s ideas about these groups, especially those in his subsequent *Freedom in the Making of Western Culture* (1991) regarding how the slave and the slave–master relationship would be tolerated in such societies. The comparative approach used here is modeled on and inspired by Patterson’s compelling methods.

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Rituals of Enslavement and Markers of Servitude: Orlando Patterson in the American Tropics

FERNANDO SANTOS-GRANERO

In a now famous essay entitled *Of Torture in Primitive Societies* – originally published in 1974 – Pierre Clastres argued that indigenous initiation rituals always revolve around the marking and transformation of the initiates’ bodies. “It is the body in its immediacy” – he contended– “that the society appoints as the only space that lends to bearing the sign of *time*, the trace of a *passage*, and the allotment of a destiny” (Clastres 1998a: 180). The marking of the initiates’ bodies, he further argued, always entails some degree of “torture.” Clastres is not very precise about what he means by torture in this context, but it is clear that what he has in mind is not torture in the sense of inflicting pain “as a means of hatred or revenge, or as a means of extortion,” but rather a more morally neutral notion of torture, understood simply as the infliction of “severe or excruciating pain or suffering (of body or mind)” (Onions 1974: 2.2331). The examples he provides, involving the painful scarification and piercing of the backs, chests, legs, arms, and genitals of initiates, can be clearly considered as an instance of torture in this latter sense. Clastres does not back his argument with a wide range of ethnographic examples, but we know from the past and present ethnographic record that these and other forms of physical torment – such as subjecting initiates to tattooing with spines, stinging by various poisonous ants and wasps, whipping with lashes or nettles, or rubbing wounds with poisonous or burning substances – were, and in some cases continue to be, extremely common in relation to initiation rituals in native tropical America.¹

According to Clastres, initiates are made to suffer to prove their courage and personal worth. By undergoing torture without betraying pain they demonstrate

On Human Bondage: After Slavery and Social Death, First Edition.

Edited by John Bodel and Walter Scheidel.

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their readiness to achieve a new, more mature, social status. In addition, the modification of their bodies in collective public ceremonies marks them as fellow tribespeople. Through ritual torture initiates are reminded, “You are one of us, and you will not forget it” (Clastres 1998a: 184). Clastres argues, however, that indigenous ritual torture is not only meant to put to the test the initiates’ valor or to mark them as members of the tribe. More importantly – and this is his main argument – the cruelty involved in the marking of the initiates’ bodies is fundamentally meant to imprint on them indelibly a vital civic lesson; a lesson whose main message, according to Clastres (1998a: 186), is: “You are one of us. Each one of you is like us; each one of you is like the others. [...] None of you is less than us; none of you is more than us. *And you will never be able to forget it*” (original emphasis).

Clastres’ argument on the social significance of indigenous ritual torture is in accordance with his particular view of tropical forest societies as “societies against the state,” that is, as egalitarian societies striving to keep in check the social forces leading to centralized and hierarchical forms of power and authority. What distinguishes most native tropical American societies is, in his view, “their sense of democracy and taste for equality” (Clastres 1998b: 28). In this chapter I contend that Clastres is right in stating that in indigenous societies the body is the most important means for the inscription of social knowledge. He is also right in asserting that such inscription of the body often takes places in the form of torture during rituals of passage. I disagree, however, in that the message imparted through ritual torture is one whose main objective is to stress tribal membership and social equality.

I argue that the kind of indigenous societies Clastres had in mind when he elaborated his society-against-the-state theory were societies extremely modified by centuries of foreign diseases, encroachment, displacement, genocidal policies, enslavement, and marginalization. They were the stubborn remnants of their former selves. Even those isolated peoples who were thought to have escaped the horrors of contact with European agents were subsequently discovered to be regressive survivors of such processes, experienced in a more or less remote past. By the time Clastres elaborated his theory, powerful paramount chiefs, regional confederations, large political centers, elaborate temple ceremonies, extensive public earthworks, and native forms of servitude² – including slavery – had ceased to exist (see Heckenberger 2003). Consequently, these features – attested to by abundant archaeological and historical evidence – were ignored, or simply disregarded as being the exaggerations of overly enthusiast European adventurers eager to impress their royal patrons.

In this chapter I analyze the role of ritual torture in three native tropical American societies, which, at the time of contact,³ practiced large-scale raiding and enslavement of enemy peoples and presented important signs of social stratification and supralocal forms of authority: the Kalinago of the Lesser Antilles, the Conibo of eastern Peru, and the Guaicurú of the Grand Chaco. I argue that in these societies war captives – mostly young women and children since adult men and older women were generally killed – were not integrated immediately as wives or adoptive

children, but were rather marked and retained as slaves. This was achieved through what Orlando Patterson (1982: 8–9) called “rituals of enslavement.” “Masters all over the world,” Patterson argued, “used special rituals of enslavement upon first acquiring slaves: the symbolism of naming, of clothing, of hairstyle, of language, and of body marks.” The objective of these rituals, he claimed, was “to give symbolic expression to the slave’s social death and new status” (Patterson 1982: 53). As will become apparent in the following discussion, Patterson’s comparative analysis of the processes of de-socialization and de-personification involved in the making of slaves continues to be a powerful instrument to understand indigenous forms of slavery in tropical America. Rituals of enslavement can be regarded as the opposite of tribal initiation rites. Rather than stressing social membership and equality, they were meant to set captives apart as alien, less-than-human, and inferior subordinates. Thus, I contend, native tropical American ritual torture should not be regarded only as an inclusionary mechanism at the service of social integration and egalitarianism, but also, as Patterson argued, as an exclusionary means aimed at reinforcing marginalization and stratification in slave-making contexts.

Rituals of Enslavement

The widespread notion – based mostly on twentieth-century ethnographic information – that most indigenous raiding is aimed at taking women as wives and children to be adopted has had the unfortunate consequence of concealing the violence inherent to native raiding. More importantly, it has concealed the production of captive slaves as a social process. In many contact-time native tropical American societies war captives were not meant to be incorporated immediately into their captors’ households as concubines or adopted children. On the contrary, they were marked as being alien, inferior, and subordinate, hence, not eligible for full membership in the society of their captors. It should be noted, however, that the status of indigenous slaves was not fixed or permanent. In native tropical America, the slave condition, understood in the Pattersonian (1982: 27) sense of “a person without power, natality and honor” but also as the situation in which an individual has absolute – and socially legitimate – power over the life and body of another individual (Testart 1998: 32), was only a transitory state. Through the passage of time and after undergoing what from the captors’ point of view was considered to be a “civilizing” process, war captives – but more often their children or grandchildren – were incorporated fully into the capturing society. This social transformation, characterized by Kopytoff and Miers (1977: 22) as the “slavery-to-kinship continuum,” in no way disproves the slave condition of native tropical American war captives during most of, if not all of their lives.

As Patterson (1982) noted in his seminal work, the main feature of captive slavery is not only that the lives of war captives are alienated by their captors, but that they are “socially dead,” a condition of uprootedness, loss of identity, and disenfranchisement violently imposed upon them through war, capture, and ritual debasement.

This also holds true for native tropical America. At the time of contact, the transformation of captives into slaves in this part of the world was symbolically accomplished through elaborate rituals of enslavement and de-socialization. Aimed at de-personifying captives – depriving them of their previous identities and social personas – and re-personifying them as generic dependents (Meillassoux 1975: 21), these rituals involved various symbolic acts including the rejection by captives of their past lives and kinship ties, the imposition of new names, the marking of their bodies, and the assumption of a new status within the capturing society (Patterson 1982: 52). Ritual torture was as central in these rituals of captivity as it is in initiation rites.

Despite their new status, war captives found themselves in a limbic condition, no longer belonging to their societies of origin nor fully assimilated into the society of their captors (Vaughan 1979: 100). The fear of death that led them to captivity (Taussig 1999), and the fact that they owed their lives to their masters (Condominas 1998), marked captive slaves indelibly – in the eyes of their captors – as both inferior and marginal. In tropical America, this stigma – which generally persisted long after captives or their descendants had lost their slave status and had been assimilated into the capturing society – was expressed in a variety of linguistic and bodily markers.

The terms used by members of slaving societies to refer to captive slaves were multivocal and could be used alternatively to designate “strangers,” “enemies,” and “captives” (see below). This suggests that at least in some indigenous world-views all strangers were considered to be potential enemies, and all enemies potential slaves. Noting that a similar logic operated in ancient Rome, where the term *hostis* meant “stranger,” “enemy,” and “virtual slave,” Lévy-Bruhl (1931: 7, 10) argued that slavery should not be regarded simply as a juridical relationship, but that it contained an ethnic dimension that made the servile relationship indelible.

This is also true for native tropical America, where exo-slavery – the capture and enslavement of people belonging to other indigenous societies – was the predominant form of extreme dependency.⁴ Members of slaving societies considered their enemies closer to the animal sphere and thus as less human than themselves. The alleged lack of humanity of their enemies is expressed in a series of reference terms, metaphors, and myths, which captors used to justify raiding and enslaving them (see below). In some instances, these indigenous representations are coupled with a hierarchical gendered imagery in which masters are seen as occupying a masculine position, whereas subordinates occupy a feminine one. In other instances, they go hand in hand with metaphors that equate war captives to the young of killed game adopted as “pets” by the killers of their parents (see Fausto 1999).

The following examples – taken from widely distant geographical and cultural areas – provide abundant evidence of the linguistic and bodily markers used to denote the subordinate status of war captives in native tropical American slaving societies.⁵ They show that, from an indigenous perspective, captive slaves were alien peoples in the process of being civilized.

The Kalinago of the Lesser Antilles

Kalinago people, inhabiting the Lesser Antilles and speaking a hybrid language with an Arawakan substratum modified by important Cariban influences, were contacted in 1493, during Columbus' second voyage to America. Kalinago villages were composed of a group of interrelated families under the leadership of a grandfather or great-grandfather, who acted both as village and war leader (Breton 1978 [1647]: 134).⁶ In some islands village leaders recognized one or two among them as paramount chiefs with authority over several villages or over the entire island (de las Casas 1986 [1560]: 1.454; Rochefort 1666 [1658]: 313–314).

At the time of contact, the main social division in Kalinago society was that between Kalinago people and captives taken in war or obtained through trade. During the trade wind season, Kalinago warriors embarked on long-distance maritime expeditions against the Arawak-speaking peoples of the Greater Antilles and the Guiana coast. These were large-scale expeditions that could muster several dozens of war canoes, each carrying from twenty-five to thirty warriors (Anonymous 1988 [1620]: 185). Most enemy warriors and old people were killed in battle or executed after being defeated. Only a few adult men, and as many children and young women as possible, were spared and taken back to the victors' settlement.

The fate and status of these captives varied according to gender, ethnic origin, and age. Adult male indigenous captives were tormented, executed, and eaten in cannibalistic celebrations shortly after their capture. In contrast, in post-contact times, African and European male captives were excluded from this symbolic system of exchange with the enemy and put immediately to work. Indigenous boys were raised as household servants and executed when they became adults to be consumed in cannibalistic rituals (Coma 1903 [1494]: 250–251; Anonymous 1988 [1620]: 187). Young captive women were either taken as concubines by their captors, or given as maidservants to their wives (Coma 1903 [1494]: 251).

Kalinago people had a rich vocabulary to refer to enemies taken in war and kept as servitors or concubines. This vocabulary was all the more elaborate, since Kalinago language comprised female and male registers. Here I only present the male terminology. The Kalinago term for enemy is *etoutou*, or *itoto* (Rochefort 1666 [1658]: Appendix). Among the related, Carib-speaking Kali'na of Guiana this term is not only used to designate foreigners and enemies, but also prospective *poito* or sons-in-law (Whitehead 1988: 225). This semantic equivalence has been taken as an indication that war captives were not meant to become slaves, but rather to be incorporated through marriage as subordinate sons-in-law. This, however, was not the case of Kalinago people, among whom male captives were never allowed to marry Kalinago women.

Kalinago people equated war captives to animal prey. Rochefort (1666 [1658]: Appendix) asserts that one of the terms by which Kalinago masters called their captives was *niouitouli*, which he translates as "my prisoner of war." But in his dictionary Breton (1665: 390) renders the root of this term, *ioüítouli*, as "the capture that I made," in the sense of "the prey that I have hunted." Thus, the term

niouitouli could be better translated as “my prey that I have captured in war.” The differential fate of captive slaves was also marked linguistically. Male captives destined to execution were called *libínali*, whereas female and infant captives meant to be kept alive as servitors, were known as *támon* (Breton 1665: 45; 1666: 152).⁷

The ritual marking of war captives as slaves began shortly after their capture. After arriving at their captors’ village, all war prisoners were subjected to the fury, insults, and beatings of the local people, which, we are told, were to be dreaded (Labat 1724 [1705]: I(2), 11). Almost immediately, Kalinago masters proceeded to shear the hair of the female and infant captives they had taken (Anonymous 1988 [1620]: 187–188; Du Tertre 1654: 421). Never again were they allowed to grow their hair long, as both Kalinago men and women normally wore it. Thus, we are told, long hair was conceived of as a sign of “independence and liberty,” whereas short hair was regarded as a mark of servitude (Breton 1978 [1647]: 60–61).

Kalinago people cut their hair on only two occasions: at around the age of two, when children were weaned and allowed to eat fish, or whenever a spouse or close relative died (Rochefort 1666 [1658]: 340; Anonymous 1988 [1620]: 191). In the first case, the ritual cutting of hair marked the end of infancy; in the second case, it marked the end of an affinal or kinship tie. In the light of these practices, the shearing of female and infant captives must be seen as marking the end of the captives’ past lives and the obliteration of their previous social ties.

From then onwards, captives were not addressed by their names but simply as *támon*, male captive slave, or *oubéherou*, female captive slave (Anonymous 1988 [1620]: 187–188). French sources assert that, sometimes, young male captives were also addressed as *mon boucan*, “my smoked meat,” in reference to the fate that awaited them when they became adults (Chevillard 1659: 118). This contributed to the process of de-personification of war captives and their re-personification as subordinates. By refusing to use their names, Kalinago masters deprived their captives of their past identity and even of their humanity, since, we are told, the naming of a Kalinago boy or girl one month after their birth marked the beginning of their existence as human and social beings (Anonymous 1988 [1620]: 167).

At the same time, by addressing them as “my (male or female) captive slave,” Kalinago masters provided their captives with a new, generic identity as servitors. Only much later, after they had adopted Kalinago language and customs, did captives go through a second process of re-personification, and were given a personal name (Chevillard 1659: 117). However, since these names differed from those they had when they were captured, their new identity must be seen as simply one more step in the process of removing captives from their societies of origin and into the society of their captors.

In addition to being deprived of their names and having their hair cropped, in contact times captive boys were also emasculated. Reporting on Columbus’ second voyage to America, Chanca (1978 [1494]: 31) informed that when Kalinago “take any boy prisoners, they dismember them.” He claimed to have seen “three of these boys ... thus mutilated.” This was confirmed by other chroniclers who participated

in this trip such as Coma (1903 [1494]: 250) and Cúneo (1928 [1495]: 280), who affirms that in Guadeloupe he saw two adolescent boys of around fifteen years old, “who had their genital members cut close to their bellies.” Such witness information is confirmed by other later, but generally reliable sources (de las Casas 1986 [1560]: 1.370). These sources are not clear about whether captive boys were also castrated. But Ferdinand Columbus’ (1992 [1539]: 117) version of his father’s encounter with Kalinago people suggests that this might have been the case. “These men” – he says – “had had their virile members cut off, for the Caribs capture them on the other islands and castrate them, as we do to fatten capons, to improve their taste.”

It is difficult to assess the veracity of this information, but it is telling that these allegations were not directed at any other indigenous peoples within the Caribbean region and that, in general, Spanish agents seldom accused indigenous peoples of such practice – as opposed to accusations of cannibalism, sodomy, and incest, which were more generalized. The fact that at the time of the conquest of America penis excision – involving either the removal of the testes or the excision of both testes and penis – was still common under certain circumstances in the Old World, suggests that this practice was not necessarily viewed with the same horror as nowadays and, thus, that imputing it to Kalinago people was not a Spanish fabrication meant to make them look as “savages.”

If emasculation was indeed an important practice in Kalinago rituals of enslavement, by the seventeenth century it had been abandoned, for it is not reported in any other source. There is, however, evidence that Kalinago continued to cut off the penises of killed enemies, which were then thrown into the sea (Anonymous 1988 [1620]: 189). And there is plenty of evidence that Kalinago continued to execute and consume captive boys in cannibalistic rituals once they reached manhood.

Female captives were not only forbidden to grow their hair, but were not allowed to wear the *echépoulátou*, the leg bands used by Kalinago women (Breton 1978 [1647]: 62). This practice was reported very early on by Chanca (1978 [1494]: 29), who claimed that it was leg bands that allowed the Spanish to distinguish Kalinago women from female captives. *Echépoulátou* were ligatures made with cotton thread right above and below the calves, so that the latter looked puffed (see Figure 12.1). Kalinago girls were given their first leg bands after undergoing puberty initiation rituals (Labat 1724 [1705]: 1.2, 5). These cotton ligatures were protected with natural oils from getting wet, and were never taken off unless they rotted, or as a consequence of some grave accident. Kalinago women, we are told, “value these leg bands as the most beautiful of their ornaments and the most infallible sign of their freedom, and because of this they do not stand any slave to wear them” (Breton 1665: 197).

Deprived of their names, addressed only as captive slaves, and with their bodies marked by mutilations or the prohibition to wear ornaments that were the sole prerogative of their masters, war captives in Kalinago society were forced – at least during the years immediately after their capture – to lead a limbic life of alienation and marginality.



Figure 12.1 Kalinago high-ranking woman, 1600s. Source: Taylor 1888, reproduced with the permission of the US Library of Congress.

The Conibo of Eastern Peru

Conibo people, the largest and most powerful of the Panoan-speaking societies of eastern Peru, occupied both margins of the Ucayali River, from the mouth of the Tamaya in the north to that of the Mashansha in the south, as well as the lower portion of the Pachitea River. They were first contacted in 1557, when Spanish conquistador, Juan Salinas de Loyola, navigated upriver along the Ucayali and Urubamba rivers (Alès 1981). While traversing Conibo territory, Salinas found

numerous villages composed of 200–400 houses (Alès 1981: 88). Each village had its own leader, who, according to the chronicler, “were obeyed and respected much more than those downriver [along the Marañon River]” (in Alès 1981: 90).

Conibo people formed part of a heterogeneous regional power system in which they not only competed for supremacy with the equally powerful Cocama and Piro, but constantly raided their weaker semi-riverine and interfluvial neighbors. Among these, their favorite targets were fellow Panoan peoples such as the Uni (Cashibo), Amahuaca, Remo, Sensi, Capanahua, Mochobo, and Comabo, and their Arawak-speaking neighbors, the Asháninka, Ashéninka, Machiguenga, and Nomatsiguenga. Conibo regarded all their neighbors as *nabua*, a term meaning both “foreigner” and “enemy” (Anonymous 1927: 413). The action of taking captives was described by the term *yadtánqui*, to make captives, where *yadtá* means “captive,” and *áqui*, “to make” (Marqués 1931 [1800]: 143, 160). Since *yadtánqui* also means “to grab” or “seize” (Marqués 1931 [1800]: 145), the literal meaning of the root *yadtá* (captive) must be “the seized one.”

Conibo people had a second term to refer to war captives, to wit, *hiná*, which had the double meaning of “household servants” and “domesticated wild animals” (Marqués 1931 [1800]: 143; Anonymous 1927: 405). The implications of the simile between captive slaves and pets have been explored by several authors (Viveiros de Castro 1992; Menget 1996; Fausto 1999, 2001). Here I only want to stress the idea that Conibo people regarded most of their neighbors as being less human than themselves or, at least, as representing a different form of humanity, one closer to animality (DeBoer 1986: 238).

This was especially true of those peoples who did not wear tunics, and who did not practice head elongation and female circumcision, cultural practices that Conibo people regarded as the utmost signs of civilization. From a Conibo point of view, their most savage neighbors were the Panoan-speaking Uni (Cashibo), Amahuaca, Remo, Sensi, Mayoruna, and Capanahua, who went around naked, had round heads, and only in the case of the Uni practiced female circumcision. These backwoods peoples were considered to be cannibalistic, dirty, and savage. Slightly less savage were the Arawak-speaking Ashaninka, who wore tunics but did not practice head elongation and female circumcision, and Piro, who wore tunics and practiced female circumcision, but did not elongate their heads. The Pano-speaking Shipibo and Setebo, peoples who had all these practices, were considered enemies, but not savages. At the other extreme of this continuum were the Conibo, who viewed themselves as the epitome of civilization.

Most Conibo raids were directed at peoples with round heads, a situation that reminds of that found on the Pacific northwest coast, where the southern Wakashan-speaking peoples who practiced head elongation only took captives from the northern British Columbia coastal peoples who did not, and vice versa.⁸ The preferred victims of the Conibo were the “savage” peoples of the interfluvial regions. Conibo were very aware of the difficulties inherent in the process of *hináqui*, the raising or making of captive slaves and pets (Marqués 1931 [1800]: 148; Anonymous 1927: 405). Adult males were killed immediately, for Conibo warriors knew that they

would attempt to escape no matter how far away they were taken, or that they would otherwise languish and die soon thereafter (Ordinaire 1887: 288). To avoid revenge or any future proprietary claims, Conibo warriors also killed all close relatives of the young women and children they abducted (Ordinaire 1887: 288). To lessen the feeling of regret that captives might experience after being removed from their villages, Conibo raiders torched their homes. With no family or place to go back to, female and infant captives were expected to submit more readily.

As soon as Conibo raiders returned home, they dressed whatever captives they had brought with them in the Conibo manner: wraparound skirts for the women, cotton tunics for the men (Roe 1982: 84). Since most interfluvial peoples wore only string belts that left their genitals exposed – something that Conibo people abhorred as a sign of immodesty and savagery – the dressing of war captives must be considered as a civilizing act, as well as a first step in their process of social integration.

Together with this, they cut the hair bangs of female captives two fingers above their eyebrows with the double purpose of distinguishing them from true Conibo women, whose bangs reached their eyebrows, and denoting their status as “half civilized” people (Roe 1982: 84). In addition, they cut the hair of young male captives to differentiate them from Conibo warriors, who wore theirs long. If they had any, male captives were also deprived of facial hair on the grounds that they otherwise looked “ugly and monkey-like,” and resembled the hairy forest ogres of Conibo mythology (Roe 1982: 84).

In some cases, the youngest, pre-pubescent female captives were also circumcised (DeBoer 1986: 238). Female circumcision of Conibo nubile girls was carried out in large celebrations known as *ani shreati*, the great libation, after having undergone a one-year-long period of seclusion (Morin 1998: 392). Circumcision consisted of the removal of the clitoris and labia majora, and the perforation of the hymen (Stahl 1928 [1895]: 161–163). Conibo people argued that clitoris excision impeded women from developing “uncivil desires” and thus made them more “civilized.” Female circumcision was thus considered to be a sign of true Conibo womanhood. For this reason, captive women who were past puberty and could not be circumcised were regarded as being inferior and not appropriate as prospective wives.

Conibo rituals of enslavement had the purpose of marking captives both as outsiders and insiders, as ugly foreigners but also as prospective concubines or adoptive children. But most captives had physical characteristics (round heads) or cultural marks (facial tattoos, like the Remo, Capanahua, and Mayoruna) that marked them indelibly as foreigners and captives no matter how Coniboized they became. The lack of elongated heads was especially significant.

Head elongation was achieved by compressing the forehead and occiput of babies between a soft pad and a padded board during the first months of their lives. According to Stahl (1928 [1895]: 164), this practice was considered as important a feature as female circumcision in the definition of legitimate Conibo men and women, since it was believed that the flattening of the head repressed capriciousness and rebelliousness and thus induced a civil disposition. In such a context,



Figure 12.2 Conibo warrior with captive woman, mid-1800s. Source: Marcoy 1869, reproduced with the permission of the US Library of Congress.

having a round head was a sign both of captive status and of irremediable incivility (Morin 1998: 390–391). Thus, the contrast between Conibo people, with their elongated heads, beautiful tunics, and profuse decoration, and their round-headed, “naked,” and unadorned captives could not have been greater, as is well depicted in a nineteenth-century engraving by Marcoy (see Figure 12.2).

The Guaicurú of the Grand Chaco

The first Europeans to enter into contact with the Guaicurú of the Paraguayan Grand Chaco, in 1548, depicted them as having some type of dominance over neighboring populations such as the Schenne (Chané, better known as Guaná) and

Tohannos (Toyana), who were said to be their subjects “in the same way as German rustics are with respect to their lords” (Schmidel 1749 [1548]: 22). In subsequent centuries, and especially after they adopted the horse in the late 1500s or early 1600s, Guaicurú slave raiding and dominance over tributary populations became legendary.

At the time of contact, Guaicurú were located on the western margins of the Paraguay River close to where the Spanish founded the city of Asunción (Núñez Cabeza de Vaca 1585 [1544]: 76v; Techo 1897 [1673]: 2.159). They were divided into several named *cacicatos*, or chieftainships (Lozano 1733: 62; Sánchez Labrador 1910–1917 [1760]: 1.255). These chieftainships were in turn divided into *parcialidades*, or regional groups, headed by a principal chief, and into numerous *capitanías* or *tolderías*, local groups or camps led by lower-rank “captains.” The most important among the local group chiefs was recognized as paramount chief of the regional group, whereas the most important of the regional group chiefs was recognized as paramount of the chieftainship. There were no chiefs, however, with authority over the entire Guaicurú “nation.” And the number of chieftainships varied through time.

Since the first contacts, European sources pointed out the high degree of stratification of Guaicurú society (Schmidel 1749 [1548]: 21). According to these reports, Guaicurú were divided into people of chiefly status, warriors, and ordinary freemen or commoners (Lowie 1948: 348; Steward and Faron 1959: 422). The status of captive slaves, *nibotag'ipi* (Unger 1972: 89), was even lower than that of commoners, and that of the tributary Arawak-speaking Guaná – highly stratified themselves – varied according to their position in their own society.

Guaicurú people regarded themselves as superior to all their neighbors, including the Spanish and Portuguese, whom, they claimed, they had “pacified” despite their much proclaimed bravery (Sánchez Labrador 1910–1917 [1760]: 2.52–53; Serra 1845 [1803]: 204–205). For this reason, according to Portuguese chroniclers, Guaicurú people considered all other nations as their *cativeiros*, or captives, who “owed them tribute and vassalage” (Florence 1941 [1829]: 62–63).

The term that Portuguese authors translate as *cativeiros* seems to be *nibotagi*. This term designated people in a broad range of situations. It comprised individuals taken as captives in raids and intertribal wars; families or individuals from tributary populations who attached themselves as servants in Guaicurú households; people from tributary populations who were sent by their local chiefs to perform servile duties temporarily for Guaicurú high-ranking families as part of their tributary obligations; and people who had sought an alliance with the Guaicurú either to put an end to constant raiding or to avert the threat of war.

Victory rituals included the parading of handcuffed captives and the display of head trophies or scalps. Local women danced and sang around the village holding these remains, all the while praising the valor of their fathers, brothers, and husbands (Jolís 1972 [1789]: 314). There can be no doubt that one of the aims of these ceremonies was to mark captives as despised foreigners, but the sources are silent about how war captives were dealt with during the first stage of their incorporation

into the society of their captors. We know, however, that there were several ways in which war captives were marked as such to distinguish them from their Guaicurú masters.

One of the cultural practices for which Guaicurú people were renowned was that of plucking all their body and facial hair, including eyebrows and eyelashes (Prado 1839 [1795]: 28). They did this, we are told, so as “not to look like the greater rhea, to whom, they say, the Spanish resemble” (Lozano 1733: 64). In other words, they did so not to look like animals. This concern was extended to the use of the feathers of the greater rhea (*Rhea americana*) itself. Guaicurú men wore a variety of feather ornaments – headdresses, arm bands and leg bands – made of all kinds of colored feathers (Prado 1839 [1795]: 29; Lozano 1733: 65). They refused, however, to use headdresses made of greater rhea feathers. These were reserved for the making of shamanic feather fans and women’s parasols, and were the only feathers that male captives were allowed to use (Sánchez Labrador 1910–1917 [1760]: 1.214).

Given that greater rheas seem to symbolize the epitome of animality in the Guaicurú world-view, their use by captives must be regarded as marking their closeness to the sphere of animals and, thus, their less-than-human humanity. In addition, whereas to go to war Guaicurú men painted their bodies with red bixa, black genipapo, and the white flour of the *namogoligi* palm (*Acrocomia totai*), male captives were only allowed to paint their bodies with black charcoal (Sánchez Labrador 1910–1917 [1760]: 2.1.286). Thus blackened and with their crowns of greater rhea feathers, male captives looked like the antithesis of the carefully painted and profusely ornamented Guaicurú warriors.

Female captives differed from their mistresses in their facial designs and in the methods they used to apply them. Guaicurú women painted elaborate designs on their faces and bodies. The higher their rank, the more elaborate the designs. Sometimes they even tattooed their arms from their shoulders to their wrists, which among Guaicurú people was a mark of extreme nobility (Sánchez Labrador 1910–1917 [1760]: 1.285). No high ranking Guaicurú women, however, would under any circumstance tattoo their faces. Facial tattoos were considered to be “the mark of their inferiors and servants,” meaning captive slaves and Guaná household servants, but also Guaicurú commoners (Sánchez Labrador 1910–1917 [1760]: 1.285).

Sánchez Labrador (1910–1917 [1760]: 1.285) reports that female captives and low-ranking women were tattooed “from the hairline to above their eyebrows with thick black lines resembling the keys of an organ” using a fishbone and the ashes of the leaves of a certain palm. In addition, they sometimes tattooed their chins. This pattern indicating servile status was still in use fifty years later, when Hercules Florence visited the Guaicurú around 1825 and drew the portrait of a Chamacoco captive woman bought by the Commander of the Brazilian Fort of Albuquerque from her Guaicurú masters (see Figure 12.3).

Apart from these differences in personal ornamentation, Guaicurú marked their captive slaves with their own personal marks (Boggiani 1945 [1895]: 228). It is



Figure 12.3 Chamacoco slave woman, early 1800s. Source: Florence 1941, reproduced with permission of Edições Melhoramentos Limitada.

said that these marks were applied to all their personal belongings be they animals (dogs and horses) or objects (combs, smoking pipes, weaving utensils, gourds, and boxes). Sometimes, Guaicurú chiefs displayed their personal marks in flags planted in front of their tents. It is reported that personal marks were also applied to people, especially women.

Confused about this practice, some authors affirmed that Guaicurú women bore the marks of their horses on their bodies (Prado 1839 [1795]: 30). Other observers asserted that most Guaicurú women bore these marks on their chests, but claimed instead that they were the marks of the male heads of family, who “applied them to all which they possessed” (Castelnau 1850–1859 [1845]: 2.394). Boggiani (1945 [1895]: 228), who lived many years among Guaicurú people, claimed, however, that both Guaicurú chiefs and their wives had their own personal marks. This indicates that personal marks were not a male prerogative. It also suggests that Castelnau’s interpretation is wrong and that only certain women, namely captive women, were marked by their masters in such a way.

At first sight, it would seem that this custom derived from the Spanish and Portuguese practice of branding their horses. This practice would have been adopted by Guaicurú people in the late 1500s together with the horse. There is, however, strong evidence that the practice of marking people existed in America

prior to contact. Thomas Hariot (in Lorant 1965: 271), the English astronomer who in 1588 wrote a work on the native peoples of Virginia, reported that: “All inhabitants of this country have marks on their backs to show whose subjects they are and where they come from.” Among native Virginians chiefly marks signified personal allegiance and local affiliation rather than personal possession. But in other areas, such as lowland Costa Rica, it was reported early on that one of the most valuable trade items was a certain black powder obtained from burning pine wood that was used “to brand [i.e. tattoo] Indians as slaves with as much inventiveness as their masters seem fit” (Oviedo 1851 [1535]: 204). This suggests that Guaicurú marking of war captives – and especially of female captives – was a pre-colonial practice. If this is the case, we should conclude that the elaborate marks that Guaicurú branded on their horses in colonial times were inspired by the tattooing of captive slaves and other personal possessions rather than the other way around.

Markers of Servitude

As is clear from the above examples, the de-personification and re-personification of war captives often entailed the imposition of special markings on their bodies. This is consonant with the propensity of native tropical American peoples to use bodies as the main instruments to convey social and cosmological meanings (Seeger *et al.* 1979; Turner 1995), as well as the privileged means for imprinting and preserving the memory of changes of status (Clastres 1998a). It has been argued that in these societies bodily modifications do not “symbolize” changes in social identity, but rather that corporeal transformations and transformations of social position are one and the same process (Viveiros de Castro 1979: 40–41). For this reason, the inscription and transformation of bodies is a central aspect of all indigenous initiation rituals. But precisely because bodies constitute the main instrument to denote changes in social position, native tropical Americans also privilege them to mark the passage from personal autonomy to servility. Having been violently deprived of their previous social personas and identities, captives were provided with a new, servile identity through the inscription on their bodies of symbolic or actual markers of servitude and slavery.

The imprinting of servile status through what Mauss (1936) called “*les techniques du corps*,” was achieved through several means, to wit, by emphasizing those bodily marks that betrayed the foreign, less-than-human condition of war captives; by underscoring the lack of bodily marks characteristic of their captors and considered to be signs of full humanity; by prohibiting the use of items of clothing or ornaments that were the prerogative of full members of the capturing society; and, last but not least, by imposing debasing ornaments, body marks, and bodily mutilations. Although not all of these corporeal techniques can be described as forms of torture, all rituals of enslavement involved some degree of ritual torture.

Some authors have dismissed these markers of servitude as an inconsequential attempt to introduce distinguishing traits between captors and captives (Whitehead 1988: 182). This view seems to be influenced by the highly egalitarian ethos of present-day native tropical American societies, as well as by the characteristics of present-day indigenous forms of intertribal raiding. As we have seen, however, there is much more to these marks than is apparent. As long as they retained their servile status – and this often lasted their whole lives – such bodily markings identified captive slaves as different and inferior. In contrast to the bodily markings inflicted in initiation rites, which are meant to mark youngsters as belonging to their societies, these other marks were aimed at underlining the social distance existing between masters and subordinates. Paraphrasing Clastres (1998a: 184), it could thus be argued that rituals of enslavement and markers of servitude were aimed at notifying captives in unambiguous terms that “*You are not one of us, and you should never forget it.*” Thus, rather than being a means to ensure social equality and reject authoritarian notions of power, hierarchy, and submission, as Clastres (1998a: 188) has argued, in indigenous slaving societies body marks served the double purpose of signaling some people as equals, and others as subordinates.

In both cases, the symbolic modification of the body constitutes a key element in what Viveiros de Castro (1979) calls the “fabrication of bodies,” and Seeger *et al.* (1979: 4) the “social production of people.” But whereas initiation rituals produce people like us, that is, equals, the imposition of markers of servitude serves the purpose of re-personifying the de-personified captives as alien subordinates, thus institutionalizing their inequality and marginality. In the process, however, the imposition of such markers – some of which were meant to stress their difference and some to stress their similarity – produced a social hybrid: people different from us, but integrated to our society as subordinates. It is in this sense that Patterson (1982: 46) insists that slaves have the “liminal status of the institutionalized outsider.”

The above discussion should dispel any idea that the handling of war captives in the indigenous slaving societies here examined is in any way similar to that found among the ancient Tupinambá (Carneiro da Cunha and Viveiros de Castro 1985) or, more recently, among the Txicão (Menget 1988), Matis (Erikson 1993), or Parakanã (Fausto 2001). These captives were neither meant to be executed gloriously in cannibalistic rituals, nor to be swiftly assimilated into their captors’ societies. On the contrary, they were marked linguistically and physically as both captives and servants, a status which often persisted until the end of their lives and, in some cases, was even transmitted to their children (Santos-Granero 2009).

The analysis of the terms used by native tropical American slaving societies to designate subordinate or dependent people allows us to draw a second important conclusion, to wit, that almost invariably, the native terms translated by European authors as “slave” would be better translated as “captive.” The Kalinago *támon*, the Conibo *yádtá*, and the Guaicurú *nibotagi* all convey the notion of “someone seized in war, hunting or fishing,” that is, the notion of “prey.” They also imply

notions of “inferiority” and “servitude,” which would explain why Europeans rapidly equated these native terms to their concept of “slave.”” However, since in all these societies captors had the power of life and death over the people they had captured or acquired through trade, it can be asserted without doubt that native tropical American war captives were slaves at least until they were emancipated or assimilated through marriage or adoption.

It should also be noted that in all the above examples, slaving societies singled out specific neighboring peoples as enemies and potential captives. They did so by referring to them by terms that brought to mind notions of inferiority, enmity, and servility. The enemies and potential captives of the Kalinago, Conibo, and Guaicurú, were the Lokono, interfluvial Pano, and Guaná respectively. This suggests that members of indigenous slaving societies saw their preferred enemies as marked with the stigma of servitude even before they were actually defeated and subjugated. Ushique, a late nineteenth-century Conibo chief, offered an interesting rationale for this particular conception. He asserted: “Cashibo [Uni] are mostly our maroon servants who have taken to the woods; they speak our language, although badly, and we go from time to time to retrieve their offspring as they reproduce” (Stahl 1928 [1895]: 150). Similar notions are present among the Guaicurú (Serra 1845 [1803]: 204), indicating that native tropical American slaving societies saw their preferred enemies as slave-breeding or servant-breeding populations. If this is the case, the markers of servitude imposed on war captives during rituals of enslavement would only be a confirmation of a pre-existing “natural” condition. They mark, however, an important change of status, to wit, the passage from “virtual” to “actual” slave.

Indeed, in tropical America the reinforcement through a variety of ritual mechanisms of the social distance separating masters from subordinates – whether captive people, servant groups, or tributary populations – seems to have been only a way of giving material expression to what captors viewed as an original, almost essential, dissimilarity. The marking of captives’ bodies, whether actually or symbolically, by imposition or default, set them apart as less than human and inferior foreigners. This is true even in those cases in which the markings imposed were those of the capturing society, since they were always slightly deficient – shorter hair bangs, cruder facial designs, and so on.

Torture, the essence of initiation rituals according to Clastres (1998a: 182), shows in the context of indigenous rituals of enslavement its dark side. Instead of being a way of marking and celebrating initiates as equal, full members of their societies, it becomes a means for marking war captives painfully and indelibly as inferior, subordinate members of the society of their captors. In such contexts, the inscription of the body is not a condition for the “social production of people” (Seeger *et al.* 1979: 4), but rather for the social production of “non-people,” or, as Patterson (1982) has argued, for the production of “socially dead” slaves.

The widespread indigenous notions that enemy peoples are less than human, that they share traits with animal species, or that they represent a different, lesser kind of humanity, coincided with European views of “Indians” as animals, facilitating

opportunistic alliances between European slavers and slaving societies to subjugate weaker indigenous peoples. This was the case of the Kalinago, Conibo, and Guaicurú, but also of the Mundurucú, Tupinambá, and other non-slaveholding capturing societies.

This is a good example of how apparently similar indigenous and European conceptions and practices conspired to bring forth a new reality (see Whitehead 2003: x). Members of native tropical American slaving societies viewed Europeans as sharing their warrior values, notions of superiority, and contempt for weaker (less bellicose?) peoples. They believed that an alliance with them would benefit both. It is doubtful that they suspected – at least in the initial stages – that European treatment of war captives was in any way different from their own. Even less so, that Europeans considered all indigenous people as almost animals, and thus that with the passage of time they themselves would become the subject of European slave raiding.

There were, however, important differences between indigenous and European notions of slavery, not the least of which was whether they conceived of slavery as a permanent or temporal status. Although through the use of linguistic expressions, physical markers, and ritual gestures native tropical American slaving societies marked subordinates either as socially distant or as socially dead, not even the markedly alien war captives were ever considered to be total outcasts. They had a defined status, played an important role, and could be eventually assimilated into the society of their captors. Indeed, although the status of captive slaves was well defined, it was certainly not definitive. They, but more often their children, could become assimilated into their captors' society once they had adopted the language and mores of their masters, that is, when they became "civilized."

Such processes of "civilization"/"domestication" involved mind/body modifications effectuated not only through bodily practices, but also through the sharing of memories and substances, such as those described for present-day Panoan peoples (Frank 1990; Lagrou 2006). The change of status was also marked linguistically and imprinted on the bodies of former captives. Among the Kalinago, female slaves were rarely emancipated even if they were taken as concubines. Their daughters, however, were brought up as Kalinago and were thus entitled to wear the ornaments characteristic of Kalinago women. In contrast, their sons were raised as slaves and were executed and ritually eaten as soon as they reached maturity. Among the Conibo, male and female captives had no chance of ever being assimilated since they bore the physical signs of their uncivilized condition. Their children, however, whether begotten with a Conibo mate or with a fellow captive slave, were raised as Conibo. Having undergone head elongation and female circumcision, the two most important Conibo markers of a civil status, they and their descendants were considered to be fellow Conibo with all the corresponding rights. The assimilation of war captives among the Guaicurú was, in some instances, faster than among the Kalinago and Conibo. Pretty girls and handsome boys were often adopted by their captors immediately after their capture and raised together with their biological children as their own. Homely children and ugly women had a harder time, with

few possibilities of assimilation into their captors' society during their lifetimes. If they married another captive slave, in most cases their children inherited their servile status; if, on the contrary, they married a Guaicurú their offspring were always considered to be fully Guaicurú. With the passage of time, however, even the children of captive couples were fully assimilated, thanks to their personal merits or marriage links. We may thus conclude that rather than a fixed status, in native tropical America slavery was a social process. Physically marked as both outsiders and insiders, the status of captive slaves was liminal and transient, and could eventually lead to full assimilation. This characteristic lends native tropical American slavery a distinctive character when compared with slavery in the nineteenth-century American South, which, quite unfortunately, has come to be regarded by the public at large as the golden rule of slavery.

Acknowledgments

This is a revised and expanded version of an article published in *Tipiti-Journal of the Society for the Anthropology of Lowland South America* 3(2) 2005: 147–174, under the title “Amerindian Torture Revisited: Rituals of Enslavement and Markers of Servitude in Tropical America.”

Notes

- 1 Nimuendajú 1939: 72; Wagley and Galvão 1949: 82; Huxley 1957: 147–148; Murphy and Quain 1966: 84; Gregor 1980: 228; Seeger 1981: 167–168; Basso 1998: 68–69; Hugh-Jones 1988: 64, 80; Pétesch 2000: 119; Oakdale 2005: 149–150.
- 2 By servitude I understand all forms of institutionalized subjection relying mainly, but not exclusively, on physical coercion. Whereas slavery is a form of servitude, not all forms of servitude fall under the category of slavery. In contact-time tropical America other common forms of servitude adopted the form of attached servant groups and subordinated tributary populations (see Santos-Granero 2009).
- 3 By “time of contact” I mean the long period characterized by multiple, intermittent, and temporally variable phases of interaction between indigenous and European peoples that culminated in the conquest of native peoples and the settlement of their lands. In other words, it refers to the period in which a given indigenous society came into contact with Europeans, but still retained its political autonomy.
- 4 In tropical America, endo-slavery, that is, the enslavement of people belonging to one's own ethnic group, is only found in state societies such as the Aztecs, often under the form of debt slavery (Davies 1973: 81, 93).
- 5 I have consulted the earliest sources available for each case, as well as other sources produced during the period in which the societies surveyed had not yet been conquered by European colonial powers. Because the societies of the sample were located in areas disputed by more than one of these powers they were able to retain their autonomy for very long periods. In addition, because colonial powers were competing to subject these indigenous societies, they produced abundant documentation on their cultural practices.

The quality of these sources varies significantly. In order to ensure a maximum of reliability, here I have considered only data verified by more than one independent source. When this is not so, I indicate it in the text.

- 6 In all historical references included in the text the date in square brackets indicates the time in which the authors made their observations, rather than that of the first edition of their work.
- 7 It should be noted that Kalinago also had a term for servants not captured in war, or “hired servants, such as the Christians have”: *nabouyou* (Rochefort 1666 [1658]: Appendix; Breton 1666: 362). Such linguistic distinction should dispel the notion that European chroniclers mistook Kalinago “servants” for “slaves.”
- 8 MacLeod 1928: 645–647; Ruby and Brown 1993; Leland 1997; Hajda 2005.
- 9 Among the northwest coast and Plateau Indians terms translated by European chroniclers as “slave” also carried a connotation of inferiority (Ruby and Brown 1993: 27). Klamaths called captive slaves “load carriers,” Yuroks called them “bastards,” whereas Yakina called them “insignificant people.”

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Slavery from Rome to Medieval Europe and Beyond: Words, Things, and Genomes

MICHAEL McCORMICK

I, Patricius, a really uneducated sinner and the least of all the faithful, and absolutely despicable in most people's eyes, had as my father a deacon, Calpurnius, son of the late priest Potitus in the settlement of Bannaueum Tavern; he had a small farmstead nearby, where I got enslaved. I was about sixteen then. I didn't know the true God, and I got led off into slavery to Ireland with so many thousands of human beings... I was a teenager, a boy really, no beard, when I got enslaved, before I could know what to aim for or what to stay away from.¹

These words in fractured popular Latin are clearly about being nobody. They open a rare and remarkable slave narrative from the documentary wasteland of the fifth century and, like similar early medieval records, have attracted surprisingly little attention as a slave narrative (for more from Byzantine Italy, see McCormick 2001: 244–254). The late Roman named Patricius speaks to us about how he was once nobody but escaped from slavery to become a man of influence.

Captured by slave hunters in Britain as the Roman Empire collapsed, Saint Patrick was sold into slavery across the sea. The autobiographical declaration casts his personal story as one of conversion, and spiritual and physical liberation. In unanticipated ways it foreshadows slave narratives stemming from the very different world of the eighteenth-century Atlantic (Gould 2007: 13), a foreshadowing which suggests that a comparative approach to these documents might prove rewarding. After six years as a slave, a dream instructed Patrick to run away. He fled his owner

and escaped back to Britain. Of course he later decided to return and convert the pagan people who had enslaved him.

Europe's Middle Ages may seem far from the broader history of human enslavement, but Patrick's autobiography invites us to consider whether medieval slavery was weightless in the historical legacy of societies built on social death. Given the cross-cultural, comparative nature of this volume, two related sets of thoughts about slavery in this period and beyond may be of use to readers. One will highlight some lasting consequences of Europe's early slaving history, as well as a couple of recent developments in the study of slavery from Rome into the European Middle Ages. The second will take inspiration from a new initiative at Harvard, the Science of the Human Past. This nascent program seeks to bring together the power of the natural, life, and information sciences to illuminate the human past, with or without texts, and hence is particularly apt for Europe's early Middle Ages. But the new approaches may offer something to all of us, as we look at what words, things, and genomes might contribute to the analysis of slavery and its perceptions between about 400 and 1000 CE, and maybe in some other times and places as well.

The part the Middle Ages played in the universal history of slavery remains underappreciated. Yet the very word "slave" and its cognates *esclave*, *esclavo*, *schiaivo*, *der Sklave*, were likely born in the empire of Charlemagne and his successors, when the self-designation of a first great prey of European slave hunters, the pagan Slavs just east of their frontiers, came to mean "enslaved person" in western Europe (McCormick 2001: 737), at the same time that it took, apparently through Byzantium, a similar valence in Arabic (*al-ṣakālibā*; Golden *et al.* 1960–2007).

Another medieval imprint on the modern history of slavery has been detected in the economic institutions that fueled its development in the Americas. When the European Crusaders conquered the Holy Land, they took over and developed the sugar plantations of Palestine and Syria (Boas 1999: 75–76, 81). Sugar production had emerged out of the global agrarian revolution that spread new crops westward from the Indian subcontinent with the rise of the new Islamic world economy from the seventh century onward (Watson 1983; Guichard 2000). Sugar plantations helped finance the kingdom of Jerusalem's ecclesiastical institutions and the French-speaking feudal Lords of Tyre; the Crusaders profited from exporting the new sweetener to Europe in the twelfth and thirteenth centuries. When the Muslims reconquered the mainland Crusader states and their sugar plantations, export production for Europe simply shifted offshore to the Crusader kingdom of Cyprus (Heyd 1885–1886, 2: 685–687; Praver 1972: 363–364; Phillips Jr 1986).

Philip Curtin showed how the Europeans' sugar production was ultimately driven from the eastern Mediterranean to safer Atlantic waters off Africa, and to a fifteenth-century slave labor supply that was closer to the tropical environmental conditions where the slaves would be used. Starting with the plantations on São Tomé, the old Crusader institution, now transformed by late medieval capitalism and African slave power, moved ever westward toward Brazil and the Caribbean. And so the slave-powered Atlantic sugar plantation had roots in the Crusader states and the medieval Mediterranean economy (Curtin 1998: 1–57).

These are old but memorable stories. Of the many new ones that have emerged in recent years, two merit particular mention: the rewriting of the history of late Roman slavery, and renewed interest in the early medieval slave trade. The return of innovative ancient historians and archaeologists to social and economic history has changed our understanding of ancient slavery starting, for example, with Keith Hopkins in the 1970s, and continuing with the work of many of the contributors to this volume (Hopkins 1977; Bradley and Cartledge 2011). For late antiquity, Kyle Harper draws a dramatically new picture of a flourishing slave society and economy in the late Roman Empire's long fourth century (Harper 2011). Harper has brought to light hundreds of little-known Roman texts about slavery. Rigorous analysis of this and other evidence in the light of institutional economics shows, definitively, that agrarian slavery did not wither away as a crucial component of the Roman economy because Rome's legions conquered fewer slaves. On the contrary, the institution flourished in response to the demand of the late Roman Empire's urban markets, in both the western provinces and, less expectedly, in the eastern provinces as well.

Of particular importance for historians of medieval servitude, Harper indicates that large-scale agrarian slavery died out in the west in the fifth century, and in the east not long thereafter. He connects this decline to the disappearance of the markets and their demand that made Roman plantation slavery profitable (Harper 2011: 497–506). What exactly happened to the slaves themselves and slavery as an institution in the post-Roman successor states has been less clear, but it looks pretty certain that the view is unfounded that Roman slaves woke up one day as medieval serfs (Verlinden 1955, 1: 729–747; cf. Freedman 1991: 1–18, 61–65). Debate continues on the complex semantics and juridical features of early medieval slavery or unfreedom (e.g. Renard 2000), although the insight offered by Orlando Patterson during the discussions at Brown University bears repeating: if one has trouble identifying who were the slaves in a society that allowed unfreedom, one should start by looking at the very bottom of that society (cf. in general Eltis and Engerman 2011). But there is also another development in the history of slavery in western Eurasia in the first millennium worth discussing.

Over the past decade or two, we have learned that, after the late Roman Empire's economic collapse, Europe returned to demographic and economic growth considerably earlier than the year 1000 that loomed so large in an earlier generation's historiography (see, e.g. Loveluck 2013: 54–59, on rural settlement development and proliferation). With growing numbers of Europeans and, potentially, a lessening cost of labor, the rise of conquering societies such as Charlemagne's empire around 800 created conditions not for a slave society in the technical sense – markets and towns had started growing again but their demand remained underdeveloped and labor likely looked abundant – but for a slave trade. Slave taking had been an integral part of the barbarian invasions and subsequent conflicts on all sides of the battle lines (Thompson 2003: 36–37, lists more than two dozen reports of slave sales in connection with late antique conflicts; cf. Lenski 2008; Harper 2011: 83–86). At least from the sixth century, the post-Roman societies north of the Alps were exporting slaves in uncertain quantities to the Mediterranean (for this and the

following, see McCormick 2001). Exports surged and were restructured around 800, as the supply zones feeding the markets of the economically dynamic Middle East shifted from Anglo-Saxon England and western Europe to the eastern, Slavic frontiers. New trading and shipping networks formed to transport underdeveloped Europe's most valuable exports, its own people, along with furs and weapons, to the burgeoning market economies of the Muslim Middle East and North Africa. The main route ran through a new town that sprang up at the head of the Adriatic, Venice. Its initial growth was financed in no small part by Arab gold and silver acquired from those sales, and the coins themselves have left clear tracks there and in the Slavlands (McCormick 2001: 319–387 and 670–798). For the first time, new archaeological, numismatic, and written evidence lent substance and nuance to the long-discussed idea that the slave trade helped finance the origins of the European economy, and that it could be tracked in the path of exotic goods moving from Venice toward the slave markets of central Europe.

Where do we go tomorrow? Three ways of studying slavery and the slave trade in the period from about 500 to about 1000 seem particularly promising for an interdisciplinary approach to slavery in world history. The methods, if not the research projects, reflect the kind of approaches being developed by the Initiative for the Science of the Human Past at Harvard. They involve *words* – the language of slavery; the *things* of slavery as recovered by archaeology; and what we may call the *genomics* of slavery. All three – even, paradoxically, words – can help restore voice to the voiceless nobodies created by the slave trade.

The word “slave” itself underscores the power of language to clarify history. Historical linguistics recovers some distant echo of the experience of the textless peoples in the way the slave dealer's speech affected the language of his victims and suppliers. Markets were a novel enough experience for the early Germans that they borrowed many words for commercial transactions from the Latin-speakers who came into their relatively underdeveloped lands to do business with them. What kind of business is clear from the early Germanic general word meaning “to trade.” This word survives in Old English as *mangian* and in Old High German as *mangári*, and contributed to our words “fishmonger,” and “ironmonger.” It comes from the Latin *mango*, “slave trader.” In the first centuries of our era, commerce as encountered by the early Germans along the lower Rhine frontier must have involved considerable slave trading (Green 1998: 224). Nor is this eloquent borrowing lexically isolated. Behind modern German *die Kette* lies the early Germans' appropriation of the word *catena*, “chain,” which, as the early medieval glosses show, means an iron or rope device for tying up a human being (Green 1998: 210). How were slaves treated? The modern progeny of the word *captivus*, “prisoner,” a frequent synonym for “slave taken violently,” (McCormick 2001: 735–737), are sadly eloquent on this subject. This is the origin of the French *chétif*, which today means “puny,” “stunted,” “scrawny,” and in the Middle Ages, also meant “miserable,” nuances which may well testify to the poor diet meted out to the enslaved.² The shadow of slavery still hangs over everyday speech when Italians call bad weather *un cattivo tempo*.

Words by themselves speak volumes. They say even more when we can use information science to probe the conscious or unconscious semantic associations of the lexicon of slavery buried in ancient and medieval texts. I have had privileged access to the beta version of the online tool “eHumanities Desktop” developed by Bernhard Jussen with his team at the Goethe University, Frankfurt-am-Main. It furnishes a quick overview of the semantics of slavery in the *Patrologia latina*, that extraordinary nineteenth-century corpus of thousands of ancient and medieval Christian texts, written mostly between about 150 and 1200 CE. The *Patrologia latina* includes primarily religious texts, theological treatises, sermons, biblical commentaries, histories, and the like, as well as a fair number of charters, deeds, and laws. The frequency of word correlations shows that, in the minds of the church fathers, medieval writers, and authors of legal documents, “slave” (*mancipium*) evokes property (see Table 13.1).

The words most commonly coupled with *mancipium*, “slave” in these texts speak a language of power, property, and ownership: possessive pronouns (*suus*, *noster*)

Table 13.1 Twenty words that co-occur most frequently with *mancipium* in 4754 texts printed in Migne 1844–1864 according to eHumanities Desktop www.hucompute.org/ressourcen/ehumanities-desktop, accessed April 24, 2014. On this date, the occurrences of *mancipium* and its various forms totaled 1410 (the totals change slightly as the editors continue to perfect the content); many of the associated words co-occur with other associated words in the same passage, hence the percentages overlap.

<i>Lemma</i>	<i>Count</i>	<i>Percentage of co-occurrences with mancipium</i>
Ecclesia	618	43.83
Omnis	606	42.98
Suus	444	31.49
Noster	398	28.23
Aqua	398	28.23
Res	382	27.09
Deus	367	26.03
Habeo	352	24.96
Terra	347	24.61
Omnis	342	24.26
Monasterium	332	23.55
Pratum	286	20.28
Suus	252	17.87
Silva	248	17.59
Episcopus	234	16.60
Ipse	233	16.52
Vinea	233	16.52
Dico	230	16.31
Jus	211	14.96
Villa	208	14.75

and possession (*habeo*) dominate along with words relating to property or owners: *jus, res, villa, pratum, silva, vinea, aqua, terra, ecclesia, monasterium, episcopus*.

We need to be able to run this sort of quantitative lexical study on “big data,” on even more massive text databases that allow mapping of word usage over time to look for hotspots and changing associations in time and space. Ancient and medieval written sources are not quite ready for that approach: too many of these digital texts are still being closely held by commercial enterprises or have never been digitized at all (e.g. saints’ lives for feast days after November 10, where the Bollandists’ great collection of the *Acta sanctorum* ends today). Commercial services usually constrain the use of their text databases to a limited set of highly scripted interrogations that were defined by the questions scholars could envisage forty years ago, as I know well since as a graduate student in Belgium I made my living preparing texts for one of the first great databases. Before the digital age we could imagine only word searches, proximity searches, and the like, and that is all most commercially available ancient and medieval texts databases afford today. What is more, most of the commercial databases do not include the many texts that have been published outside the great corpora. Particularly underrepresented are the archival records of documentary, legal, and administrative practice, which are just as precious as the narrative and religious sources.

But modern books are ready for such approaches, thanks to a nifty tool developed by researchers including two then at Harvard, Erez Lieberman Aiden and J. B. Michel: Google Ngram Viewer, which uses over a million English-language books (Michel *et al.* 2011). In simple terms, “N-gram” is in this case computer science lingo for a search unit consisting of N number of words. Google Books Ngram Viewer produces a graph showing the frequency of occurrence of whichever words one chooses. Figure 13.1 graphs with a smoothing of three years the frequency of the words “slavery” and “emancipation” in a very large corpus of English-language books published between 1800 and 2000.³

If we remove the smoothing and limit the inquiry to the period 1800–1900, we see (Figure 13.2) year-by-year a number of peaks that appear to anticipate or correlate with major events in the history of slavery: the small peak in books with the imprint date 1806 foreshadows the British ban on the slave trade in 1807, while the 1832 peak seems to anticipate the British Slavery Abolition Act of 1833.

The two absolute peaks for “slavery” came as America moved toward Civil War in 1860, and at its crescendo, in 1864; the year of Lincoln’s Emancipation Proclamation (1863) also witnessed the highpoint of the appearance of the word “emancipation” in the Google corpus of English-language books from that year. This is assuredly a crude, first-pass use of the new tool, but it gives an idea of its potential for uncovering deeper trends in the language of texts and their hidden links to the language of life, of lived experience. I look forward to the day when some combination of tools like Google Ngram Viewer and the Frankfurt semantic database will allow us to explore the changing frequencies and correlations of the ancient and medieval lexicon of slavery, and indeed, of other words and other realities, from “hunger” to “happiness,” from “woman” to “wealth.”

Google books Ngram Viewer



Figure 13.1 The frequency of the words “slavery” and “emancipation” in English-language books published between 1800 and 2000 CE, included in Google Books Ngram Viewer: <http://books.google.com/ngrams>. Smoothing of three years. See Michel *et al.* 2011.

Google books Ngram Viewer



Figure 13.2 The frequency of the words “slavery” and “emancipation” in English-language books published between 1800 and 1900 CE, included in Google Books Ngram Viewer: <http://books.google.com/ngrams>. No smoothing. See Michel *et al.* 2011.

If online lexical tools uncover hidden patterns among words, archaeology takes us to things. Hasty interpretations of ambiguous archaeological features have come in for well-founded criticism (Bradley 2003; Scheidel 2003). But the potential seems unmistakable, especially if we foster cross-disciplinary fertilization. The more

advanced archaeology of New World slavery, for instance, is already helping to refine the strategies and methods adapted by Roman and medieval archaeologists (Webster 2005). Least controversial perhaps is the tracing of the routes of slave trading through the movements of exotic wares and merchants toward places where the traders purchased slaves (McCormick 2001: 369–379; Callmer 1996). Although the approach has been criticized, Joachim Henning developed further the project of inventorying iron shackles excavated in central Europe on the fair-seeming assumption that they are as likely to have restrained slaves as other sorts of prisoners (Henning 1992, updated in Henning 2008; organic materials also served as restraints and, of course, rarely leave traces: McCormick 2001: 741 n. 60). While there is doubtless some “noise” present in terms of shackles that were used to restrain non-enslaved prisoners, Henning’s 2008 map seems to reinforce a link with the slave trade: shackles are almost absent inside Charlemagne’s empire – where they have been found in abundance in Roman contexts – but occur instead around the frontiers in areas specializing in the slave trade, the Slavic lands, and in the Viking market towns (McCormick 2002: 175–176).

Archaeological efforts to identify dwellings of early medieval slaves hit upon the same difficulties as earlier efforts by Roman archaeologists: alone, building typologies make such identifications only possible, not inevitable.⁴ Archaeological context can remain ambiguous. For example, the circumstances of discovery of an early medieval farm at Nørre Tranders in Denmark seem suggestive. The farm was destroyed by fire; afterward someone neatly cleaned up the destroyed residential area, but left the burned barn untouched. There five individuals apparently died in the fire alongside the animals with which they slept. The barn and its occupants apparently did not deserve removal or burial. This certainly suggests that they were not of significant status or meaning to the farm owners or whoever cleaned up the destroyed residence. The unfortunate five could indeed represent the farm’s slave hands, as the excavator has suggested (Nielsen 2002, to which Dagfinn Skre kindly alerted me). But within the broad taxonomy of servility and lowest status that characterizes early medieval society, it is hard to rule out that they were temporary itinerant laborers or some other non-slave workers, such as farms have always had. We can see this in medieval Montaillou (Le Roy Ladurie 1982: 77), and maybe also at ancient Oplontis (Marzano 2007: 137).

American archaeology’s focus on the distinctive material culture of slavery emphasizes the potential of finds to take us beyond the typology of buildings to identifying “slave spaces” and illuminating life experiences that typify slavery. Thus, for the Roman period, by showing from associated finds that a barracks-like structure on the wine-producing estate of Villa Magna (Lazio, Italy) displayed clear domestic arrangements, including child burials, and a fairly distinctive material culture, Lisa Fentress and her colleagues (Fentress *et al.* 2009) have strengthened the building’s interpretation as slave quarters. If we are able to identify specific *patterns* of servile living conditions from the most securely identifiable features – including even the relative scarcity of material finds in an otherwise rich archaeological context – a typology of the physical presence of ancient and medieval slaves may yet be feasible.

Archaeology uses things to illuminate the past. But it also increasingly uses people, or at least their mortal remains. Can the archaeology of human remains identify patterns that point to enslavement? A few have claimed as much. At Herculaneum a teenaged girl used to running up stairs died protecting a well-fed, bejeweled baby; she has been identified as a slave caring for her master's child (Bisel and Bisel 2002: 464–465). Written sources tell us that slaves were sacrificed in the tombs of Viking masters, and one famous case involved the burial of two women in the Oseberg ship c. 834 CE. Shortcomings in the original excavation obscure the evidence, although preliminary ancient DNA (or aDNA) results seemed to indicate an exotic origin for the possible slave (Holck 2006). Tempting as both cases are – for they would represent the particularly elusive but widespread group of domestic slaves – they offer so far only possible, not necessary identifications as slaves. The man who died chained to his punishment post in what looks like an *ergastulum*, a private slave prison, in suburban Pompeii, seems to supply less ambiguous evidence (Marzano 2007: 153).

Individual cases appeal to the human yen for connecting with individuals and their life stories. But population studies offer a more robust evidentiary base. If it were possible to establish a population-based bioarchaeological profile for enslavement, we might hope to detect the presence and, most importantly, the demographic history of enslaved groups in specific times and places. Thoughtful studies of the experience of being nobody underscore the role of violence, exercised or threatened, in slaves' lives. Could the violence that the texts show was more or less freely visited on the serviles (Harper 2011: 225–236; cf. Galen, *De affectuum dignotione* 4.6–13 (De Boer 1937), 13.1–15.5) have left permanent traces that may help identify the remains of their abused bodies today? That would open the door to a comparative study of the biological slave experience that could also look for proportions of slaves to free individuals, the relative levels of mistreatment visited on groups or individuals, and perhaps even some aspects of the mental experience of enslavement.

A recent paper attempts to discern among an Amerindian population the physical markers of slavery and indeed, the existence and nature of slavery itself. It offers food for thought (Martin 2008). Studying a burial group of sixty-five individuals from twelfth- and thirteenth-century New Mexico, physical anthropologist Debra Martin identified in certain individuals a profile that she argues distinguishes them from other burials in the cemetery and marks them as captives who became slaves. The signs were most prominent in a group of women and included: probable exotic origin; patterned multiple cranial and post-cranial fractures (these individuals were hit, often repeatedly, on the top, front, and back of the head – rather than the left frontal area, which is where combat blows usually land); signs of extreme physical labor in the bones' muscle attachments and connected asymmetries of limb and hip proportions; poorer nutrition and higher frequencies of nutritional anemias; non-specific infections reflecting overall poor health; osteoarthritis; and a surplus of reproductive-aged females and/or children. Such skeletons occurred in non-standard mortuary contexts, that is to say these women were buried with

unusual orientations, carelessly, including sideways and face down, and they generally lacked grave goods. All these features distinguished them from the skeletons of women buried with care in the same cemetery.

Such a population-based approach seems promising. The presence of any one of these markers would mean little in terms of whether it is possible to detect slavery from mortal remains. But the convergence of most of them looks potentially powerful, especially since this profile clearly segregates these women from the other females buried in the same place. If such profiles should emerge and prove robust for other populations, and should the overall patterns be distinctive enough to withstand comparison with the ethnography of violent recidivism, for example, in the corporal punishment of children (Harrod 2012), they might allow the calculation of the changing proportions of slave vs. free populations, their specific locations in ancient and medieval urban and rural spaces, and much more. In fact Martin has argued that analysis of the specific forms of violence visited on these individuals suggests lasting, even life-long behavioral changes induced by the violence's biological impact, including facial paralysis, impaired memory and attention, and compromised language use and vision due to the brain trauma such beatings necessarily involved (Martin 2008: 172–174). Thus, we might anticipate future efforts to augment our understanding of the historical experience of slavery by uncovering the life-long biomedical impact of slavery, or at least of the violence which enslavement entailed.

“Otherness” has played a role in Martin's argument about these medieval North Americans. It has always facilitated the enslavement or other mistreatment of out-groups (e.g. Hamlin *et al.* 2013), whether we are talking about human beings or about ants, for ants are another social organism that raids and abducts young members of neighboring communities of different types of ants. They keep them in their own home nest, where the slave ants spend their lives working for the raiders' group and where, recently, they have been shown for the first time to revolt against their “masters” (Wilson 1975; Achenbach and Foitzik 2009). The biological roots of the drive to enslave are beyond my remit, but the ant behavior spotlights the role of “otherness” in the procuring of slaves.

The ebbing tide of Rome's homogenizing power left plenty of otherness in the welter of new ethnicities that proliferated across early medieval Europe. A world once populated by Romans filled with Angles, Saxons, Jutes, Irish, Franks, Bavarians, Slavs, and the like. When that otherness was geographical or even, in some cases, cultural, it can add a powerful criterion to the bioarchaeological identification of slaves. Again, Atlantic slavery has led the way: the first generation of enslaved Africans shows divergent chemical profiles of their tooth enamel, which stems from childhood, compared with their bones, which formed in later life. This reflects individuals' exposure to the sharply different environments of western Africa and the British colonies, where for instance lead intake increased notably (Corruccini *et al.* 1987), and has been shown to distinguish individuals of probable African from those of probable local birth (Schroeder *et al.* 2013). There is little doubt that, as in colonial North America, the lead levels of daily life were higher inside the

Roman Empire and must have marked Roman and non-Roman bodies accordingly. Signals deduced from ratios of stable isotopes in teeth and bones derive from the environment and can also point to non-local places of birth (Schroeder *et al.* 2009; Goodman *et al.* 2009; Fennell 2011). Beyond isotopic profiles, the recent advances in aDNA technology mean that the reliable recovery of authentic ancient genetic information from archaeological remains is increasing quickly. In cases where enslavement targeted groups of sufficient genetic difference for this kind of approach, genomics should soon become another instrument for detecting ancient populations that moved.

Again, Africa looks set to lead the way. Combining isotopic profiles from slaves' remains with genomic evidence collected from their aDNA may eventually reveal approximately where in Africa the captives were born and expand the information from slavers' logs and account books, which record typically where slaves were bought. Even better: if we can detect clear genetic profiles from the aDNA of the human remains, then it should be possible not only to follow the genomic trail backwards, toward the source population in Africa, but forwards into their descendants. It should become possible to detect not only the first individual to be introduced to the new enslaving society, but also his or her descendants, who, because they were born in the host society, display no isotopic signatures of migration.

In fact, a genomic approach does not have to be limited to the evidence in ancient populations. The DNA of our ancestors resides in our own bodies today. It is possible that the genetic traces of the forced migration of early medieval Europeans to the economic and political centers of the Islamic world live on in the genomes of modern inhabitants of North Africa and Mesopotamia, just as those of their African ancestors live on in African Americans (e.g. Bryc *et al.* 2010). Although the dating of such admixture events is still a developing field, it too is moving quickly. Harvard investigators recently uncovered signals in southern European genomes which show gene flow in the opposite direction, out of Africa into southern Europe, about fifty-five generations ago, and those signals seem to reflect a biological impact of the Arab expansion and invasions that coincided with the final collapse of the late and post-Roman societies in the western Mediterranean (Moorjani *et al.* 2011).

But the clearest case takes us back to where we started, enslaved Celts. It is the much-discussed one of modern Iceland. The written sources indicate that Celts, many, perhaps most of them slaves, and many of them women, helped to people Viking-age Iceland (Byock 2001: 140). Early genomic studies of the *modern* Icelanders' mitochondrial DNA (mtDNA) – transmitted only through the mother's line – showed a very large contribution from Ireland and Scotland: around 60% (Helgason *et al.* 2001). Of course the gold standard is what we might call genomic spade truth, that is, using biomolecular archaeology to identify isotopically and genetically the actual individuals who were enslaved and transported to Iceland, or their immediate descendants. A population analysis of the ancient mtDNA of early medieval Icelandic skeletons has confirmed the earlier results: about 65% came from Irish and Scottish women for the population of seventy-three individuals

studied (Helgason *et al.* 2009). The decreasing cost of aDNA studies should allow researchers to specify the results for a growing number of individuals, opening the door to illuminating over time the relative proportions of Celtic women's genetic contributions to different regional and social groups. One may further expect that it will become possible to draw more precise links with specific populations within early medieval Ireland and Scotland. Someday soon we can expect to draw maps of gene flows – human movements of slaves, captives, and conquerors – around the North Atlantic world around 1000 CE. Then we can compare them with the movements of other organisms, including the mice that sailed aboard Viking ships and left their own genetic imprint on the rodent populations at home and in the raiding grounds (Searle *et al.* 2009; Jones *et al.* 2012), as well as with the wood, treasure, and assorted objects that also moved around the busy seas of the medieval North Atlantic. From the powerful advances of modern science will come remarkable new insights into the destinies of countless individuals whose stories have remained unvoiced and untold since the day they died.

Looking at the development of research into slavery and slaving between Rome and the Middle Ages suggests not only the lasting impact of the ancient and medieval patterns of slavery on New World developments, but also how cross-cutting research from the New World, and from new technologies, can deepen the ancient stories of nobodies. I have highlighted just a few facets of ongoing investigations from words, things, and genomes. One thing in particular emerges clearly from the strengths and weaknesses of these various approaches. That is that one swallow does not make a summer. The most convincing advances will come from looking for patterns in populations rather than individuals. Seeking to identify bundles of criteria that identify the enslaved within and across ancient populations may make us feel at last that, through the meager power of our study, we have found a way to render some kind of voice to the voiceless, some kind of identity to the someones whose own time condemned them to being nobodies.

Notes

- 1 Saint Patrick, *Confessio*, 1 and 10, Hanson and Blanc 2007: 70.1–8 and 80.2–12: “Ego Patricius peccator rusticissimus et minimus omnium fidelium et contemptibilissimus apud plurimos patrem habui Calpornium diaconum filium quondam Potiti presbyteri, qui fuit uico †bannauem taberniae†: uillulam enim prope habuit, ubi ego capturam dedi. Annorum eram tunc fere sedecim. Deum enim uerum ignorabam et in Hiberione in captiuitate adductus sum cum tot milia hominum... Adulescens, immo paene puer imberbis, capturam dedi, antequam scirem quid adpeterem uel quid uitare debueram. Unde hodie erubesco et uehementer pertimeo denudare imperitiam meam, quia desertis breuitate sermone explicare nequeo, sicut enim spiritus gestit et animus, et sensus monstrat adfectus.” *Contemptibilissimus* is a hapax down to Patrick's time, so far as I can see from the *Thesaurus Linguae Latinae* and the BREPOLIS *Cross Database Searchtool* (both searched online March 27, 2014) and sounds very awkward, hence my translation. Commentators tend to downplay Patrick's reference to thousands of enslaved captive

- Romans (e.g. Hanson and Blanc 2007: 71 n. 5); cf. *Epistula ad Coroticum*, 14. 144.1–146.9, about the thousands of gold coins the Christian Romans of Gaul expended on ransoming baptized slaves; I do not see why a prominent eyewitness who was himself sold into slavery and was very concerned with slave-taking would not have an idea of the numbers involved for all of Britain and perhaps beyond.
- 2 I have not observed any unambiguous uses of *captivus* in this sense in Latin, although *Thesaurus Linguae Latinae*, 3.373.5 and 374.24, accessed online on April 17, 2014, notes the possibility of this interpretation for two passages in the sixth-century African poet Corippus, *Iohannidos* 7.185 and 356 (Diggle and Goodyear 1970: 151 and 157). Blaise and Chirat 1954: 132 thought that this sense could be detected in Arnobius the Younger, *Liber ad Gregoriam in Palatio constitutam* 2 (Daur 1992), 193.11–194.15, line 11: ...*tunc te exclama summi regis filiam a captiui barbari filia exhonoratam iniuste*, which seems possible; their identification of this meaning in the sixth-century translation by Pelagius, *Verba seniorum* (*Bibliotheca Hagiographica Latina* (BHL) 6527), 11, 51, *Patrologiae Cursus completus, series Latina* (PL) 73.940B: *Captive, captive, ubi curris?* is now disproven by the edition of the Greek original, *Apophthegmata patrum*, 11. 111 (Guy 2003) 196.13–14, for the Latin renders Greek *aikhmalōte*, and the old monk must be referring to the other monk being the captive of demons.
 - 3 According to Lin *et al.* 2012: 170, table 1, the total number of volumes in English included in the Ngram corpus is 4,541,627. I have not been able to determine what proportion of these books was included in the segments of the corpus of all English-language books that produced these graphs.
 - 4 For instance, Lenski 2008: 90, interprets as slave dwellings the smaller huts around long houses in the second-century CE phase of the Germanic settlement at Feddersen Wierde; the excavator is, however, considerably more cautious, generally assigning such structures more vaguely to “dependents” (*Hintersassen*): Haarnagel 1979: 316–322 and esp. 321.

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Revisiting Slavery, Property, and Social Death

ORLANDO PATTERSON

It is both an honor, and a challenge, to respond to the many excellent chapters of this volume. An author rarely has the opportunity to view others' careful assessment of his or her work over three decades after it was published. Rarer still is the opportunity to rethink ideas and claims in light of more recent scholarship, especially of the caliber presented here. My extreme surprise a few years ago, on being asked by the editors if I would participate in a conference commemorating the thirtieth anniversary of the publication of *Slavery and Social Death* led me to reflect on an earlier unexpected invitation not long after taking up residence as a visiting fellow at Wolfson College at Cambridge University in 1978. It was from Sir Moses Finley, who proposed tea at his Master's office at Darwin. He had somehow learned that I was working on the first draft of a book on comparative slavery. Not someone to waste time, he got straight to the point, queried me over the course of several well-smoked cigarettes (I smoked a pipe myself then) about my argument and methods, and, unperturbed by what, he must have quickly recognized, were huge gaps in my knowledge of ancient slavery, gently proposed how I might go about filling them. We met several times over the course of the year, both at his office and for dinners at his residence with his hospitable wife. Finley's generous intervention, especially his unsparing criticism of the first draft of *Slavery and Social Death* (and his warm approval of the second), made all the difference to the work that finally emerged. In the decades since then, I have only once experienced such unexpected generosity and attention to my work: the invitation that culminated in this volume.

My responses to the many issues raised fall under four heads. First, I wish to explore the problem of the property concept to a greater degree than attempted in *Slavery and Social Death*. I will lead into this discussion by way of a response to Lewis' spirited critique of my definition of slavery, taking account of related questions raised by Chatterjee. This discussion segues into my second theme, "Property and Slavery across Time and Societies," which reprises my continuum of slave-holding societies, between the personalistic and materialistic. Here I discuss how the different property concepts examined in the first section function at different points on the continuum. My third section, "Women and Slavery," turns to a consideration of the many intriguing issues raised by several of the authors on the subject of women and slavery. Finally, in "Revisiting Social Death" I revisit the phenomenon of social death and its relation to manumission and social life, my point of departure being John Bodell's very probing questions about the symbolic adequacy of the metaphor of social death in light of a sequential conception of slavery. My response to Bodell will prompt me to conclude with a consideration of how the symbolism of the trajectory from slavery to freedom informed the central metaphor of Christianity.

Reconsidering Property

David Lewis rejects two major definitional claims that I made: that the property concept, while certainly important, fails to properly designate a distinct category of persons, and is inadequate for any truly comparative study of slavery, since ownership, as defined in western legal systems, is either non-existent or extremely problematic in many non-western societies. He relies entirely on Tony Honoré's widely cited concept of property, which he assumes is now the accepted view among legal theorists, and he asserts that it is universally applicable. Lewis' claim that I misunderstand the western legal conception of property is somewhat related to Chatterjee's argument that I have misunderstood the classical legal Sanskrit view of property which, she assumes, differs radically from western notions of property and "is barely visible" to me. As will become clear shortly, both seem to be unaware of the complexities of the property concept in the west and the fact that it has been a bone of considerable contention among legal theorists for most of the twentieth century, a contention that has heated up in recent decades as a result of the digital and internet revolutions and advances in genetic research relating to the human body, all of which have undermined settled notions of what constitutes ownership and property.

In the most basic terms, property refers to a relationship involving three elements: a proprietor (which may be a person or collective entity), a set of rights (or, to use Hohfeldian realist language, a set of claims, powers, and/or privileges) with respect to other persons, in relation to an object, which may be tangible or intangible (Hohfeld 1913: 16–59). Beyond this point major contestations emerge: questions of who or what can be an owner and the nature of ownership, the extent, nature

and limits on these rights, the persons against whom these rights or claims are made, and, especially in recent years, the nature of the objects regarding which rights can be made.

There are four ways in which the property concept has been used in Anglo-American legal thought and common parlance. The first needs little attention: it is the colloquial layman reference to that which is owned, usually tangibles, as property, such as when a person points to his house and says, “that’s my property.” With the sole exception of the British legal theorist J. E. Penner, who recently asserted (in a deliberately contentious, but “essentially” qualified argument) that “the layman is essentially right” (Penner 2011: 275), almost no legal theorist or practitioner regards this usage as anything but colloquial.

There is, second, a broad property concept that Donald Kochan has called the “Lockean-Madisonian definition of property” (Kochan 2013: 475–482). It may be traced back to Locke (or one interpretation of Locke), but its most forceful expression comes from Madison, who opens his essay on property by contrasting his own “larger and juster meaning” with the more technical Blackstonian view as follows:

This term in its particular application means “that dominion which one man claims and exercises over the external things of the world, in exclusion of every other individual.” In its larger and juster meaning, it embraces every thing to which a man may attach a value and have a right; and which leaves to every one else the like advantage. In the former sense, a man’s land, or merchandize, or money is called his property. In the latter sense, a man has a property in his opinions and the free communication of them. He has a property of peculiar value in his religious opinions, and in the profession and practice dictated by them. He has a property very dear to him in the safety and liberty of his person. He has an equal property in the free use of his faculties and free choice of the objects on which to employ them. In a word, as a man is said to have a right to his property, he may be equally said to have a property in his rights.¹

In its quiet way, this is quite a radical view of the subject which cuts through one of the fundamental inhibitions in the Anglo-American discourse on it – the fact that the concept naturally extends to the idea of having a property in aspects of one’s and others’ person. As the eminent British legal anthropologist Dame Marilyn Strathern has tersely observed, western property law “is surrounded by assumptions that act out the idea that one can have property in persons, or aspects of persons, even though the law is built on its denial” (Strathern 2005: 136). Madison’s view, as Kochan correctly notes, also erodes the traditional textbook distinction between property and contract. These factors explain why, in spite of Madison’s and Locke’s eminence, this view of property is not widely acknowledged.

The third major property concept is the “more particular” one to which Madison referred, the *locus classicus* of which is Blackstone’s definition: “the right of property, or that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe” (Blackstone 1775: 2). This was the dominant meaning among professional legal theorists and practitioners in the Anglo-American world up to

the late 1880s when it was challenged by the fourth set of legal conceptions. However, it persists today in one important strand of legal theory that emphasizes the right to exclude as the most critical and necessary element in defining property, theorists varying in what ancillary factors are deemed also important (Merrill and Smith 2007).

Toward the end of the nineteenth century this classical view was sharply challenged by realist and progressive thinkers, and, during the twentieth century, by law and economics theorists, who advanced an alternate bundle-of-rights view of property, sometimes called the “bundle of sticks” view, as part of a broader intellectual assault on the rampant *laissez faire* ideology of their day (Fried 1998). Jane Baron has recently summed it up as follows:

In contrast [to Blackstonian absolutist view] the bundle-of-rights metaphor emphasizes that property is not “sole dominion,” but involves, in many cases, only relatively better rights. The bundle metaphor also highlights that property involves not just “one man” and his “external things,” but multiple parties tied together in relationships that are social as well as legal. Seen as a bundle of rights, property is not monolithic but is composed of pieces (sometimes called “sticks”) that are combined together but can be disentangled. Property is not about the connection between people and things, but about the connections between and among people.²

Bundle theorists are a varied bunch. Several have argued that there is a basic distinction among them between “essentialists,” who claim their bundle of attributes constitutes one unified, correct, and universally applicable meaning of property, and nominalists, who hold that there is no defining element or universally applicable meaning of the term “property,” its identification being entirely a function of context and social convention, often involving the use of different words (Merrill 2011: 247–254; Munzer 2011: 265–273). The difference is so great between the two, however, that it makes little sense including them under the same rubric; the only thing they have in common is their emphasis on a bundle of attributes, or sticks, instead of a single factor, such as exclusion, in talking of property. All genuine bundle theorists are nominalists or contextualists, and many of the criticisms aimed at bundle theory are more properly confined to the essentialists. Be that as it may, Honoré is squarely located in the essentialist category of theorists, his bundle of eleven sticks summarized in Lewis’ chapter. His taxonomy has been criticized by both so-called nominalist bundle theorists and by critics of bundle theory. Thus Claeys, a critic of bundle theorists, finds that his “taxonomy simply begs the question why rights to possess, use, or transfer a thing are property rights. Honoré’s taxonomy assumes an integrated conception of property without supplying one” (Claeys 2011: 205–214). Another criticism comes from the exclusionist theorist, Merrill, co-author of currently one of the most respected textbooks in the law of property, who is concerned “whether we attach the label ‘property’ to the whole bundle or to each of the sticks,” and, of even greater concern to exclusionists, whether “at least one stick is essential or all sticks are optional.” Taxonomies such

as Honoré's, he writes, "[do] not answer this question and provides no assistance about how to answer it" (Merrill 2011). Another criticism, while aimed at all bundlers, is especially damaging to essentialists such as Honoré – that his bundle of attributes is too atomistic, and neglects the critical factor of relations between elements: it "treats property in atom-counting fashion. It sees property as a bundle of sticks but misses the trees, not to mention the forest" (Smith 2011: 279–291). The most serious criticism, however, is the fact that Honoré's bundle of rights, to the degree that it is useful, is of relevance only to one kind of economic system and, more particularly, one period of capitalist development. It fails as taxonomy in all but a few pre-capitalist systems, and is of little use in understanding the new forms of wealth generated by post-industrial economies. Tom Grey, the distinguished Stanford legal theorist, has pointed out that thing-focused views of property and ownership worked well in economies where the predominant forms of wealth were land and tangible objects. This was true of the agrarian phase of capitalism as well as early industrialism up to about the third quarter of the nineteenth century. I would add to this pre-capitalist economic systems with highly developed commodity production, most notably ancient Rome, and possibly the urban and mining sectors of classical Greece, as well as the more advanced economies of the Near East and eastern societies (Scheidel 2012a; Finley 1953, 1978). Honoré's taxonomy is, if anything, an improvement on the earlier Blackstonian exclusivist conception of property for such systems. However, with the rise of mature industrialism in the late nineteenth century, more and more wealth was created in exchange rather than tangible commodities, and by new forms of enterprises involving radically new forms of entitlement. It was to meet the challenge of this later phase of mature capitalism, Grey argued, as well as the severe moral and distributional problems it created, that the realists and progressive legal thinkers turned to non-essentialist bundle theories of property.

... the theory of property rights held by the modern specialist tends both to dissolve the notion of ownership and to eliminate any necessary connection between property rights and things. Consider ownership first. The specialist fragments the robust unitary conception of ownership into a more shadowy "bundle of rights." Thus, a thing can be owned by more than one person, in which case it becomes necessary to focus on the particular limited rights each of the co-owners has with respect to the thing. Further, the notion that full ownership includes rights to do as you wish with what you own suggests that you might sell off *particular aspects* of your control – rights to certain uses, to profits from the thing, and so on. Finally, rights of use, profit, and the like can be parceled out along a temporal dimension as well – you might sell your control over your property for tomorrow to one person, for the next day to another, and so on. (Grey 1980: 69)

By the 1980s, when Grey wrote his seminal paper, a new era of capitalism, post-industrial society, was already in progress, leading to even greater fragmentation and dissolution of the traditional forms of, and related conceptions of property. But the personal computer, internet, and bio-technology revolutions were yet to

come. These were to completely shatter what was left of traditional notions of property. As the Berkeley legal theorist Peter Menell demonstrates in a recent paper, what “characterizes the intellectual property landscape” in the digital age with rapid changes in technological innovation, expressive creativity and the means for the dissemination of creative work is “disintegration” (Menell 2011).

Now, one very ironical development accompanying the digital technology revolution, with the attendant growing importance of intellectual forms of wealth, is the rise of collaborative ownership in phenomena such as crowd sourcing of venture capital and open-source software. It is remarkable that this has led to a renewed interest in patterns of co-ownership in small, kin-based societies. As Ghosh notes: “There are indeed similarities between collaborative production and non-monetary exchange in tribal societies and collaborative ownership in the digital economy, notably free software: both are based on the self-interested participation of individuals and communities linked by a complex web of rights and obligations” (Ghosh 2005: 7).

There are, indeed – which brings me to Lewis’ claim that Honoré’s conception of property fully holds for pre-capitalist, kin-based societies. It does not, and citing a few contrarian anthropologists on the subject does not alter what is now a well-established finding on the matter. What Gluckman wrote of land ownership in his classic studies of traditional Africa – that “there is not an individual item of land which a man owns for himself and by himself” but rather designated usufruct entitlements based on tribal membership which carried multiple obligations (Gluckman 1965: 294) – has been shown to be true of all kin-based societies.³ In studies of societies as far afield as the pre-conquest Maori and Bronze age Crete, scholars have found it best to simply ditch the Blackstonian property concept (Jackson and Smith 2013; Jusseret *et al.* 2013: 46–69). In fairness to Honoré, we should note that Lewis has applied his conception to societies for which he never intended it. He repeatedly made it clear in his paper that he was speaking mainly to the modern liberal concept of property, which refers to “mature” systems such as “England, France, Russia, China, and any other modern country one may care to mention.”⁴

Now, in *Slavery and Social Death* I deployed several of these meanings of property, depending on the context. In doing so, let me note, I was following the lead of M. I. Finley, who, in a paper published in 1960, was the first to draw attention to the importance of the bundle concept of property to the understanding of ancient slavery (Finley 1981:133–149, especially 148–149). When I wrote that a person has property relations in his or her spouse or that a club owner has a property relation in his athletes, not to mention the fact of someone having a property in his person, I was not only drawing on what was implicit in the bundle of rights view (or bundle of powers, on which see Patterson 1982: 20), but rejecting what Pateman calls “the fiction of separability,” which assumes that persons’ “powers capacities, abilities, skills, and talents” are separable from their owners’ bodies and, so alienated, “can become the subject of contracts and marketed as services” (Pateman 2002: 27). Not being an Anglo-American lawyer, in *Slavery and Social Death* I simply refused to suspend disbelief in this “fiction of separability.”

Property and Slavery across Time and Societies

Nowhere in *Slavery and Social Death* did I say that property was never important in defining slavery. Rather, I wrote that, in most instances, it was not sufficient to demarcate the condition, and my explanation of why this was so was couched within an extended discussion of a continuum of societies ranging between two idioms or modes of power relations between persons (see Patterson 1982: 27–32). I argued that societies may be located on a continuum between those, at one extreme, in which the basic idiom of power is personalistic, and those, at the other, in which power is derived from and expressed in materialistic terms. The distinction, which originated in Marx's famous observation on the transition from feudalism to capitalism, was more broadly extended by the anthropologist, Marshall Sahlins, as the transition from societies in which "a right to things [is] realized through a hold on persons" to those in which "a hold on persons [is] realized through a right to things" (Sahlins 1974: 28). Note, however, that these two idioms of power marked the two end points of a continuum. In extremely personalistic societies (kin-based, acephalous, tribal, and those with early state formations) I pointed out, there was no sharp distinction between slaves and free persons; indeed, in many of them the concept of the free person barely existed. The status of persons was conceived of along a single dimension of power leading to a range of statuses. Moses Finley had emphasized this point in a classic paper on the subject (Finley 1964). In the bundle of rights approach that prevailed in such societies (not called that, but this is what in fact exists as legal anthropologists have made clear), individuals differed "in the degree of power, claims, and privileges others had in them and in the counterbalancing set of claims, powers, and privileges they had in others" (Patterson 1982: 27; cf. Hoebel 1973: 58; also Friedman 1956: 175). The essence of natal rights is the experience of being embedded in the protective network of such claims or rights, however hierarchical they may be. A slave was someone who was powerless because "he had to depend exclusively on a single person for protection" (Patterson 1982: 28). The non-slave was one who was able to spread her protection over a wide number of persons through a system of countervailing power. Peter Hunt understands this clearly when, in reference to Lewis' view that natal alienation is the product of property in persons, he notes that "it may be that the classification of persons as property is a consequence of his or her social death" (Chapter 3 in this volume). My way of putting this in *Slavery and Social Death* was to argue that the slave was one who exercised no proprietary claims in others or herself: "Thus we are led back to the conclusion that property is indeed an important (though secondary) factor in defining both the legal and socioeconomic status of the slave, with this critical difference: the slave was a slave not because he was the object of property, but because he could not be the subject of property" (Patterson 1982: 28). I illustrated this with the case of the Ashanti of Ghana in *Slavery and Social Death*, but a Meccan proverb is more brutally succinct: "the slave is he who has no slave" (cited by Sersen 1985: 101).

Several of the cases discussed in this volume fall at, or near, this end of the continuum. Sanskrit property law (discussed by Chatterjee in Chapter 8 of this volume) bore remarkable similarity to the bundled property concept of most tribal as well as centralized non-western, pre-capitalist societies. Thus she writes that “since ownership of property was joint, jurists went to great lengths to protect co-ownership rights in property,” and this applied to slaves, codes relating to which “tried to balance such multiple proprietary rights of owners in their slaves along with the usufructuary rights of those who hired them or took them on loan from the owners.”

In her review of several small-scale Native American societies, Cameron found a range of marginal statuses between the extreme of slavery on the one hand, and the most connected and powerful, on the other, and confirms, with emphasis, the claim in *Slavery and Social Death* that “there was no dichotomy between slavery and freedom among such groups. The slave remained an outsider because she was not part of a kin group. Slaves ... not only created honor for their master or mistress, but also produced wealth for them; unlike state-level societies, however, wealth was not accumulated, but given away to create prestige and honor for the master” (Chapter 11: p. 211). The bundle of rights that masters or mistresses held in their slaves varied, with consequences for the degree and nature of manumission.

We find something similar in the Ancient Near East. As Heather Baker (in Chapter 1) points out, there was a range of servile statuses: “Mesopotamian world-view ... held that everyone, including the king himself, was subject to a higher authority and this relationship of subordination was expressed using the term for a common slave, *urdu*.” As among the Ashanti, “the concept of complete individual freedom is anachronistic.” Nonetheless, “cutting across these nested hierarchical relationships” there was a clear distinction between the slave and others. The master’s power over the slave was total. Slaves had families (as they did in all but the most brutal of systems) but “the master’s domination was complete and he could dispose of his slaves as he wished, regardless of their family ties.” That was because the slave had no countervailing claims and rights in others. However, while a necessary element in the condition of slavery, the relatively concentrated bundle of rights in the slave did not sufficiently define the status. Another factor defining the slave was their debasement and the parasitic dishonoring in their interaction with their masters. I was struck by Baker’s quotation from a text describing the campaign of King Esarhaddon in 673 BCE because it is an apt example of what I mean by parasitic dishonor. The vanquished enemy is not simply described as debased, but beseeches with open hands his new master “saying ‘Ahulap!’ again and again to the heroic Assur, my lord, and the praise of my heroism” (Chapter 1: 19).

Baker makes the important point that very often the only data we have on slaves come from surviving laws, and hence we should be very careful not to reflect this legal bias in our interpretations. Invariably, when the sources allow us to peer behind the veil of legal texts, we find the additional factors of natal alienation and parasitic dishonor, as illustrated above in the Neo-Assyrian text cited by Baker. Another most remarkable case in point also comes from the Ancient Near East,

some 1500 years before the Neo-Assyrian society discussed by Baker, from the Sumerian city-state of Girsu/Lagash, c. 2350 BCE. I refer to a passage in the *Instructions of Suruppak*, one of the genres known as *Mirror for Princes*, which were written advice given to young elite men by someone wise and elderly. Behind the veil of Assyrian laws, here is the wise man's let-me-tell-you-like-it-is view of slaves:

You should not buy a prostitute: she is a mouth that bites. You should not buy a house-born slave: he is a herb that makes the stomach sick. You should not buy a free man: he will always lean against the wall. You should not buy a palace slave girl: she will always be the bottom of the barrel(?). *You should rather bring down a foreign slave from the mountains, or you should bring somebody from a place where he is an alien; my son, then he will pour water for you when the sun rises and he will walk before you. He does not belong to any family, so he does not want to go to his family; he does not belong to any city, so he does not want to go to his city.* He will not ...? with you, he will not be presumptuous with you. (Black *et al.* 2006: 288, emphasis added)

There you have it. Natal alienation prescribed as the defining quality of the ideal slave, near the dawn of human civilization!

The cases of the thetes and debt-bondsmen in pre-Solonic Athens, and of the helots in Sparta, also fall at this pure bundle of rights end of the continuum although they are, as Hunt notes, complicated. In both we are faced with scanty evidence, and in such situations I, and others, have argued that the recourse to a comparative strategy is likely to be most fruitful (Patterson 2003: 289–309; Scheidel 2015: Introduction and chapter 5). We know, as Hunt points out, that in late seventh-century BCE Athens there was a “variety of different classes of peasants, slaves, or laborers in different relations with the wealthy few.” In other words, there was a range of statuses between the most powerful to the least, with diminishing bundles of rights in others and themselves and, apart from the special cases of classical Athens and Rome (which we get to shortly), it is a mistake to sharply differentiate between one status and another. As Finley sternly warned his fellow historians of antiquity: “There is a fetishism about words which must be overcome” (Finley 1981: 134). The conventional wisdom (or hypothesis) is that thetes were landless laborers, but a landless laborer would simply have been a severely indebted debt bondsman who had lost his or her land. We know from the comparative evidence on small-scale societies that this is a precarious economic situation. It is striking that Hesiod, some five to ten decades earlier, recommended hiring males without family from the group, as well as childless women, indicating that they were readily available (*Works and Days* 600–603). This attests even more to their marginality. Family and kinsmen were the foundation of Hesiod's world, as was the case in all such small-scale societies. To be a man without kin, to be a childless woman wandering about the countryside looking for work in exchange for food and shelter, was to be on the margin of servitude, indeed to be on the verge of internal expulsion – what I called extrusive natal alienation in *Slavery and*

Social Death – whatever it may have been called. It is to experience internally the otherness that is more often associated with foreign birth, a fate similar to that mentioned by McCormick (in this volume, Chapter 13) in reference to archaeological studies of slavery in medieval Europe.

Between Hesiod's time and Solon's their condition worsened. If we move forward in time there is the archeologically excavated barn in Norre Trabders in early medieval Denmark, discussed by McCormick (in this volume, Chapter 13), which had been destroyed by fire. Whoever carefully swept up the residential area afterwards did not consider it necessary to remove or bury the five unfortunate farmhands who had been burned alive in the barn. The excavator surmised that they were slaves; McCormick more cautiously notes that they were "temporary itinerant laborers or some other non-slave workers." Sound a bit like thetes, don't they? And as with the thetes one is tempted to ask: does it matter? Are we, to recall Finley, obsessing over words here? If the lives of these people were of such little consequence, if their suffering and their bodies were deserving of no honor whatsoever, if they were so totally isolated from the community where they worked (no one knowing or caring that they were missing), if they were so completely devoid of natal rights (two fundamental elements of which being that one's birth be celebrated and recorded, and one's death be mourned and registered as normal, especially in a region obsessed with the payment of wergild to kinsmen for the slightest injury), then it seems to be splitting hairs wondering if these people were or were not slaves. And the same, it seems to me, holds for the thetes.

One methodological strategy when dealing with scarce data is to search for the critical event or case. This is an observation which, if true, must hold for all others. I submit that we have such a critical case in the sale of thetes – presumably those who had fallen hopelessly into debt – into slavery abroad. The comparative data on debt servitude, both historical and contemporary, reveal that there are always some limits, however few, on the bundle of powers or rights which a creditor had over his debt-bondsman or those working for him, however destitute; and the most important of these was restraint on the creditor's capacity to dispose of the bondsman beyond his natal community, forever denying him or his kinsmen the opportunity to redeem the debt. If this happened in a single case with impunity, it is decisive evidence that all thetes and severely indebted bondsmen were considered people who could be treated as slaves. Now we know that Solon bought and brought back from foreign slavery not one, but ten such cases. It doesn't matter whether he was boasting or not, as Hunt claims. That one, much less ten members (and very likely far more since the probability of finding and redeeming people enslaved abroad approaches zero in the vast majority of known cases) of a group could have been sold into slavery abroad is compelling evidence that the group had few rights worth respecting in the reciprocating bundles of rights that constituted the socio-legal fabric of late seventh-century BCE Athens.

Add to this another critical bit of evidence: the fact that they were on the verge of revolt against their treatment. The comparative significance of this cannot be overstated. Landless laborers rarely, if ever, revolt, especially in small-scale societies.

They are too impoverished, too lacking in organizational resources, too isolated from each other in the search for work on farms scattered over the countryside, too mentally burdened with the anxieties of daily survival, to organize or seriously threaten revolt. Consider the vast numbers of farmers thrown off the land, and wandering aimlessly around the countryside as a result of the enclosure movement of Elizabethan England. There was not a rebellious peep out of them, and this was a group whose ancestors had shown themselves quite capable of revolt, the English rising of 1492 having occurred less than a century earlier. When Marx dismissed the possibility of revolutionary consciousness among peasants with his derisive description of them as “a sack of potatoes,” he would have done better to speak of landless laborers. To conclude, landless laborers don’t revolt or threaten to revolt, unless we are dealing with a group who found themselves treated as slaves even though in theory and formal designation they were supposed to be something else.

With the helots, I’m not so sure, as I already admitted in the paper mentioned by Hunt (Patterson 2003: 289–309). Sparta was one weird social contraption, not just “a unique structure in the Greek world,” as Finley noted (Finley 1981: 24) but in world history. Urging one’s youth to go hunting and butchering innocent helots at nights, or as they worked in their fields, as a way of notching up honor points, is not just one of the sickest instances of parasitic dishonoring that I know of, it is grotesquely perverse in comparative human terms. We should not let the antiquity of this bizarre little state temper our horror at the banality of their evil. That said, I must add that I can think of few social formations, the understanding of which is more in need of a bundle of rights approach to property than Sparta.⁵ Hunt has richly documented this, so there is no need to belabor the point. I also am in complete agreement with his skepticism about medievalists’ revisionist rejection of the serf category. All categories of the social universe are social constructions, and if specialists poke around at a well-established and useful category long enough, they can sometimes lose sight of the forest in their obsession with each tree, again, as Hunt comments. I also agree with Hunt’s sensible definition of serfdom.

But were the helots serfs, as Hunt argues? Elsewhere, I have proposed what I called a convergent path hypothesis, based on comparable historical situations, especially very similar developments in ancient Korea (Patterson 2003: 289–309). It is at least plausible that the Laconian helots might have been genuine slaves, conquered or brought in from outside the region, whose status over time had been elevated or huddled up to that of domiciled, semi-servile persons or harshly controlled serfs. The Messenians were likely originally free Greeks who had settled on their own in Messenia but were overtaken by the Spartans and gradually reduced to the status of semi-servile or severely constrained serfs. Hunt, oddly, makes no distinction between the Laconian and Messenian helots, although this is critical to the various explanations of helotry offered by most specialists on Sparta, a distinction reinforced by recent archaeological findings, such as the more dispersed settlement in Laconia, in contrast with the more nucleated settlements of Messenia, suggesting a partially pre-existing farming population (Luraghi and Alcock 2003, *passim*). It is significant too, that when the Messenians eventually won their freedom, they

were fully accepted by other Greeks – a normally chauvinistic lot – as fellow Greeks. However different their trajectories, I am in agreement with Hunt that the helots could, in a fuzzy way, be called serfs though, in the case of the Laconians, with very slave-like attributes, very similar to certain servile groups in early Korea and to the Ikelan farm slaves of the Tuareg. However, the peculiar context of the proto-Nazi Spartan state in which they existed made their condition unique.

In a third cluster of slave-holding societies we find a mix of the bundle of rights and more absolute *in rem* approach to slaves, depending on the occupation or disposal of the slaves and the status of their owners. This may have been the case in Europe after the late Roman Empire's collapse, no longer dark, in light of McCormick's monumental study of the period (McCormick 2002). Thanks to his work (and his contribution to this volume, Chapter 13), we now know that slave trading was alive and well from the sixth century onward through Charlemagne's empire when it surged. The slaves being traded from north of the Alps down to the Mediterranean would have been chattels in the strictest Roman sense (until they reached their destinations, where their beauty and blondness would undoubtedly have determined what kind of slave they became and their ultimate fate as well as those of their children). In the traditional societies from which they came, however, the bundle of rights approach to people would have prevailed with the typical range of statuses between the most powerful and integrated and the least so, verging into slavery. This was also the case in many of the advanced pre-modern slaveholding societies, in medieval and pre-modern Korea, Muslim South Asia and the Islamic states more generally, especially the Ottoman Empire. The military, administrative and skilled urban slaves, especially those living away from their masters, the concubines and harem slaves, and slaves who had borne their masters children, especially sons, can best be understood in bundle of rights legal terms. I do not wish to re-argue the issue of the nature of elite slavery here. Clearly, much depends on the period one is discussing. The Janissaries of the first three centuries of the Ottoman Empire were a different group from the corrupt, self-reproducing elite class increasingly engaged in non-military occupations, palace coups, and landowning from the seventeenth century till their elimination, and were slaves of the Sultan in name only. When Mamluk leaders seized power they were obviously no longer slaves, whatever their original and persisting mode of recruitment. Before such developments, a strong case can be made that elite slaves, recruited from foreign lands precisely to retain their outsider status, forbidden from self-reproducing, faithfully serving the head of state as mere extensions of his will and person, were genuine slaves, natively alienated and (in the eyes of the master's community) socially dead. The power they exercised was not *their* power, but their master's power; what was honored in their presence was not *their* honor, not something inhering in them (a fundamental quality of honor), but the person of their lord and master. This was only possible because they were slaves, the complete instruments and extensions of their master's will and person. Or, as Willis puts it: "the (Muslim) slave as alter ego becomes a manifestation of the master's self: his prestige, his status and lastly, his responsibility" (Willis 1985: 3). If, as Toledano (in this volume, Chapter 7)

and Chatterjee (in this volume, Chapter 8) suggest, elite Islamic slaves were not dishonored, indeed, exercised great honor and were esteemed in their own right, and if they were all powerful and if, further, they were not natively alienated but were free to produce their own families and, when so inclined, take off on jaunts back home to visit relatives and childhood friends, then, it seems to me, the burden of proof lies on them to demonstrate in what conceivable ways these people were slaves. I am all for fuzzy sets, but there comes a time when a cigar is no longer a cigar, real or metaphoric. Whatever the true situation with elite slaves, those at the bottom end of the hierarchy in such societies were usually property in the full Roman sense, in addition to bearing the additional defining qualities of slave status. African slave women in nineteenth-century Egypt, for example, were socially dead chattels, callously used, raped, overworked, and disposed of in lives that were nasty, brutal, and short (LaRue 2007). Throughout the Muslim world “slaves were seen to lack those attachments of lineage or genealogy which, as Sersen observes, an Arab-dominated society held in highest esteem: they were [considered] without honor, praise and identity – moved by savage and irrational instincts; swayed by animal propensities; indeed, as Farias tells us, outside civilised life, if not outside humanity itself” (Willis 1985: 3–4; cf. Sersen 1985: 92–105; Farias 1985: 27–46).

A similar mix of bundle of rights and *in rem* ownership, combined with natal alienation and dishonor in the eyes of all freeborn persons, as well as powerlessness in relation to their master, is found in the slave-holding societies of South and Central America and the Latin Caribbean up to the last third of the eighteenth century. In urban Latin America the role of the state and church in regard to slaves as well as informally institutionalized patterns of sexual relations and cohabitation between white males and black and mixed-race women, led to important attenuations of property rights in slaves. Junia Ferreira Furtado’s chapter on Brazil nicely documents that side of the “duality,” as she calls it, in which a bundle of rights conception of property applied to slaves in their relations with masters and among themselves. At the same time, some of the most extreme instances of the slave as a socially dead person treated as the absolute chattel of her master could be found in the sugar and coffee plantations as well as the mining regions of Latin America (Stein 1986).

At the materialistic end of the continuum of slave-holding societies are those in which the main forms of wealth are privately held land, commodities, and slaves. In such systems the notion of absolute ownership or dominion over things fitted well. This was particularly the case in the advanced ancient economies of classical Greece and Rome from the period of the late Republic right through to the early fifth century CE. These two economies, as Scheidel has recently shown, were very similar:

Both systems were primarily intrusive (that is, dependent on the enslavement of outsiders) and formally treated slaves as chattel; engaged in both capture and purchase; imported slaves into densely settled cores; and employed them in a wide variety of occupations in both town and country, including on slave estates. Access to land

rather than labor was the critical variable... Roman slavery effectively was Greek slavery ... an extension and adaptation of Aegean forms of slavery. (Scheidel 2012b: chapter 5)

In both there was a sharp distinction between free and slave. The free tended to shun, not so much manual labor (although this always carried some stigma), but, as Finley pointed out, laboring for others (Finley 1964; cf. Mondolfo 1952: nos 2, 5). It was in Rome, with its far more sophisticated legal tradition, that the notion of absolute property was first fully expressed as a legal principle. In Rome, I have argued, the principle developed in tandem with the growth of slavery and, by this means, “the condition of slavery was transformed into a condition of powers *in rem* ... the slave was above all a *res*, *the only human res*” (Patterson 1982: 32, emphasis in original). What this meant then, was that to become the property object of another amounted to social or, as the Romans stated it, civil death. This remarkable legal innovation was carried through with such thoroughness and sophistication that it was to remain, little changed, in western legal thought – and legal traditions influenced by the west – right down to the present. It became the way of conceptualizing property not only in the civil law countries of continental Europe whose legal traditions were directly inherited from Rome, but also in the Anglo-American world, in spite of the fact that it was somewhat at odds with the pre-modern bundle of rights view of property that had prevailed in common law. The contradiction did not present much of a problem because the Roman view actually worked better in the early and even pre-advanced industrial phases of capitalist development. It also worked extremely well in the plantation slavery of the Caribbean and the US South, which is hardly surprising since in many ways they were simply the modern replication of the ancient Roman *latifundia* slave systems that had motivated the legal principle of dominion in the first place. However, this remarkable historic synergy began to create major contradictions with the joint development of advanced industrial capitalism and equally advanced capitalistic slavery in America during the second half of the nineteenth century. How so?

To understand the contradiction one has to recognize the role of legal fictions and the degree to which one crucial category of persons refused to take them seriously, namely free persons, especially the freely born who earned their living by working for others. The problem for such persons is this: if being a slave meant being owned by another, in what sense were those who survived by laboring for another not slaves? The answer that the slave-holders and employers of free labor and their legal henchmen gave is well known: it was to develop the fiction of separability, discussed above, the fanciful, metaphysical notion of disembodied labor, and to try to persuade the “free” laborer, first, that it was only his or her disembodied labor that was being bought by the employer and that such an economic exchange constituted a contractual relationship, having nothing to do with slavery. There was only one problem: for a long time the only people who believed this piece of legal metaphysics were the owners and their hired legal theoreticians. The evidence is abundant that employed free persons in advanced slave societies

during the nineteenth century considered it spurious, especially in the more industrial parts of the economy. They saw no difference between selling their labor in order to survive and selling their bodies. During the seventeenth and eighteenth centuries, when a large proportion of the white laboring classes were either indentured servants or their descendants, the prevailing legal paradigm for non-slave labor was the Masters and Servants Act, which retained medieval notions of the employer or master having an enforceable property right in the labor of the worker or apprentice. This co-existed with a slowly emerging re-conception of the relation as a contractual one between free laborer and contractor, but in reality it hardly mattered how it was legally defined: employees could be imprisoned for failing to meet their end of the bargain, though never employers (Steinfeld 1991). In the antebellum nineteenth century, with the growth of both industrial labor in the North and large-scale plantation slavery in the South, itself deeply intertwined with the industrial system of the US North and industrializing Britain, white laborers and their leaders increasingly identified so-called “free labor” with slavery, not to mention the fact that the spread of the slave system in the southwest was seen as antithetical to the interests of workers, who considered the frontier the last best hope of independence (Foner 1995). Interestingly, some of the harshest indictment of the northern labor system as a form of slavery came from racist southern defenders of slavery, the most famous being George Fitzhugh, who wrote mockingly of the northern white laborers:

We do not know whether free laborers ever sleep. They are fools to do so; for, whilst they sleep, the wily and watchful capitalist is devising means to ensnare and exploit them. The free laborer must work or starve. He is more of a slave than the negro, because he works longer and harder for less allowance than the slave, and has no holiday, because the cares of life with him begin when its labors end. He has no liberty, and not a single right. (Fitzhugh 1857)

There was, as is well known, an ancient antecedent of this – Cicero’s contemptuous dismissal of hired laborers whose wage “is a pledge of their slavery” (*De Officiis* I. 150).⁶ However, Cicero could well feel that he had nothing to fear from the contradictory condition of the free plebs since he, like nearly all his ruling class counterparts, had all his manual, technical, business needs, and even the pedagogical needs of his children, met by slaves. Not so America between the seventeenth and the nineteenth centuries. In the seventeenth-century South, as Morgan has shown, there was a large class of indentured whites who initially saw no difference between their condition and those of the growing number of black slaves, so much so that they were prepared to revolt in common with them (Morgan 1975).

Similarly the millions of European immigrants who flooded into the factories of the rapidly expanding industrial North a hundred years later increasingly saw their condition as one of wage slavery, which was the main campaign slogan of the earliest labor movements going back to the 1820s (Gourevitch 2013). So deeply rooted was the conviction that laboring for the capitalist was a form of slavery

that the rhetoric intensified rather than abated after the abolition: “Cry it out to all you meet: we are robbed, we are maltreated, we are slaves!” raged a typical editorial in the *Journal of United Labor* of May, 1881 (Hallgrimsdottir and Benoit 2007).

The notions of absolute property rights in the person of the slave and the legal fiction of separation having failed to distinguish free laborer from slave, the slaveholders and employers of free labor had to seek additional cultural markers to define the boundary between slave and free. They did so by means of three cultural strategies: the intensification of natal alienation through the ideology of racism; the intensification of the parasitic dishonoring of the slave; and the development of shared *Herrenvolk* democracy through the principle of inclusive exclusiveness. All greatly enhanced the cultural definition of the slave as someone socially dead, the permanent outsider, the “domestic enemy.” None of these was new in kind; what was new was the extent to which they were ideologically developed and the enormous consequences for both the slaves and slave-holder class, as well as their descendants. The story of the intensification of racism, the association of African appearance with slavery, and the later nineteenth-century rise of scientific racism in which blacks came to be seen as an inferior race incapable of integration in American society are too well known to be labored here. What it meant in socio-historical terms – and nothing better makes the point that slavery can never be defined in exclusively legal terms – is that the culture of slavery persisted in the post-bellum South long after the formal abolition and passage of the Thirteenth Amendment of the US Constitution. That persisting slave culture in the Jim Crow South continued to define the ex-slave and her descendants as persons who did not belong, who had no honor that needed to be respected by white free persons, and who were so powerless that their young men could be hunted down like helots with bloodhounds, lynched and burnt alive by the thousands with impunity. Furthermore, as the remarkable study by Douglas Blackmon has recently shown, throughout the South up to as late as the 1940s, thousands of black youth were annually rounded up on trumped up vagrancy charges, made into state slaves, and placed at the unpaid service of major US companies such as US Steel (Blackmon 2008). But they were legally free.

The psycho-cultural process of parasitic dishonoring is less well understood. I explained it at some length in *Slavery and Social Death*, but it still seems to need some elaboration. In all slaveries, a major gain to the master was the enhancement of his honor in the debasement of the slave, the fact that another person was a mere extension of his self. Indeed, in many lineage based and small-scale societies this was the primary advantage of having slaves since they were often an economic burden. However, in more advanced societies with a large group of free persons who were not slave-holders and who often had to labor for their living, slavery offered an eagerly embraced psycho-cultural boon to the non-slave-holding free man: the collective enhancement of his class’ honor in the degradation of the slave class. Thus, every free white person in the slave South, no matter how poor or how hard he had to work for his living, could take pride in his whiteness, the freedom and the enhancement of his honor in the face of the dishonored slave, and his shared identity

with the powerful white elite as among those who belonged, the “beloved,” “the great ones” in the terminology of the oldest Indo-European word for the free.⁷ This is what I mean by *parasitic* dishonoring. In the middle of the nineteenth century this was codified in law when a judge ruled that a white free man was free to treat any slave with as much contempt as he cared to. The slave South, as is well known, became the land of what Bertram Wyatt-Brown called primal honor.⁸ Primal parasitic honor might be an even more accurate description.

To conclude then, in America, the most advanced capitalistic slave system in the modern world, the attempt to define the slave in neo-Roman legal terms as someone in whom there were absolute rights *in rem*, collapsed in the face of the contradictions created by the presence of a large supposedly free working class which refused to recognize the fiction of disembodied labor or the essentialist conception of property. To resolve the contradiction, the ruling classes in both North and South had to deploy the added cultural resources of chronic racism and individual as well as collective parasitic dishonoring of the slave, to augment the conception of the slave-cum-negro as a socially dead group, permanently excluded from any possibility of incorporation in the American body politic, a social death that persisted long after the abolition of individual property rights in persons, in the slave culture known as Jim Crow.

Women and Slavery

Cameron (in this volume, Chapter 11) draws attention to one other group of persons who were both the object of a distinct bundle of rights and also exercised, in varying degrees, rights of their own in others (including slaves), namely, women. I am in full agreement with her very informed and nuanced views on women in such societies. Indeed, in criticizing the absolute ownership view of slaves as things or chattels, one indicator of which being the fact that they could be bought and sold, I pointed out in *Slavery and Social Death* that women in numerous small-scale societies were, in fact, sold in marital systems where a bride price was required. This was a proprietorial transaction in every sense of the word. Nonetheless, they were in no sense whatsoever slaves. Indeed, the extent of the bride price was a measure of their honor and social value. At the same time, if the bride price was not paid, the bride’s father who incurred the debt, and even his kinsmen, may well find themselves falling into debt bondage (Reid 1983: 8–9). We can only make sense of this if we take a bundle of rights approach to transactions – the view, as quoted earlier, that “the bundle metaphor also highlights that property involves not just ‘one man’ and his ‘external things,’ but multiple parties tied together in relationships that are social as well as legal.” This is the view of property in all small-scale, especially kin-based societies. We further understand how women can be sold, and honored by the transaction, when we dismiss the western legal fiction – as the vast majority of non-western societies do – that a person’s capacities, labor, and other services can be disembodied.

At this point, let me clear up one misunderstanding. When, as Cameron points out, I observed in *Freedom in the Making of Western Culture* that free Greek women could identify with the slave condition they observed in the slaves of their household, I did not mean to suggest that they necessarily held them in sympathy or developed “fellow feelings” with them, as Cameron suggests. Rather, what free Greek women, and indeed all thoughtful free women in all slave societies, saw was, to quote an authority on ancient Greek myth, that “servile power and female power are linked” (Vidal-Naquet 1986: 211, cited by Patterson 1991: 110). We find a recognition of this linkage even among several white women diarists of the antebellum South, who nonetheless despised the black slave women forced to have sex with their husbands.⁹ The most obvious linkage for women in archaic and Homeric Greece, as in all small-scale slave-holding societies, was the fact that the overwhelming majority of slaves were women, that the first booty of warfare were women, whatever their status, and that it took only the sudden sack of a village or a city for them to find themselves in the same condition of social death as the slaves who currently served them. My favorite expression of this was uttered by the chorus of free women in Aeschylus’ earliest extant tragedy:

The heavy fate is what I fear.
 It is a woeful thing for maidens unripe,
 before the marriage rites, to tread
 this bitter journey from their homes.
 I would say that the dead
 are better off than this. (trans. Herrington 1986)

Indeed!

Cameron also questions my suggestion in *Freedom in the Making of Western Culture* that women may have been the first persons to yearn for and experience freedom as a cherished value. My argument was that in early and small-scale societies (as in most later, more advanced pre-capitalist ones), not only were women the typical slaves, but in all likelihood the only gender that could realistically entertain the possibility of manumission, usually by becoming the secondary wives or concubines of their masters.¹⁰ What her case studies demonstrate is that in most Native American tribes such incorporation was rare. However, this does not invalidate my argument that women were the first to experience freedom from slavery since she shows that even where manumission through incorporation was infrequent, such rare cases were nonetheless almost all women. She also shows that there were a few cases among North American tribes where more options were available for manumission, such as among the Comanche and the chiefdoms of the southwest and, again, it was women who mainly experienced such mobility through marriage and adoption. We find an almost identical situation in the small-scale world depicted in the Homeric epics (Finley 1965). And if, following McCormick (in this volume, Chapter 13) we move forward 1600 years to Europe’s second dark age, we find the already strong hints of the literary evidence regarding the preponderance of Celtic

women among the slaves of medieval Iceland now being increasingly confirmed by genomic studies of modern Icelanders, which suggest that some 65% were women from Ireland and Scotland.

Perhaps the most extreme example of female dis-enslavement and male exclusion is the case of the pre-Columbian Kalinago Caribs of the Caribbean discussed by Santos Granero (in this volume, Chapter 12; and by me in Patterson 1982). This was a warlike group, organized into paramount chieftainships, who were systematically raiding the more peaceable Arawakan-speaking groups of the Greater Antilles when Columbus first encountered them. Male captives were either killed outright or taken home to be executed and eaten in cannibalistic rituals later, or enslaved if children. Women on the other hand, were prized, taken in large numbers and after rituals of enslavement, including marks that permanently indicated their servile condition, incorporated as concubines, wives, and maidservants. So heavily did the Kalinago rely on captive females for partners that their language became gendered, with women speaking an Arawakan patois in addition to the Carib language of men, whereas free men only spoke Cariban.

In the most advanced societies, it is also the case that women constituted the majority of those freed. Although there were important instances such as Ottoman Galata where males were the majority among both the slave and manumitted population, in the great majority of Islamic societies women constituted the overwhelming majority of the enslaved and manumitted.¹¹ In Han China, as Barbieri-Low notes (in this volume, Chapter 6), female manumitted slaves were immediately elevated to the status of freed persons while their males were kept at a lower status of freed dependent. In Latin America, about two thirds of all freed slaves were women.¹² In the Anglophone slave regimes of the Caribbean and the US South, where manumission rates were very low, women, especially those of mixed race, were nonetheless more likely to be freed than men.¹³ In light of all this, my suggestion that women were most likely the first to realistically desire, valorize, and experience freedom as value seems not unreasonable, even though the idea and valorization of freedom would later be appropriated and reconstructed in more elaborate terms by men.

It was gratifying to read Harper's remarkable discussion of freedom (Chapter 5 in this volume), and his ingenious use of the naturalistic romances of antiquity as a kind of Rosetta Stone to tease out the ancient social ideology behind the association of freedom and female sexual honor in antiquity (this volume). The Greek word for freedom, *eleuthera*, he reminds us, means, in its most basic sense, "a free woman" or "sexually respectable woman" or one "with a claim to sexual honor." It could also mean a wife. His basic argument is "that the possession of socially recognized and publicly protected sexual honor was an essential part of the experience of personal freedom for women in the ancient world, confirming Patterson's insights." He also shows that the civic dimension of *eleuthera* – which Greek men were to construct as democracy – lay dormant in the most primeval meaning of the word, "because the capacity to reproduce the city was embedded at the heart of what it meant to be a free woman in the ancient Mediterranean." Significantly,

men first made the association explicit in the late fifth century BCE, at the very high point of Athenian democracy. The loss of chastity was equivalent to the loss of freedom or falling into the social death of slavery. The institutionalization of female sexual honor developed in tandem with the rise of slavery and the institutionalization of prostitution in the Mediterranean. The dishonoring of the prostitute – the male *parasitic* dishonoring I might add, a point emphasized by modern feminist critics of prostitution (e.g. Peterson 1993) – was so identified with the dishonoring of the slave that often the opposite of the *eleuthera* was not the slave, but the *porne*. Harper shows that this ideology of freedom, honor, and chastity, in dialectical tension with slavery, dishonor, and prostitution, persisted right through to late antiquity, and indeed was taken up and expanded by Christianity to the point where the term *eleuthera* became more and more the basic term for wife. The analysis thus confirms the constitutive association of slavery and dishonor, the gendered nature of the master–slave relationship, and the dialectical association of slavery and freedom, the central thesis of *Freedom in the Making of Western Culture*, the companion volume to *Slavery and Social Death*.

Let me, if I might, extend Harper’s discussion by adding that these associations were to persist right down to modern times in western culture. One clear line of development was in Catholic theology with the rise of the cult of the Virgin Mary, some four centuries after the birth of Christianity (Carroll 1992), who became not only a symbol of freedom from the sins of the flesh, at once perpetual virgin and mother, but from early modern times took on a more secular role as the symbol of national liberation and freedom, most notably in her iconic role as the symbol of Hungarian freedom and national identity, and as the symbol of Mexican liberation and freedom in the Virgin of Guadalupe (Brading 2003).

However, the wholly secular use of the virtuous woman as the symbol of liberty came into full flowering with the French Revolutionary figure of Marianne, though not without a symbolic struggle over the exact nature of her representation, which changed, depending on the political leanings of the party in power (Hunt 1984; Agulhon 1981). However, there were certain constants in her representation that made the link with the ancient association of female virtue and freedom clear. That Marianne echoed the Roman goddess Libertas was obvious. All representations of Marianne followed the Roman depiction of the goddess Libertas holding the liberty pole or *vindicta* and either wearing or holding aloft the *pilleus*, which was called the Phrygian or liberty cap. The Phrygian cap had been a symbol of liberty in Europe from early modern times, when it was confused with the *pilleus* that had been the symbol of manumitted Roman slaves. We are led to another important reconstruction or ideological parallel with the ancient use of this symbol by Harper’s pregnant suggestion that a fundamental aspect of the association of female virtue and freedom was the chaste woman’s capacity to reproduce the city. This is exactly what Joan Landes emphasizes in her brilliant study of the paradoxical public use of the female figure as a revolutionary symbol in the face of the relative absence of real, living women from the public sphere during this era. As in ancient Athens and Rome, Republican men required “chaste, virtuous women, whose duty was

circumscribed by their roles in the private sphere of the household.” However, women’s role during the Revolution had “public significance ... the natural role of mother widened and made of woman a mother of society.” Thus, “the good mother who loved and nourished others became a symbol of the natural order of liberty, equality and fraternity” (Landes 2003: 90–91).

As is well known, the American Statue of Liberty, a gift of the French, was derived from this revolutionary iconography. However, long before the 1888 dedication of the Statue of Liberty in the liberal North of America, there was a far closer, darker, deeply conservative reconstruction of the ancient symbolic use of the chaste female body as a symbol of freedom in the slave South. First, it should be noted that the South explicitly rejected the association of the *pilleus* with the chaste lady of liberty. When the design of the Statue of Freedom, which stands above the national Capitol, was first presented by the sculptor Thomas Crawford to the Secretary of War, Jefferson Davis – later to become President of the Confederacy – he flew into a rage and ordered the *pilleus* removed from the original design, replacing it with a military helmet, haughtily declaring that America’s “history renders it inappropriate to a people who were born free and would not be enslaved.” In this remark, Davis revealed his own background as a large-scale slaveholder from the Deep Southern slave state of Mississippi.

Perhaps the main reason he found incongruous the placing of the *pilleus* on the head of a virginal white woman was the fact that the South had long reconstructed its own version of the ancient association of the body of the virtuous, sexually pure woman with freedom. As several major studies of the subject have shown, the quintessential symbol of Southern honor, the embodiment of its *Herrenvolk* democracy, based like ancient Athens and Rome on its large-scale system of slavery, was the near sanctified body of the white woman.¹⁴ In defence of her honor, and the freedom of the white master class she represented, thousands of black men, both during and after slavery would be slaughtered and burned alive in lynchings, mentioned earlier, but which, it should be noted now, were highly ritualized acts of human sacrifice, as I have demonstrated elsewhere (Patterson 1998a:169–232).

Revisiting Social Death

John Bodell’s chapter raises several important issues concerning the concept of social death and the way it was treated in *Slavery and Social Death*. First, I wish to thank Bodell for pointing out the misguided nature of earlier attempts to criticize my study by documenting the fact that slaves had familial relations, including strong ties of real and fictive kinship. Most of the work was, in fact, devoted to a documentation of the many complex ways in which slaves related to each other and defied attempts to destroy their humanity through many strategies of resistance from dissemblance to outright subversion and rebellion. An entire section of *Slavery and Social Death* was devoted to “The slave as an active agent” (Patterson 1982: 195–205).

Bodel makes two arguments about *Slavery and Social Death*. He notes, first, that there was an apparent shift in my analysis between the earlier discussion of slavery as a condition of social death and my later analysis of slavery as a process involving the transition from a state of freedom to enslavement to social death, and eventually to rebirth into social life or freedom. When viewed as a process culminating in freedom, he argues, slavery becomes simply one state in a process and hence the metaphor of social death becomes inapt:

The latter (processural) view, if correct, calls into question the applicability, regardless of its emotive power, of the metaphor of death, a static and final state (as far as we know), to describe a situation represented by Patterson as “liminal” and figured by him as the middle stage of a three-part process.

Drawing on the monumental inscriptions of Roman freedmen, he argues that the attitude of slaves to real death serves as a way of “defying the forces of natal alienation and dishonor. Representing themselves and their kin as triumphing over death, like gods, was for slaves and ex-slaves an existential last word.”

Bodel’s second argument is really a reinforcement of the first, using, not the cultural evidence implied by the inscriptions, but the presumed sociological realities of Roman slavery, to wit, “There is abundant evidence that slavery was regarded by Roman slaves and slave owners as a temporary rather than a permanent condition.” Assuming this to be the case, he wonders how this could be reconciled with my “conception of social death as the central element, a place of ‘institutionalized liminality’, within a process that in an ideal state maintains an equilibrium of slaves moving into and out of the system.” These are interesting arguments, which, as Bodel gracefully concludes, pose issues that are matters for discussion, one that I welcome, especially because it allows me to relate the discussion of death in *Slavery and Social Death* to my later study of freedom (Patterson 1991: part 4).

My first response is to the socio-historical claim that there is abundant evidence that Roman slavery was a temporary condition, and so regarded by masters and slaves. This is what the literary evidence suggests and Bodel’s claim is consistent with what was long the consensus view. However, this view has now been seriously questioned. Recent studies based on a more rigorous analysis of available data on manumission rates, the numbers of slaves, their natural reproduction, the longevity of the system of slavery, the diminishing supply of slaves from external sources, the centrality of slaves to the Roman economy, the relative prices of male and female slaves, and inferences from comparative studies of manumission’s role in the incentive structure of slavery as well as from demographic theory, all, as Scheidel compellingly argues, lead to “the notion of a Roman imperial slave system that was sufficiently large in scale for natural reproduction to have been its most important means of maintenance and *manumission to have been fairly limited*.”¹⁵ Now, this does not mean that manumission was not highly desired and frequent in Rome. It is a well-established fact that the rate was higher than most other slave-holding societies, and the granting of citizenship was considered by contemporaries to have

been quite remarkable. What Henrik Mouritsen's exhaustive study of freedmen in Roman society shows is that every slave was encouraged to believe that freedom was a realistic possibility, made credible by the not insubstantial minority who in fact became free. This had the salutary effect, for the master, of greatly incentivizing the slave to work hard toward this possible end, and also reduced any chance of class solidarity among the slaves. The great majority, however, never made it out of slavery, and for them this "selective process would have been profoundly demoralizing" (Mouritsen 2011: 204).

What held for Rome was true of nearly all slave systems. Beyond the fact that many slaves, however hard they tried, simply lacked the skills, ambition, or energy to win the manumission race, a number of other factors intervened to prevent this outcome. For one, some slaves chose to abort the process by running away or by direct resistance, which, apart from a lucky few who were not recaptured or ended up in maroon settlements, usually led to either their execution or the permanent revocation of any chance of manumission.¹⁶ A second factor truncating the process was that the slave died of natural causes before achieving the strived for goal of manumission. A third reason, discussed by Sandra Greene (in this volume, Chapter 10) was suicide. She shows that for children, among whom the experience of natal alienation weighed especially hard, suicide and suicidal thoughts became an unconscious form of resistance, a tragic way of defying social death. In my early work on slavery in Jamaica I mentioned that slaves, after the horrors of the middle passage and the harshness and cruel uncertainties of being seasoned in a strange land, showed marked symptoms of psychological trauma and that some of them, especially Ibos from Nigeria, were considered especially prone to suicide (Patterson 1970: 138, 151–152). Finally, there are those rare cases where the trajectory runs in the reverse direction, namely, self-enslavement, comparative cases of which were discussed in *Slavery and Social Death*. Whether this proves that slavery can be a condition with honor, as Junia Furtado argues in this volume (in Chapter 9), is seriously open to question. What her case study of Joana does strongly indicate is the extremely precarious, "hand-to-mouth" condition of freed and freeborn blacks in certain parts of northern Brazil during the late eighteenth century. As I showed in *Slavery and Social Death* (130–131) free persons sold themselves into slavery for a variety of reasons: to escape poverty, as in Russia; to escape social and political isolation, as in nineteenth-century Kongo; as the only means of procuring land, as in medieval, tribal Germany; and to escape military service as in China during war-prone eras, and in Korea, especially during the Yi dynasty. In none of these cases did the reduction to slavery escape the extreme dishonor of the reduced status. If this were the case in Brazil's Para captaincy it was unique in the annals of slavery, and most certainly not "paradigmatic."

However, the sociological reality of slavery being a permanent state for most Roman slaves does not really undercut Bodel's view (and my own, stated in Patterson 1982) that the *ideology* of slavery as a process leading to freedom was an extremely important element of the Roman system of slavery (think of the persistence of the "American Dream" ideology, in spite of the nation's extreme and growing inequality). It was, as Mouritsen's own study demonstrates, a critical component of the system,

a goal and ideal encouraged by the masters and believed in by nearly all slaves and, as such, essential for the system's functioning and stability. And like all powerful ideologies, especially those partially realized by a successful minority, it was expressed in highly symbolic terms.

Thus, although incorrect in claiming that slavery was a temporary condition for most Roman slaves, Bodel's argument, viewed as an exploration of the symbolic structure of Roman slave life, still carries force and its questioning of my own symbolic analysis remains to be answered. Is the metaphor of social death inadequate for a complex metaphoric sequence that culminates in the rebirth of the slave into the social life of freedom? I don't think so, and here is why.

First – and this is critical – my use of the metaphor of social death was not, as some have claimed, entirely or even primarily an external analytic device imposed on the data of slavery to make sense of it. I am not a positivist, but one who works primarily in the phenomenological *verstehende* tradition of Max Weber. Vincent Brown only half understood my intellectual project in his assertion that the concept of social death is a “theoretical abstraction” not meant to depict the lived experience of actual slaves but was the masters' constructed notion of their ideal slave regime. The first claim is incorrect; the second concerning slave masters, is correct if he is referring to their ideology (as already discussed), but only partially so, since this ideology, as we just saw, was very much a joint construction with their slaves, desperate to get out of the condition of slavery. Contra Brown, the phenomenon of social death in *Slavery and Social Death* was not an external, objectivizing theoretical construct meant to explain slavery, but a phenomenological account of the inter-subjective life-world, the jointly constructed, lived experience of masters and slaves in their own terms. Central to that jointly produced life-world (Husserl's *Lebenswelt*: see Schütz and Luckmann 1989) was the phenomenon of social death. A metaphor, to be sure, but contrary to the common literalist view, metaphors are what we think and live by (Lakoff and Johnson 2003). As Lakoff and Johnson have powerfully shown “our most fundamental concepts – time, events, causation, the mind, the self, and morality – are multiply metaphorical”; they are “a tool for understanding things in a way that is tied to our embodied, lived experience” (Lakoff and Johnson 1999: 128, 543).

Now, the metaphor of social death was the central phase in a symbolic doulotic trajectory that directly references a sociological sequence of statuses that in its entirety, in the Roman case, ran as follows: natal security or birthright, in some cases recognized as freedom in the provenancial society → captivity/enslavement → slavery (powerlessness re master; natal alienation; parasitic dishonor; *in rem* legal status; the incentivizing, shared ideology of freedom) → manumission → conditional freedom (*obsequium; operae*) → full freedom (membership of *Lares Augusti* cult, worship of the deified emperor's “spirit/force” by richest freedmen) (Mouritsen 2011: 249–260; Zanker 1990: 317–319; Hopkins 1978: 211–213).

Directly referencing this doulotic trajectory was the following symbolic sequence:

social life → social dying → social death → social rebirth → conditional social life → full social life (incorporation).

Now, Bodel's argument is that the metaphor of social death is questionable because real death is final. My first response to this is to repeat what was pointed out above: that this was not *my* metaphor externally imposed on the observed sociological trajectory, but my interpretation of a symbolic trajectory constructed by slaves, freedmen, and their masters themselves, as well as free men, a phenomenological reality of Roman life. Social death as metaphor is real and significant only through the interacting parties' account and performance of it. How do I know that the metaphor transforms death into something reversible?

From both what we know of how semiotic reasoning works, and from the Roman and comparative data. First, there is no requirement that the signifier of a metaphoric process be a literal correspondent to the referent it signifies, a point long ago established by both Saussure's dyadic theory of signs and the more sophisticated triangular theory of Charles Peirce that preceded it (and upon which I draw) (Peirce 1932: 228, 303). The symbolic mind can easily represent the referent (in our case, slavery) with whatever representation (Saussure's *signifier*, Peirce's *representamen*) it wills. That is the beauty and utility, of metaphoric thinking. In the case of the Roman freedmen, the *representamen* was a social death that was dynamic and capable of being negated. How does the Roman symbolic mind do this? This is where Peirce's semiotics proves itself more valuable than Saussure's. The third element of the symbolic process, he has taught us, is the *interpretant*, which is the sense made of the *representamen* or signifier. So, in Peircean terms, then, we have a referent or object, slavery, represented by the signifier, death, which is interpreted as a dynamic process capable of a double negation – that of the pre-enslavement life it negated and of being negated itself by the symbolic process of rebirth. Nor does the symbolic process end here. One of the most important features of Peircean semiotics is its recognition of symbolic recursivity – the fact that the *interpretant* is itself a sign in the mind of the interpreter – “the meaning of a representation can be nothing but a re presentation,” he wrote – and, as such, can itself become a referent for a new triangular process of signification, and so on *ad infinitum* (Peirce 1931: 339).

The data to support such symbolic thinking with regard to slavery are quite abundant, beginning with Bodel's own chapter. His cases show convincingly that freedmen symbolically negated death and had a deeply held belief in symbolic rebirth as expressed in their monumental inscriptions. My reading of these inscriptions is that the freedmen sought not so much to defy death as to celebrate its hardships and trials, the better to emphasize their triumph over it – O death where is thy sting? – and the more to gloat over the glory of their rebirth. The symbolic logic of undoing death, and of rebirth, clearly implies a pre-existing condition of social death which held the possibility of undying and rebirth.

We also know this to be the case from the comparative data on the rituals of dis-enslavement, many instances of which were presented in *Slavery and Social Death* (216–219). My earlier study of the funerary practices, as well as the ancestral and spirit beliefs of Jamaican slaves demonstrated this at length (Patterson 1967: 195–206). A simple yet poignant illustration is reported in Handler and Lange's

archeological study of plantation slavery in Barbados, where it was found that the slaves always buried their dead in the extended, supine position commonly found in west Africa, and with the head facing east toward Africa (Handler and Lange 1978: 174–181).

However, one of the most explicit cases in point is the remarkable discovery reported by Barbieri-Low in his chapter on Han China in this volume (Chapter 6). As he notes, when *Slavery and Social Death* was published in 1982, there were so few historical records on manumission methods in China that one major scholar cast doubt on whether Han masters were able to manumit slaves they held privately. Then came the discovery in 1983 of legal texts on the subject from the Zhangjiashan archeological site in Hubei Province. The technical term for manumission, we learn, means literally “to release” or “to avoid,” but the astonishing payoff is revealed in the etymology for the Chinese words relating to manumission. He writes (p. 124):

...the word *miǎn* 免 is cognate with the word *miǎn* 繞 “mourning clothes/mourning hair-dress” and the word *miǎn* 娩 “to give birth,” a graph whose most ancient form *pictographically shows two hands removing a crowning baby from a woman’s birth canal*... These connections clearly demonstrate, at a fundamental linguistic level, the association of manumission with death and birth.

The discoveries concerning manumission are also very instructive. It appears that there was a special status between slave and commoner reserved for freed persons, indicating the usual complex bundle of rights relating to different categories of statuses. However, of even greater interest is the finding that in Han China slaves became fully manumitted only with the death of the master, and further, that if a master died without heirs his most favored slave inherited his property after being freed. This was both sociologically and symbolically congruent with a culture that so vividly represented the passage to freedman status as one from the generative womb of social death to the social life of the freed.

Let me close by pointing to what is undoubtedly the most important, and best-known, case of the symbolic interpretation of death as a dynamic process generating rebirth and new life: the Christian symbolism of spiritual death and rebirth.¹⁷ Jesus, the founder of Christianity, had little to say about death and rebirth. Indeed, his not infrequent references to slavery were quite conventional for his times. It was Paul, Christianity’s “second founder,” who did so in his transformation of the belief system of the primitive Palestinian church. Essentially, what Paul did was to change drastically the primitive religion from a religion *of* Jesus’ life and teachings, to a religion *about* Jesus in which the central fact of his existence was not his life but his death. Paul, unlike the colonial subject Jesus, lived and worked in major slave centers of Rome and its main slave-holding cities, most notably Corinth, re-founded at Caesar’s direction, by freedmen and slaves. Drawing on the source metaphor of freedom-into-slavery held by the freedmen who were among the most important and influential converts to the young religion, Paul’s Christology was a

complete and exact spiritual introjection of the metaphor which, as I and others have argued, ran as follows: mankind once lived in Edenic freedom, secure in the bosom of God; then came the Adamic fall and enslavement to sin; this led to spiritual death (“the wages of sin”); out of which the convert was redeemed (Latin *redemptio*, meaning the purchase, or ransoming, of someone out of slavery), paid for by Jesus’s salvific crucifixion (a death for a death); which led to the rebirth of the Christian into a new life of freedom (“For freedom Christ has set us free; stand fast therefore, and do not submit again to the yoke of slavery.” *Galatians* 5.1). But Paul did not end the spiritual symbolic trajectory here. The freedom celebrated in *Galatians* was more akin to the limited, conditional freedom of the Roman freedman still obligated to his former master. In *Romans* (written after *Galatians* though placed before it in the New Testament) Paul advocated the perfect freedom to which the Christian ultimately strived. This was the freedom that came with a new, sublime form of enslavement to God. Spiritually enslaved sinners, “having been set free from sin, have become slaves of righteousness.”

When you were slaves in sin, you were free in regard to righteousness. But then, what return did you get from the things of which you are now ashamed? The end of those things is death. But now that you have been set free from sin and have become slaves of God, the return you get is sanctification and its end, eternal life. For the wages of sin is death, but the free gift of God is eternal life in Christ Jesus our Lord. (*Romans* 6: 20–23)

Now, the notion of true freedom being enslavement to God was a common Hellenistic-cum-Roman idea in Paul’s time. However, I have argued that it would in all likelihood have achieved added force by its striking congruence with the ultimate state of freedom achieved by only the most successful freedmen, that of membership in the Augustan *Lares* cult in which the freedman attained the almighty protection of the emperor (to the point of being able to dress like a senator and sponsor popular games) through worshipful surrender to his genius.

Whether or not this final stage of the spiritual doulotic trajectory was suggested to Paul by the freedmen membership in the *Lares Augusti* cult, there can be no doubt that running through his entire Christology was the metaphor of death as a creative process culminating in enslavement to God. Paul goes so far as to argue that the believer is “always carrying in the body the death of Jesus” and that “death is at work in us.” Consider the following symbolically astonishing passage, the most remarkable celebration of the symbolic force of death as a means of liberation:

For if we have been united with him in a death like his, we shall certainly be united with him in a resurrection like his. We know that our old self was crucified with him so that the sinful body [literally, “body of sin”] might be destroyed, and we might no longer be enslaved to sin. For he who has died is freed from sin. But if we have died in Christ, we believe that we shall also live with him. For we know that Christ, being raised from the dead, will never die again; death no longer has dominion over him.

The death he died he died to sin, once and for all, but the life he lives he lives to God.
So you must also consider yourself dead to sin and alive to God in Christ Jesus.
(*Romans* 6: 5–11)

Can the symbolic use of death as a dynamic force be made more explicit? This was, and remains, the foundational metaphor of the Christian creed, the religion that was to fashion European civilization, which for over 1000 years was nothing other than Christendom, the civilization that would eventually come to dominate most of the peoples and cultures of the world. And for better, and for worse, or both, its primary symbolic source, let it not be forgotten, was the metaphor of slavery as social death.

Notes

- 1 Madison Papers 14: 266–268. Cf. Locke, *Second Treatise*, Sec. 44: “...man, by being master of himself, and proprietor of his own person, and the actions or labour of it, had still in himself the great foundation of property; and that, which made up the great part of what he applied to the support or comfort of his being, when invention and arts had improved the conveniences of life, was perfectly his own, and did not belong in common to others.” Note, however, that Jefferson did not share Madison’s expansive view of intellectual property. See his letter to Isaac McPherson, August 13, 1813, retrieved at: http://press-pubs.uchicago.edu/founders/documents/a1_8_8s12.html
- 2 Baron 2014: 58–59. See also 62–70 for a concise intellectual history and critiques of the idea; for a symposium of criticisms with a few counter-arguments, see “Intellectual Tyranny” 2011.
- 3 Ward and Kingdon 1995, especially 6–35, review current findings.
- 4 Honoré 1961: 107–147. His reference to the Trobriand islanders was a cautiously qualified, speculative aside.
- 5 A point emphasized by Finley, see especially 1981a: 31, 123, 129, chapter 2, *passim*.
- 6 For a modern interpretation of this Southern self-deception, see Fox-Genovese and Genovese 2011, especially chapter 6.
- 7 Free (adj.) Old English *freo* “free, exempt from, not in bondage, acting of one’s own will,” also “noble; joyful,” from Proto-Germanic **frijja-* “beloved; not in bondage” (cognates: Old Frisian *fri*, Old Saxon *vri*, Old High German *vri*, German *frei*, Dutch *vrij*, Gothic *freis* “free”), from PIE **priy-a-* “dear, beloved,” from root **pri-* “to love” (cognates: Sanskrit *priyah* “own, dear, beloved,” *priyate* “loves”; Old Church Slavonic *prijati* “to help,” *prijatelj* “friend”; Welsh *rhydd* “free”). Online Etymology Dictionary: www.etymonline.com/index.php?allowed_in_frame=0&search=free&searchmode=none
- 8 Wyatt-Brown 1982. See my review article on this now classic text: Patterson 1984.
- 9 For the classic example, see *Mary Chestnut’s Diary*, ed. Clinton 2011.
- 10 For the best documentation of this, see the two volumes on *Women and Slavery* edited by Campbell *et al.* 2007.
- 11 Miller 2007: 4–5 estimates that two thirds of the slaves transmitted from sub-Saharan Africa to the Islamic lands of northern Africa and other areas were women. See the excellent study by Zifi 2012. I have listened to and learned from: Sobers-Khan *et al.* 2014.

- 12 Johnson 1979: 262, table 1. Female percentages ranged from 58.8 in Buenos Aires to 67.3 in Bahia during this period.
- 13 They were twice as likely in the Caribbean but only slightly more so in the US South. See Higman 1984: 383; Berlin 1992; Patterson 1967: 59–64.
- 14 Wyatt-Brown 1982, especially chapters 2, 5, and 9; Clinton 1982, especially chapters 1, 5, and 8. Still valuable is Cash 1941, especially Book 1. On the role of antiquity in the chivalric ideology of the antebellum South, see Fox-Genovese and Genovese 2005, especially Part 4.
- 15 Scheidel 2012b: 89–113. For the definitive recent study of manumission and freedman status in Rome, see Mouritsen 2011.
- 16 Patterson 1967: chapter 9. See also my study of the slave revolts that culminated in the maroon communities of Jamaica, one of those rare cases in the annals of slavery in which a rebel slave group forced the slave-holding class to sue for peace and won state-within-a-state recognition. Patterson 1970: 289–325.
- 17 I have discussed the matter of slavery and Christianity, both in sociological and symbolic terms, at some length in my book (Patterson 1991: Part 4). See, more recently my paper, Patterson 2001. Horsley 1998: 153–200; Horsley 2004, especially the introduction and chapter 7; Martin 1990; Harrill 1995; Briggs 1989: 137–153.

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Index

- abolition, 197, 203
Abreu, B. L. de, 173
absence of term, 35, 42, 43
abuse
 of children, 197
 physical, 39, 58, 127, 160, 257–258
 protection from, 157
 psychological, 110
Acca Larentia *see* mythology
Achilles Tatius, 110
Adeimantus, 38
adoption, 142, 219, 221, 223, 228, 235, 242, 243, 282
adultery, 113, 115, 118
 Drako on, 113
 graphe moicheas, 113
 in Homer, 113, 114
 moichea, 115
 moichos, 113
 Solon on, 113
Aeschylus, 282
African Americans, 13n.11, 60, 259
Africanists, 33, 45, 194–195, 197, 202, 204–206, 206n.9
afterlife, 87–88, 95–96, 153
agriculture, 41, 60, 64, 68–69, 89, 92, 100n.27, 120, 125–126, 137, 148, 149n.1, 182, 222
American South, 68, 285
Amir Khusraw, 154
amtu, 21
andu, 17, 27
antichresis, 42
Antioch, 118
apophora, 38, 41, 74
Apuleius, 94, 103n.49
ardu, 17
Aristophanes, 114–115
Aristotle, 32, 64, 82, 97n.4, 115
Arthasastra (law code), 152, 154, 158, 164n.4
asakku-demon, 20, 27
Asante wars of 1869–1871, 204
assassination *see* murder of slave
assimilation
 of foreigners, 27
 of slaves, 4, 140
 of war captives, 243–244
Athapaskans, 217
Athenaeus, 115
Athenogenes, 39
Atlantic Middle Passage, 85
attachment
 of children, 203, 205
 household, 7, 18, 147, 158
 social, 4, 147, 277
attendants, 23, 67, 214
auction block, slave, 96
auctioneer, 85–86, 98, 159
baptism, 176–180, 184
 godparent, 177–180
Barani, 154
barbarian, 62, 251
bhakat see oblate (bhakat)
bigamy, 185
birth *see* reproduction

- Black Sea, 94, 103n.46
 body, 8, 226, 227, 229, 232, 238–241, 257, 259, 270, 274, 279 *see also* body modification
 of enslaved women, 114, 117, 119
 remains of, 257, 259
 of slaves, 8
 of white women, 285
 body modification, 240, 243
 body paint, 238
 brands (*see* marks *under* body modification)
 castration, 231, 232
 female circumcision, 234, 235, 243
 hair removal, 231, 235, 238
 head elongation, 234, 235, 243
 head shaving as mark of free status, 96
 marks, 40–41, 239–242
 tattooing, 132, 134, 221, 226, 235, 238, 240 (*see also* tattooing)
- Boggiani, G., 239
 bondsman, 160, 273, 274 *see also* debt bondsman; *kul*
 bondswoman, 129
Book of Submitted Doubtful Cases, 123, 129, 130
 booty, 22–23, 27, 28nn.19, 20, 282
brahmans, 154, 157, 158, 163
 branding *see* marks *under* body modification
 Breton, R., 230
 bride-price, 119, 281
 Britain, 34, 36, 197, 249, 250, 261n.1, 279
 British Act V of 1843, 162
 British Slavery Abolition Act of 1833, 254
 brothel, 113, 114, 117 *see also* sex work
 brothel-keeper, 41
 Brown, V., 82, 83
 Buddha, 153
 burial associations, private *see collegia*
- Cabral, J., 155, 156
cacicatos, 237
Cafusa, 169
 cannibalism, 230–232, 241, 243
capitanias, 237
 captive(s), 6, 9, 22–23, 67, 83, 157, 158, 169 *see also* captured *under* slave; captive *under* women
 as items of prestige, 219
 male, 283
 in maroon colonies, 167–168
 repatriation of in Ancient Rome, 94
 captive-taking, 82, 213, 218–223 *see also* captured *under* slave
 castration *see* castration *under* body modification
catena see chain, etymology of
cawbowla (document), 158
čekayde, 217–218
 Celts, 259, 260
 chain, etymology of, 252
 Chanca, D. A., 231
 chastity, 110, 112, 117
 loss of, 284
 chief, 199, 211, 215, 221–222, 227, 230, 237, 239–240, 242
 chiefdom, 211, 220–223, 282
 children
 adoption after capture, 227–228, 235, 243–244
 attachment of, 203, 205
 burial remains of, 257
 China, early Han Empire, 127
 commemoration of, 86–87, 256
 of concubines, 125, 142–143, 160
 death of, 92
 foster, 99n.19
 freeborn, ancient Rome, 87–88, 92
 of free woman and male slave, 128
 honor, 92
 illegitimate, 162, 184, 186, 188, 214
 likened to slaves, 8, 82, 92–93, 97n.4
 of male slave master and female slave, 185, 276
 milk-siblings, 142
 minder of, 99n.19
 rights to one's own, 122, 127–128
 right to punish, 161
 sale of, 76
 of slave(s), 27, 27n.4, 56, 87, 98n.9, 122, 154, 162, 172, 180, 183, 185, 189n.7, 215, 221, 228, 241, 243–244
 as slave(s) of their father, 92, 102n.42 (*see also* paterfamilias)
 slavery of *see* (child *under* slavery)
 social death of, 198, 201, 202, 205
 status of, 66, 127, 154 (*see also* of slaves *under* children)

- suicidal ideation of, 199–203, 205–206
 (*see also* women; children)
- childbirth *see* reproduction
- Chinook, 215
- Cicero, 100n.30, 280
- Circassians, 148
- citizenship, 90, 286 *see also* citizen/status
 of ex-slaves, 89–90
- civil war
 - China (206–202 BCE), 128, 130, 133
 - United States (1861–1865), 60, 65, 70, 148, 254
- Clastres, P., 226, 227, 241, 242
 Of Torture in Primitive Societies, 226
- client of the household, 9, 127
- coercion, 32, 146, 167, 244
 sexual, 109
- coffee industry, 197
- coffee, 197
- Cofitachequi, 222
- Collegia*, 89
- Columbus, Christopher, 230, 231
- Columbus, Ferdinand, 232
- Coma, G., 232
- Comanche, 213, 218–220, 223, 282
- commemoration, funerary, Ancient Rome,
 84–89, 92, 97
- commoners, 214, 221
- community of slaves and ex-slaves, 89
- Conambo, 212
- concubinage, 183–189 *see also* concubine
- concubine, 8, 59, 119, 228, 230, 235, 243
 African, 73
 Chica da Silva, Francisca, 186–188
 children of, 125, 142–143, 160 (*see also*
 reproduction)
 Ottoman, 142
 South Asia, 156, 160, 162
 umm-i-walad (mother of an heir), 160
 upapatni, 154
- Confederacy, United States, 285
- Conibo, 227, 233–236, 242, 243
- contractual relationship, 35, 44
- conversion, 159, 176, 202, 249, 250
- convict(s), 126, 127
- Cornwallis Proclamation of, 1789,
 159–161
- corpses, disposal of, 92
- creditor, 22, 36, 42–43, 50n.12, 152, 274
- Crowther, S. A., 199, 204
- Crusaders, 240, 250
- cults
 - Lares Augusti, 291
 - Thracian, 94
 - Virgin Mary, 284
- cultivation, 19, 60, 162
- cuneiform, 15, 17, 46
- Cuneo, M. de, 232
- Cyprus, 250
- daimon*, 93
- damage of property, 35
- dan êo*, 216
- dan noži?*, 216–218
- Darmastra, 152
- Davis, D. B., 82
- death
 - analog for slavery in Roman law, 97
 - of children, 92, 102n.44, 197, 198, 200
 - civil (Rome), 278
 - commemoration of, 84–89, 97
 - compared to manumission, 96, 124, 290
 - compared to slavery, 93, 98n.7, 112
 - compensation for, 162, 174
 - disposal of dead bodies, 100n.26
 - as escape from slavery, 6, 24
 - fear of, 229
 - by hanging, 92
 - management of, 83–84
 - manumission prior to, 102n.43
 - marks of violence, 221
 - metaphor of, 2, 10, 82–84, 90–91, 94, 96, 103n.49, 289–292
 - myths about, 84
 - near, 94
 - obsession with, 95
 - paired with marriage, 101n.36
 - premature, 92–93
 - pseudo-, 103n.46
 - punishment for sorcery, 189n.9
 - records of, 172, 189nn.8, 10
 - rituals of, 91, 152
 - sentence, commutation of, 157
 - of slave(s), 8, 83–84, 89, 92, 93, 102n.39, 174
 - of slaveholder, 27n.3, 36, 39, 68, 93, 123–128, 143, 173, 183, 290
 - special, 92
 - spiritual, 290–291
 - transfer of property as, 66

- death (*cont'd*)
 triumph over, 88, 94–96
 of town counselors, 92, 102n.39
 in war, 57, 67, 82 (*see also* social death)
- debasement, 20, 127, 211
- debt, 22, 62
- debt bondage, 21, 22, 24, 60–61, 73, 75, 113, 130, 138, 217, 281 *see also* *ijara*
- debt bondsmen, definition of, 273–274
- debt security, 22, 43
- debt slavery, 130 *see also* debt *under* slavery
- decapitation, 221
- dehumanization, 22, 145
- deities
 Neo-Assyrian
 Aššur, 19, 22, 23
 Ninurta, 20
 Roman, 87–88
 Libertas, 284
 Mercury, 87, 96
- democracy, Herrenvolk, 280, 285
- Demosthenes, 38–40
- Denmark, 256, 274
- deportees, 19, 23
- deracination, 56, 68, 71, 83
- değişirme*, 139, 147
- Dialogue of Pessimism, The*, 16
- Dio Chrysostom, 117
- dishonor, 88, 90, 118 *see also* Patterson, O.
 parasitic, 272, 275, 280–281, 284
 of slaves, 56
- dislocation, geographical, 62, 66, 221
- DNA, 257, 259, 260
- domestication of animals, 82
- domination, tools of, 84
- dominion, legal principle (*dominium*), 82, 278
- Douglass, Frederick, 138
- dowry, 40, 119, 156
- Drako, 113
- dried fish slaves, 214, 221
- duration, aspect of ownership, 35, 45
- East India Company, 158–162
- echépoulátou*, 232 *see also* ornamentation
- economy
 of Babylon, 41
 of Brazil, 168
 of Rome, 251
 of Sparta, 65
- egalitarianism, 64, 211
- Egypt, 18, 39, 41, 116, 138, 148, 277
- Eleusinian Mysteries, profanation
 of, 38
- eleuthera*, 110, 112, 114–118
 definitions of, 111
gune, 115, 118
parthenos, 116
- emancipation, 42, 130, 255 *see also* manumission
- emancipation proclamation of 1863, United States, 254
- emotions, history of, 198
- empires
 Carolingian, 250, 251, 256, 276
 Comanche, 219
 Han, 122–134
 Mali, 175
 Ottoman, 276
 Persian, 41
- enemy, domestic, 280
- enslavement *see also* slavery
 Atlantic model of, 144
 to God, 291
 military, 148
 mode of
 capture in war (*see also* slave)
 debt, 197, 217
 kidnapping, 197
 sale by family, 197
 self-enslavement, 90, 169–170, 217, 287
 raid, 197
 permanent, 22, 215 (*see also* slavery)
 to sin, 291
 state, 122
 virtual, 63
- Ephors, 66
- epitaphs, inscribed, 84–86, 93
- Equiano, O. 200
- ergastulum*, 257
- erotic love, 111
- Esarhaddon, King, 19–20, 22, 23, 25
- eschatology, Greco-Roman, 87
- Escort of Souls *see* Psychopompos
- ethnicity, 28n.20, 69, 148, 189n.11, 213
- ethnoarchaeology, 212
- ethnography, 258
- eunuch, 23, 145
- Euripides, 114
- Eurycleia, 114

- exploitation, 47, 167
 economic, 72
 sexual, 110, 119, 197
- ex-slave(s), 60, 87, 89, 90, 95, 98–101,
 104, 171 *see also* freed person
 careers in commerce, 87
- family
 archives (Neo-Assyria), 19
 birth, 61
 of the bride, 156
 connection to at death, 100n.26
 extended, 152
 of helots, 68, 71, 77n.26
 lack of (among slaves), 22, 57, 169,
 199–200, 215, 235, 273
 non-kindred, 101n.35
 non-traditional, 188
 royal, 67
 sale of (into slavery), 21
 separation of children from, 201, 205
 of serfs, 58, 74
 slave, 17, 21, 71, 98nn.13, 14, 99n.23,
 194, 195 *see also* slave
 slave-holding, 217, 218, 220
 slaves as part of, 92, 116, 141, 142, 146,
 188, 198
 splitting up of (by slave-holder), 47,
 87, 272
 of thetes, 46, 60–61
 ties to (among slaves), 3, 6, 18, 26, 87,
 142, 202
 transfer of slaves within, 21, 58
- Faroqui, S., 137
- feathers as ornamentation, 238
- female circumcision (*see* body modification)
- Fentress, E., 257
- festival in honor of dead kin, 95
- fetters, 28
- Finley, M. I., 45, 47–48, 57, 72–74, 113
- fishing, 216–218
- Florence, H., 238
- Florentinus, 32
- football, 33, 43
- freedman, 122 *see also* freed person
 Neo-Assyrian, 24
 Roman, 89, 286, 289
 Aulus Memmius Clarus, 85–86
 Aulus Memmius Urbanus, 85–86
 Decibalus (possibly a freedman),
 87–88
 M. Publius Satur, 85–86
 Trimalchio, 95–96
- freedom *see also* manumission
 between slavery and freedom, 71
 in Christianity, 291
 civic, 211, 212
 concept of, 27n.5, 210, 286–288,
 290–291
 constraints on, 73
 through death, 104n.58 *see also* escape
 from slavery *under* death
 definition of, 27, 82, 112, 172, 212,
 215, 218, 221, 223
 desire for (among slaves), 4, 101n.34
 dialectic with slavery, 82, 118
 document of, 42
 and female sexual honor, 8, 110–113,
 116–119, 283–285
 ideal of, 55
 individual, 18, 272
 in maroon society, 171
 of movement (women), 60, 185, 187
 personal, 211, 212
 physical markers of, 232
 pride in, 90, 98n.13
 purchase of (by slaves), 8, 171, 172, 184,
 187, 188
 promised by the slave owner, 93, 102n.44
 regaining of, 94, 158
 as reward, 75, 100n.29
 in rite of passage, 101n.37
 symbol of, 284–285
- freed person *see also* ex-slave
 Chinese, early Han, 122–129
 funerary practices of, 84–85
 relationships, recognized by the
 community, 85
shùrén, 125–128
 status of, 90, 125, 127
- freedwoman, 8, 119, 185
 Chinese, early Han, 123–125, 133–134
 colonial Brazilian, 169–172, 179–180
 as concubines, 184
 as godmothers, 179–180
 illegitimate children born to, 188
 Neo-Assyrian, 24
 as slave owners, 172
- Freyre, G., 182
- Funeral, 92
- funerary epigrams, 93
- funerary rites, honorific, 92

- funus acerbum*, 92
furriel, 178
- Gaozu, emperor, 129, 130, 132, 133
 edict of, 129–130, 132–134
- garib*, 140
- genome, 249, 250, 252, 259
- Genovese, E., 144
- Getae, 93–94
- Ghana, 83, 200, 204, 271
- gift giving
dana, 153, 157
Dasanami, 158
 as status marker, 211
tevaratiyal, 153, 163
- Global South, 163
- Google Books Ngram Viewer, 254
- Grand Chaco, 227, 236
- Grand Vezir, 138–140
- grindstone, 20
- Guadeloupe, 232
- Guaicurú, 227, 236–240, 242, 243
- hair removal *see* body modification
- Hariot, T., 240
- Hartman, S., 83
- head elongation *see* body modification
- healers, 173–175
- hektemoroi*, 61
- Heliiodorus, 112
- Hellespont, 93–94
- helots
 as bound peasants, 74–75
 declaration of war against, 67
 definition of, 273, 275–276
 families of, 68, 69
 female, 68
 legal situation of, 68
 natal alienation, 66–69
 as property, 63–66, 68
 relationships with each other, 66
 right to own property, 67
 for the royal family, 67
 sale of, 64–65
 as serfs, 71–75
 as slaves, 61–71
 as socially dead, 66–69
 status of, 56, 59
 village, 69
 wives of, 69
- Herculaneum, 257
- Herodotus, 93–94
- Hesiod, 76n.9, 273, 274
Works and Days, 273
- hire (legal arrangement), 36
- hired goods, 35
- historical linguistics, 252
- historiography, Marxist, 71–72
- history, Mesopotamian, 40
- Homer, 113, 114
- Honoré, A. M., 34–37, 43, 268–270
- honor, 139, 140, 167, 169, 196, 201
 of children, 198
 of ex-slaves, 171
 primal, 281
 sexual, 109–120
 of slaves, 169, 196
 of women, 281
- horticulture, 218, 221
- hostis*, 229
- household, 85, 89, 157, 160, 194
 Near Eastern, 18, 25
 Ottoman, 147–148
kapı halkı, 148
- hù*, 127
- hubris*, 64
- humanity, of dead slaves, 89
- hunter-gatherers, 213, 216–218, 220
- Huntington, R., 90
- Hypereides, 39
- hypergamy, 68
- Iamblichus, 118
- Ibn Fenari, 139, 140
- Iceland, 259
- identity, 203, 231, 240
 religious, 159
- ideology
 militaristic, 62
 Neo-Assyrian, 19–20, 23
 of Roman slavery, 85, 287–288
 slave-as-property, 1, 151, 152, 161, 163
 of slavery and freedom, 111
 wealth-in-people, 151, 155, 159
- ijara* (hire-lease agreement), 159
ajir (bondsman), 159–160
mustajir (employer), 160
- Iliad, 113
- Immortality, 88, 93–96, 99
- Inalcık, Halil, 138, 145, 146
- incest, 125, 232
- Inquisition, 173–175, 177, 188
- inscriptions
 Athenian, 38, 49n.1

- on the body, 227, 240, 242 *see also* body
 modification
 Near Eastern, 16, 19, 22, 23, 26, 27n.12
 Roman, 86, 92, 97n.1, 99n.20, 102n.55,
 286, 289
 integration
 of slaves into society, 4–6, 8, 9, 11,
 13n.7, 19, 84, 140, 142, 235, 280
 intermarriage, 216
intisap, 138, 147
 Ireland, 249, 259, 260, 283
 Irewelen, 60
 isotope analysis, 259
 itinerancy, 37

 Jerusalem, 250
 Jesus, 290–292
 Jews, 56, 116, 154
 Jim Crow, 280, 281
 John Chrysostom, 117–119
 Jubilee, 56–57
Jur'a, etymology of, 140
 Justinian legal code, 94, 103n.48, 120n.4

 Kalinago, 227, 230–232, 242, 243
 Kassite-period, 17, 21, 22
Kata'ib, 139
die Kette *see* chain, etymology of
 killing *see* murder of slave
 kinship, 141, 154, 194, 200, 213, 218,
 222–223, 228–229
 between slaves and ex-slaves, 87
 fictive, 140–142, 147, 200
 Korea, 63, 275, 276, 287
 Koryo unification, 63
krupteia, 66
kul
 as bondsman, 138
 definition of, 137
 honor, 139
 legal status, 139, 142, 146–147
 manumission, 139–140
 recruitment, 139
kula, 152

 labor, 153, 158, 162, 198, 221, 251, 257
 attitude toward, 71, 171–172
 dependent, 48
 drudge, 215, 217, 219–220
 forced (coerced, compulsory), 23, 44,
 57, 58, 63, 217
 free, 279
 as gift, 155
 industrial, 279
 military, 153
 movement, 279–280
 servile, 22
 source of, 19
 laborer
 free, 279–280
 landless, 273
 male, 182
 slave, 60
 white, 279
 Labrador, S., 237–238
 Laconia, 61–63, 69, 75
ladino, 178
 landlord, 149n.2
 Larentalia, 94
 Lares, 95, 291
 law
 Anglo-American, 267
 Anglo-Hindu, 151, 158, 161
 Anglo-Muhammadan, 151, 161
 Athenian, 38–40
 Babylonian, 40–43
 Buddhist, 151
 Chinese, early Han Empire, 122–134
 Statutes of Assault, 127
 Statutes of Enrollment, 127
 Statutes on Abscondence, 123
 Statutes on Arrest, 126
 Statutes on Cash, 126
 *Statutes on the Composition of
 Judgements*, 126
 *Statutes on the Establishment of
 Heirs*, 125
 Statutes on Finance, 127
 Statutes on Freedmen, 126
 Statutes on Households, 126, 127
 Statutes on Miscellaneous Matters, 128
 *Statutes and Ordinances of the Second
 Year*, 123–125
 codes
 Buddhist (*see Mulasarvastivadīn
 vinaya*)
 Hammurabi, 40
 Justinian (*see Justinian legal code*)
 Lipit-Ištar, 40
 Hindu, 151
 inheritance, 125, 126, 154
 Islamic, 154, 156, 158
 legal theory, modern, 43, 268
 oral, 65

- law (*cont'd*)
- Roman, 34, 82, 87, 89, 96–97, 124, 278
 - Sanskritic, 154
 - from Sippar, 40
 - Spartan, 65
 - texts of (*see also* property; slave)
 - China, early Han Empire, 122–134
 - Greece, 87
- lawsuit, 20, 161, 163
- lead levels, 258
- League of Nations, 32, 34
- legal actions brought by slaves, 16
- legal transaction, 24
- leg-irons, 109
- Legros, D., 216–218
- Lesser Antilles, 227, 230
- Leucippe, 109
- Leucippe and Cleitophon, 109, 116
- liability to execution, 36, 40–41
- limen, definition of, 91
- loan agreement, 36
- lord
 - god, 185, 291
 - position, 250
 - status, 25, 66, 69, 74, 77nn.30, 34, 155, 237, 276
 - term of address, 19, 22, 25, 272
- Loyola, Juan Salinas de, 233
- loyalty
 - institutional, 25
 - of slaves, 100n.29, 140, 147, 154
- Lysias, 115, 120n.7
- Madison, J., 267
- magic, 173, 174, 215
- magnate, 61
- Mahmud b. Sulayman al-Kaffawi, 139–140
- Mamluk, 7, 11, 57, 73, 138–140, 142, 276
- mandattu*, 41
- mandinga*, 175–176
- mango*, 252
- manumission
 - absence of in ancient Greece, 119
 - absence of in Assyria, 6, 13n.7, 24
 - in Africa, 205
 - in ancient Greece, 64, 119
 - in ancient Rome, 87, 89, 92–93, 95–96, 100nn.27–29, 286–287, 293n.15
 - in Babylon, 40, 42
 - ban on, 64, 65
 - as (re)birth, 4, 96, 124, 290, 104n.57
 - celebration of, 98n.13
 - Chinese, early Han, 122–125, 129, 134n.2, 290
 - cohabitation and, 125
 - in colonial Brazil, 168, 183–185, 187–189
 - conditional, 42, 73
 - deathbed, 93, 102n.43, 187
 - document of, 24, 27n.4, 28, 42
 - of domestic slaves, 101n.34
 - during rituals, 215
 - edict of, 130
 - of female slaves, 119, 127, 184, 187–189, 282–283,
 - as gift, 5
 - ideology of, 89–90
 - laws governing, 98n.7
 - of male slaves, 127
 - methods of
 - through baptism, 184
 - through incorporation, 211, 215, 218, 219, 221, 223, 282–283
 - through kinship, 102n.40
 - through self-purchase, 184
 - Neo-Assyrian, 24
 - North American, 211, 282
 - in Ottoman Empire, 138–140, 142
 - paramone* (conditional manumission), 42, 73
 - as part of a process, 5, 8, 10, 90–91, 97n.2, 102n.45, 104n.59
 - as part of symbolic rite of passage, 4
 - political, 130, 134
 - of privately held slaves, 123, 124
 - as reward
 - for good behavior, 9, 89–90, 92, 93, 124
 - for military service, 64
 - right to, 58
 - in South Asia, 156
 - to statue of private dependent, 123–124
 - as source of soldiers, 130
- Marduk-apla-iddina (Babylonian ruler), 23
- marge, definition of, 91
- Mariandrians, 65, 68
- Marianne (French revolutionary figure), 284
- market, 171–172, 185, 251–252, 256, 270
 - commodities, 112
 - hill-, 183, 185
 - slave (*see* market *under* slave)
- maroon colony, 167, 170, 171, 189n.1, 242, 287, 293n.16

- marriage, 97n.2, 110–117, 147, 188, 198,
 228, 230, 242, 244, 282
 annulment, 168
 between free and slave, 119
 broad, 76n.25
 children purchased for, 198
 contract, 43
 denial of right to, 176
 dowry, 156, 164n.8
 forced, 168
 kabīn-nama (marriage agreement), 156
 market for, 112, 114
 as means of attachment to a
 household, 147
 as means of incorporation, 143, 219,
 223, 230, 242, 244, 282
 records of, 172
 as a rite of passage, 101nn.31, 36
 slave, 21, 76nn.6, 24, 87, 98n.14, 194
 mass deportation, 18–19, 22, 27
 master-slave relationship, 91, 118, 137,
 138, 143–146, 196, 202, 203,
 205–206, 210, 212, 223
 enslaver-enslaved relationship, 142, 146
 Masters and Servants Act, 279
mater familias, 114
matron, 114
maulazada, 154
 Mauss, M., 211, 240
 medieval studies, 71–72
 Mei (former slave woman, Han
 China), 132
 Meillassoux, C., 2, 194
 men
 as hunters, 212, 218–219
 killed upon capture, 219
 kinless, 273
 Menander, 116
 Messenia, 61–63, 69, 70, 75, 275
 metaphor
 bundle-of-rights, 268, 281
 of Christianity, 266, 291–292
 of death, 83–84, 94, 286
 of freedom-into-slavery, 290
 of parasitism, 7, 10, 144–145
 of *postliminium*, 94
 of rebirth, 10, 96, 103n.49, 288
 of slave as animal, 229
 of slavery, 16, 25, 28n.25
 slavery compared to shipwreck, 96
 of social death, 8, 10, 81–82, 89–91, 96,
 194–195, 266, 286, 288–289, 292
 Metcalf, P, 90, 101n.36, 101–102n.38
 metic, 36, 39
 miasma, 39
 Midas (slave), 39
 migration, 13n.1, 68, 259
 military prowess, as status marker,
 219–221
 milk-siblings, 142
 Miller, J. C., 83, 88, 136, 145,
 197, 205
 mīn, 126
 Minas Gerais, 170–188
 mining, 148, 177–178
 role of women in, 182, 187
 Mirror for Princes, 273
 Miscegenation, 187
 Mississippian Period, 221
 mon boucan, 231 *see also* cannablism
 monastic orders, 153, 157
 as slave-owners, 152, 162
 slaves barred from ordination
 in, 152
 monogamy, 119
 Montaillou, 256
 monument, tomb, 84, 87
 mother
 African, 180
 in birth record, 188
 captured, 199
 Clytemnestra as, 115
 DNA of, 259
 grandmother, 199
 godmother (*see* baptism)
 of an heir (*umm-i-walad*), 160
 of the *Lares*, 95
 slave, 154, 162, 172, 185
 of society, 285
 mourning garb, 124, 290
 Muhammad Reza Khan, 160–161
 Mulasarvastivadin vinaya, 152
 murder of slave, 39, 58, 66, 217
 mutilation, 123–128, 161
 of herms, 38
 of women, 126
 mythology *see also* *metaphor*
 Acca Larentia, 94–95
 Conibo, 235
 Greco-Roman, 87, 282
 Neo-Assyrian 20
 Roman, 100n.29
 of slavery and immortality, 93–97
 Zalmoxis, 93–94, 103nn.46, 47

- natal alienation, 3, 74, *see also* slavery,
 definition of *under* Patterson, O.
 in ancient Rome, 88, 97
 in Athens, 55–56
 and racism, 280
nayaka (tax), 155
 neoteny, 82
 New Mexico, 219, 257
nichkákáawu yahaayí, 214
 Nieboer, H. J., 51n.20, 58, 76n.5, 194
 Nineveh state archives, 19
 nomad, 37, 141, 148, 218
 Nonius Marcellus (lexicographer), 96
 nutrition, 257
- oblate (bhakat), 157, 158
 obligation
 economic, 61
 of freedperson to master, 9, 42, 122,
 124, 125
 of gratitude, 5
 of hirer to bondsperson, 160
 to kin, 270
 labor, 73
 lack of (for slave), 193
 of master to slave, 169, 176
 in serfs, 72, 77n.34
 service, government, 123–125, 130
 social, 18
 to state, 16, 67
 tax, 73, 123–126, 130
 tributary, 237
 of unlimited labor, 70, 73, 74
 web of, 270
 occupation, 41, 148, 153, 157, 168, 172
 baker, 8n.16, 25, 41
 barber, 41, 157, 182
 beggar, 32, 33, 168
 brewer, 41
 builder, 41
 carpenter, 41
 chariot driver, 25, 28n.24
 cobbler, 157, 187
 concubine (*see* concubine)
 construction worker, 153
 cook, 67
 dyer, 41
 grocer, 168, 185, 186
 housekeeper, 168
 leatherworker, 41
 metalworker, 41
 midwife, 168
 pearl diver, 148
 prostitute (*see* sex worker)
 street trader, 185
negras de tabuleiro, 184
 sweeper, 157
 weaver, 41
 witch (*see* witch)
 writer, 153
 Odyssey, 46, 76n.11, 113–114
oikos, 114
 Old Testament, 56
 Oplontis, 256
 oppression (as separate from slavery), 57–58
 orations, Greek
Against Athenogenes, 39
Against Pantaenetus, 39
 ornamentation, personal, 238
 Osman, House of, 140, 142
 otherness, 258, 274
 outsider, 6, 9, 18, 57, 67–68, 140, 193,
 196, 210–211, 221–223, 225, 241,
 244, 272, 276–277, 280
 overseer, 70, 171
 ownership
 Athens, Classical, 36, 38
 definition of, 34–37, 47, 58
 by layman, 267
 in legal theory, 34–37, 82
 of private property (*see* property)
in rem 34, 277, 281
 restrictions on, 37
- Paiva, E. F., 167, 176
 palace, 19
 Palestine, 250
 Palladius, 118
paramone see manumission
parcialidades, 237
Parentalia (festival), 95
 Paşa, Ibrahim (Grand Vezir), 138–139
 pastoralism, 60
paterfamilias, 51n.20
patria potestas, 92
Patrologia latina, 253
 patron-client relationship, 124 *see also*
intisap; maulazada
 patronage, 67–68, 138, 147
 Patterson, O.
Freedom in the Making of Western Culture,
 55, 111, 210, 212, 223, 282, 284

- on freedpeople, 126
- on helots, 66–67, 69–70
- on manumission, 125, 128
- on marginality and liminality, 91
- on *operae libertorum*, 124–125
- Slavery and Social Death*, 1, 12, 15, 17, 31–33, 48, 55–56, 62, 63, 113, 122, 128, 134, 136, 140, 143–144, 167, 193, 206n.9, 210, 212, 223, 228, 241–242, 271–274, 280–281, 284–290
- on slavery in the Atlantic World, 83
- on slavery, definition of, 56, 69, 75, 81–84, 151
 - corporeal possession, 47
 - dishonor, 1, 2, 26, 34, 45–48, 56–57, 66, 81, 127, 137–138, 152, 194
 - human parasitism, 82
 - institutionalized liminality, 81, 90, 96
 - natal alienation, 1, 18, 26, 34, 45–48, 55–57, 59–61, 66–69, 75, 81–83, 127, 137, 141, 142, 147, 152, 162–163, 175, 178, 180, 194, 201, 232, 273, 286
 - parasitic degradation, 47, 137, 141, 144–145, 196
 - permanence, 2, 46–48, 56–57, 66, 81
 - property, 1, 17, 32–34, 37, 43–45, 56–59, 82, 126, 266, 271
 - social death, 1, 2, 4, 6–10, 13n.5, 57, 59, 66–67, 69–70, 75, 82–84, 96, 101n.32, 128, 137, 140, 142–143, 180, 222, 228, 242–243, 250, 278, 285–286, 288
 - social isolation, 47
 - violent domination, 1–2, 45–48, 56–57, 66, 81, 146, 151, 194
- on slavery in small-scale societies, 210–212, 222–223
- on slavery, stages of, 81, 84, 90
- on Solon's reforms, 59–61
- on thetes, 75
- on *wala*, 124–125
- on women, 211, 223
- Paul, 290–292
- peasant, 56, 67
 - in Athens, 59–60
 - bound, 61, 72, 74
 - Chinese, early Han Empire, 123, 129–130, 133
 - definition of, 73–74
 - medieval, 72
 - in Russian, 74
 - in Sparta, 62
- Peirce, C., 289
- Peirce, L., 137
- Peloponnesian War, 66
- penalty, 58, 83
- people-as-property, 158 *see also* property and slavery, definition of *under* Patterson, O.
- period
 - Archaic, 60
 - Dark Age, 60
 - Han, 126
 - Neo-Assyrian, 18–19
 - Qin, 126
 - Warring States, 126
- personhood, 128, 138, 151, 167
- Peru, 227, 233
- Petronius, 95–96
- Philo, 116–117
- Phrygian cap, 284–285
- pimp, 41
- Pipes, D., 144
- Platea, 67
- Pliny the Younger, letters of, 93
- Plutarch, 113
- poito see* sons-in-law (*poito*)
- polis*, 112
- pollution, religious, 66
- polygyny, 119, 219–220
- Polyxena, 114
- Pompeii, 257
- possession, as different from ownership, 47
- postliminium see* rights, regaining of
- power, personalistic and materialistic, 271
- prisoner-of-war, 21, 22, 154, 157
- private sphere, 285
- production, 32
 - agricultural *see* agriculture
 - commodities, tangible, 269
- profession(s) of slaves, 25
- prohibition on harmful use, 36
- property
 - absolute, 278
 - alienable, 39, 59
 - Athens, classical, 38–40
 - as definition of slavery, 1, 2, 32–34, 43–46, 58–59, 63, 73, 126
 - as difference between serfs and slaves, 74
 - definition of, 43–45, 47, 266–270

- property (*cont'd*)
- Blackstone, W., 267, 269
 - bundle-of-rights *see* bundle of sticks
 - under* definitions of *under* property
 - bundle of sticks, 268–270, 272
 - essentialist, 268–269
 - Honaré, A. M. (*see* Honaré, A. M.)
 - layman, 267
 - Lockean-Madison, 267
 - nineteenth century, 268–269
 - non-essentialist, 269
 - ownership, 269
 - pre-nineteenth century, 267–268
 - thing-focused, 269
 - twentieth century, 268
 - history of, 152
 - human (slaves as human property), 58, 82, 87 (*see also* human merchandise *under* slave)
 - immobile, 152
 - intellectual, 270
 - law (Sanskrit), 272
 - legal concept of, 70
 - mobile, 152
 - private, 44, 64
 - rights of manumitted slaves, 127 (*see also* Patterson, O.)
 - property relation, 32–33
 - proprietor, 266
 - prostitute *see* sex worker
 - prostitution *see* sex work
 - provincial administration, 19
 - Psychopompos, 87
 - puberty, 232
 - public building projects, 19
 - public works, 22
 - punishment, corporal, 47, 152, 258
 - Pythagoras, 93–94
- Quarry, 217
- racism
- American South, 71
 - scientific, 280
 - United States, 279–281
- raid(s), 219, 234, 237, 241
- raider(s), 219
- rank and file commoner, 126, 127, 132
- rape, 109, 110, 161
- re-enslavement, 124, 215, 218
- re-integration *see* integration
- rebellion China, against Qin dynasty, 128
- rebirth
- from slavery, 286, 289
 - literal, 289
- refugee(s), 129–130
- release
- from punishment, 124
 - from statutory labor, 124
- reliefs, on funerary monuments, 85
- religion
- African, 172–173, 195
 - Fofe, 195
 - Mama Tchamba, 195
 - Catholic, 155, 173, 176, 180, 188, 284
 - Christian, 117, 119, 290–292
 - Jesuit, 155–156 (*see also* Inquisition)
- rent agreement, 61
- reproduction, 154, 257
- childbirth, 60, 124
 - legitimacy, 112, 119, 184, 185, 188
 - of slave offspring, 21, 194, 215, 242, 244
 - offspring of slave(s) by master, 125, 142–143, 154, 160, 162
 - ümmüveled/ümm walad*, 142–143
 - purpose of female captives, 220 (*see also* concubine)
- resettlement, forced, 18–19, 204
- resistance, 168, 203
- resources, control of, 217, 223
- respectability, 201
- sexual, 110–113, 115, 118
- resurrection, 94
- revolt
- of indentured servants, 279–280
 - of landless laborers, 274–275
- right(s)
- absolute, 36
 - bundle of, 274–277, 281
 - intellectual, 215 (*see also* property, intellectual)
 - lack of, 26, 274
 - natal, 62, 271
 - of co-ownership, 152
 - of management, 41
 - of ownership, small-scale societies, 6, 11, 210–223
 - of possession, 35, 38, 40
 - of use, 35, 45
 - Athens, Classical, 39
 - Babylon, 40
 - of private property, 44, 65

- regaining of (Rome), 94, 96–97
 set of, 266
 to capital, 35, 42
 to form a household, 127
 to income, 35, 40, 154, 158, 184
 to manage, 35
 to one's own children, 122, 127–128
 to own property, 67
 to punish, 161
 to security, 35, 38, 40
 rite of passage, 90–92
 ritual
 apotropaic, 27
 death, 91
 of disenslavement, 289
 of enslavement, 91, 226, 228, 229,
 241, 242
 purification, 39
 robber-guard, 127
 Rochefort, C. de, 230
 romance (genre), 109–112, 116
 Rosary Brotherhood, 180
 congado, reinado, 181
 Kings of Congo Feasts, 180, 181
 royal court, 21
 ruler, enemy, 20

 sack-making, 41
 sacrifice
 ancestral, 93
 human, 128, 285
 Sahllins, M., 142, 147
 Saint Patrick (Patricius), 249, 250
 sale
 abroad, 60
 contracts, 21
 of slaves, 40, 58
 saltwater slaves *see* slave
 Samos, 93
 São Tomé, 250
 Saturnalia, 94
 scalping, 237
 Schopen, G., 152
 Schwartz, S., 170
 Scotland, 259
 seal engraving, 41
 security of tenure, 63
 semiotics, 289
 Sennacherib (Neo-Assyrian ruler), 23
 serfs, 67, 70
 as bound peasants, 74
 definition of, 58, 61, 71–75, 275–276
 Eastern European, 72–73
 medieval, 61, 251
 of feudal society, 74
 rights of, 70
 Russian, 72–73
 state, 62, 73
 serfdom, 56, 61–63, 71–73 *see also* serfs
 definition of, 72–75
 Şeriat/Sharia, 138–140, 142, 146
 servants
 as different from slaves, 44
 bond-, 126, 129
 domestic, 68
 indentured, 279
 server, 67
 servile condition, 23
 servility, 151
 Servius, 92
 sex
 between employer and employee, 160
 trade, 110
 work, 114, 117, 284
 worker
 Assyrian, 273
 Babylonian, 41
 Brazil, colonial, 168, 185
 domination, 39, 41, 57
 doule kai porne, 114
 exploitation, 63, 68,
 Greco-Roman, 112–114
 hetairai, 114, 116, 118
 meretrix, 114
 pornai, 114, 119
 prostitute, 168, 185
 sex slave, 57, 125, 220
 shackles, 256
 share-cropper, 67, 152
 share-cropping, 61, 63, 73
shìwu, 126
 shoemaking, 41
shùrén, 125–129
 personhood of, 128
 woman, 128
 singer, 23
 sinner, 19–20, 26
širkus, 27n.6 (*see also* oblate)
 skirmishing, tribal, 94
 slave agency, 24, 83, 195, 202, 206
 slave law *see under* slave
 slave sale document, 17, 24, 68, 123–126,
 128, 173
 Babylonian, 40

- slave ship, 197
 slave woman as wife, 218
 slave-holder *see* slave-owner
 slave-owner, 21
 Athens, 38–40, 64
 Babylon, 41–42
 perspective of, 1, 83, 94
 property rights of, 58, 87
 Roman, 87, 89
 slave as, 171
 Sparta, 64
 slave
 absconded (*see runaway* below)
 African, 57, 83, 88
 as alienable property, 39
 Aristotle's definition of, 82
 in Athens, classical, 38–40, 58, 74
 autonomy of, 168
 born, 70, 215
 bought (*see purchased*)
 burial of, 92, 257
 as business agents, 41
 captured, 28n25, 63, 82, 90, 94,
 99n.20, 100n.30, 167–189, 197,
 213–214, 217–218, 221–223,
 226–244, 245n.9, 257, 260n.1
 (*see also captive-taking; captives*)
 Caribbean, 73, 250
 chattel, 7, 16, 17, 24–25, 68, 73, 82,
 276 (*see also slavery*)
 child *see* slavery
 compared to children, 92
 communal, 62, 64
 communities of, 83
 definition of, 69–71, 272 (*see also slavery;*
 Patterson, O.)
 domestic, 152, 182
 driver, black, 70
 in archaic Greece, 61
 epitaphs erected by, 86–88
 excluded from kin group, 211
 experience of, 66, 83, 84, 90, 217
 families of, 26, 28, 83, 85, 87, 272
 female, 21, 123–124, 153, 156, 163,
 218 (*see also under women*)
 foreign, 273
 former, 126, 129 (*see also freed person;*
 ex-slave)
 funerary practices of, 83, 84, 86–89
 as gift, 152, 153, 163, 215
 government (belonging to), 126
 graveyard, 70
 home-born (*see house-born* below)
 house, 89, 93
 house-born, 21, 71, 198, 273
 as human agents, 58
 as human merchandise, 85
 ideal (*see proto-typical under slave*)
 immigrant, 87 (*see also foreign under*
 slave)
 imported, 63
 income of, 154, 158, 184
 as inheritance, 153
 Islamic, 277 (*see also under slave*)
 as items of prestige, 214, 219
 law concerning, 37, 41, 43
 likened to children, 8, 82, 92–93, 97n.4
 living space of, 70, 256
 senzala, 172
 male, 21, 123–124, 131, 221
 market, 71, 85, 86, 94, 98, 252
 marriage (*see also marriage*)
 native, 71
 natural, 82
 New World, 70
 old age of, 169
 orphan 218
 as personal attendants, 214
 as pets or prey, 229, 234
 private, 130
 proto-typical, 69–71, 83
 purchased, 21, 27, 217, 218
 relationships among, 83, 85–87
 runaway, 123, 124, 129–134, 159,
 162, 215
 saltwater, 83
 second-generation, 58, 60, 70
 as separate from the community, 215
 sex slave (*see sex worker*)
 social and economic status of, 154, 271
 social condition of, 1
 southern U.S., 68
 state, 62, 64
 studies of, 56, 71
 testamentary instructions of, 89
 testimony of, 139 (*see also witness*)
 terminology for (*see terminology for*
 slaves)
 trade, 114, 157, 197, 204, 219,
 251, 256
 as units of labor, 214
 urban, 100n.27, 276

- voice of, 1, 26, 249 (*see also experience of above*)
- slavery *see also* enslavement
- African, 193 (*see also* slave)
 - American, 83
 - in American tropics, 226, 228, 229, 243
 - in ancient Near Eastern, 16–17
 - in Athens, 55–56, 59–61, 64, 68, 74–75
 - in Atlantic, 84, 258 (*see also New World below*)
 - attitudes towards, 89
 - capitalistic, 278–280
 - chattel, 59, 62, 71, 114, 122 (*see also slave*)
 - child, 9, 22, 28n.18, 130, 158, 193–207, 215 (*see also of slaves under children*)
 - in colonial Brazil, 83, 167–188, 250
 - comparative-historical understanding of, 56
 - definition of, 1–5, 31–34, 55–59, 193 (*see also* Patterson, O.)
 - Near Eastern, 16–18
 - as *dominium*, 82
 - elite, 137, 142, 145, 147, 276–277
 - escape from, 211
 - exo-, 229
 - from birth, 21, 56, 66, 221 (*see also born under slave*)
 - from debt, 130, 217 (*see also* debt bondage; debt slavery)
 - from famine, 130
 - in Greece, ancient, 55–56, 58
 - ideal, 83
 - in small-scale societies, 210–223
 - as an institution of man, 82
 - Islamic, 137 (*see also* slave)
 - latifundia*, 278
 - as a liminal state, 90–92
 - macula servitutis*, 90
 - in medieval Europe, 250, 251
 - modern, 46–47
 - Neo-Assyrian, 15–26
 - in New World, 56, 57, 72, 83, 88, 256 (*see also* slave)
 - of defeated enemies, 71, 129 (*see also slave*)
 - of thetes, 75 (*see also thetes*)
 - Ottoman, 136, 137, 148
 - kul/harem* system, 137
 - parents selling children into, 130
 - permanent, 2, 42, 215 (*see also under* enslavement; *under* slavery, definition of *under* Patterson, O.)
 - physical markers of, 129, 132, 133, 214, 217, 226, 241, 242, 257
 - plantation, 70, 251, 278–279
 - process of, 81, 84, 89–92, 96, 122
 - as a product of circumstances, 90
 - Roman (late), 84–97, 251
 - social attitudes towards (Neo-Assyrian), 20
 - in South Asia, 151, 152
 - in Sparta, 55–56, 61–69, 74–75
 - stigma of, 90, 96, 127, 212, 215, 229, 242 (*see also* *macula servitutis*)
 - as a temporary condition, 89–94
 - as unnatural, 82
 - voluntary, 44
 - wage, 279–280
- slavery-to-kinship continuum 228
- Slavery and Social Death* *see* Patterson, O.
- Smallwood, S., 83, 88, 98n.10
- social death *see also under* Patterson, O.
- in ancient Rome, 84, 94
 - in China, early Han, 122
 - of children, 198, 201, 202, 205
 - compared to death, 2, 82, 83, 90–93, 97n.2
 - of helots, 66–69
 - as metaphor, 89, 91, 154, 288–289
 - Neo-Assyrian, 20
 - from perspective of the enslaved, 83
 - as receding horizon, 98n.10
 - of slave, 74
 - in small-scale North American societies, 211, 215, 219, 222, 223
 - in the United States, 278, 280
 - of women, 112
- social hierarchy, 25, 216–223
- social mobility, 218
- social structure
- Athens, Classical, 59–60
 - Greek rural, 61
 - small-scale societies, 210–223
- social ties *see* bonds; social
- society
- African, traditional, 172, 270
 - Athenian, pre-Solonic, 59–61, 273–274
 - Attic, 60–61
 - colonial North American, 258
 - communal, 63, 73

- society (*cont'd*)
- complex, 212
 - Crete, Bronze age, 270
 - English, Anglo-Saxon, 252
 - English, Elizabethan, 275
 - kin-based, 270, 271, 281
 - Latin American, 277
 - male-dominated, 212–213
 - Maori, pre-conquest, 270
 - master's, 84
 - matrilineal, 221–222
 - Mesopotamian, 16–17
 - Mughal, 155–160, 163
 - Native American, 272
 - Near East, ancient, 272
 - Neo-Assyrian, 22, 273
 - Neo-Babylonian, 24
 - non-western, 272
 - peasant, 61
 - pre-capitalist, 270, 272
 - primitive, 44
 - Roman, 278
 - rural, 59
 - slave society *vs.* society with slaves, 143
 - slave-holding, 1, 55, 82, 83, 89, 92, 277
 - small-scale, 210–223, 273–274, 281
 - society-against-the-state theory, 227
 - Spartan, 74–75, 273, 275
 - stratified, 213, 215–216, 219–223
 - traditional, 58
 - tribal, 271–272
 - tropical forest, 227
- sociology, 136
- Socrates, 39
- sodomy, 232
- Sokoto Caliphate, 145, 195
- Soldier of the Realm (rank), 127
- Solon, 113
- reforms of, 56, 59–61
- sons-in-law (*poito*), 230
- Sophocles, 115
- sorcerer, 173, 175, 176
- calundu*, 174–175
- Spartans, 69–75
- Statue of Freedom, 285
- Statue of Liberty, 285
- status
- change in, 124
 - changeable, 219
 - citizen, 23, 36, 50, 60, 64, 67, 85, 89, 93, 94, 98–101, 112, 113, 115, 204,
 - dependent, 18
 - enhancement of, 57
 - hidden-office, 124, 125, 127
 - high, 223
 - in small-scale societies, 212, 216–23
 - indicators of, 216, 221
 - low, 60–61, 214, 221–222
 - serf-like, 63
 - slave-like, 18, 63
 - unfree, 63, 73, 114, 146, 148, 251
 - wealthy, 59
- stele, funerary, 85–86
- Stoicism, 110
- Strabo, 64
- suckling (as inclusion mechanism), 142
- sugar production, 162, 170, 171, 182, 189n.2, 250, 277
- suicidal ideation, 198
- by children, 199–203, 205–206
- suicide, 92, 102n.39, 197, 199–201, 203, 207n.11, 287
- Süleyman, Kanuni Sultan, 138–139
- surnames (of former slaves), 128
- Suruppag, Instructions of, 273
- Sword (as symbol of freedom), 132
- syncretism, 83
- synoikismos*, 62
- system
- agricultural *see* agriculture
 - economic, 250, 269, 278–280
 - feudal, 69
 - slave, 56, 57
- tabkapu*, 219
- Tang Dynasty, 128
- Tangibles (in definition of property), 34, 267
- Tanzimat Reforms, 137, 143
- tattooing *see also* body modification
- Commandment of the Court, 134
 - as mark of slavery, 132, 133
 - as mark of status, 221
- tax, 155, 162
- China, early Han, 123–125, 127 (*see also* obligation)
- taxonomy, 7, 12, 31, 48, 256, 268, 269
- of property (*see* property, definition of)
- terminology for slaves
- al-Şaķāliba*, 250
 - banda*, 154
 - captivus*, 252, 261n.2
 - cativeiros*, 237
 - chétif*, 252
 - der Sklave*, 250
 - doulos/ doula*, 68, 113
 - esclave/ esclavo*, 250

- etoutou/itoto*, 230
ghulam, 154
 hiná, 234
kul, 137–138 (*see also kul*)
ladino, 178
libinali, 231
mancipium, 253
nahua, 234
nibotag'ipi, 237, 241
niouitouli/ioüittouli, 230, 231
oubéherou, 231
schiavo, 250
Slav, 250
támon, 231, 241
unzarhu (*see unzarhu* (term for slave))
urdu (*see urdu*)
yadtá, *yadtánqui*, 234, 241
yandye, 217
 Testart, A., 2
The Dialogue of Pessimism, 16
 theft, 35, 38, 156, 158, 159
 Theophemus, 38
 Thermopylae, 67
 thetes
 compared to slaves, 60
 definition of, 273–274
 status of, 56
 Thirteenth Amendment, 280
 Thracians, 93
 Thucydides, 66
 titleholder, 214–215
 Tlingit, 214, 217
 toga, as mark of Roman citizenship, 85
tolderías, 237
 tomb
 communal, 89
 vertical-pit, early Han, 123
 tooth enamel, 258
 torture, 39, 226, 242
 ritual, 9, 227–229, 240, 242, 244
 trade goods, 216, 217
 transfer
 document of, 155–156, 159, 162
 of right of ownership, 21, 35
 to religious institution, 153, 155–156, 163 (*see also dana*)
 transmissibility (aspect of ownership), 35–36, 39, 42, 45
 trauma
 physical, 221, 258
 psychological, 143, 199, 287
 treasure, 23, 260
 tribe, 141–142, 211, 227
 African, 180, 188
 Native American, 215, 282
 Thracian, 93
 Trimalchio, dinner of, 95–96
tsaanaakatu, 219
tubitsi tabkapu, 219
 Turner, V., 91–92, 101n.38
 Tutchone, 213, 216–219, 222–223

ulema, 138–139
 Ulpian, 97, 98n.7, 99n.19, 100n.26, 103n.48
 undertaking concession, 92
 United Nations Working Group on slavery, 47
unzarhu (term for slave), 21
urdu (term for slave), 16, 20–21, 24–25, 27nn.7, 14, 272
 usufruct, 36, 152, 270

 van Gennep, A., 90–92, 101n.35
 Varro, 94, 95, 103n.51
 Venice, 252
 Viceroyalty of Nueva Granada, 143
 Vikings, 256–257, 259–260
 Villa Magna, 256
 village, 68–69, 148, 153, 170–173, 177, 181, 183–190, 212–215, 220–221, 230–231, 234–235, 237, 282
 Virgin of Guadalupe, 284
 virginity, 110, 116, 284–285
 Viveiros de Castro, E., 241

 Wang Mang, 130, 134n.5
 warfare, 57, 60, 94, 129, 213–214, 218–221, 223, 282
 Watkins, C., 95, 103n.51
 Westermarck, E., 44, 50n.11
 will, 153, 171
 witch, 168, 173–174, 182, 187, 202, 226
 witchcraft, 188, 226
 witness, 24, 139
 Wittek, P.
 Strong Wittek Thesis, 141, 145–146
 women
 in ancient Greece, 282
 in antebellum South, 282
 captive, 59, 217, 219–220, 283
 as chiefs, 220, 222
 childless, 273
 in colonial Brazil, 167–189
 as *dan nozi?*, 218
 economic activity of, 220, 222

- women (*cont'd*)
- free (in contrast to slaves), 8, 215, 212–213, 218, 220
 - freeborn (*aste gune*), 109, 112
 - freed, 283 (*see also* freedwoman)
 - as gardeners, 212
 - as heads of households, 215, 218, 222
 - high-status, 42, 43, 60, 216, 218, 221–223
 - in small-scale societies, 211, 212, 217, 220–223, 282
 - political activity of, 212–213, 221–222
 - pregnant, 142, 185, 187, 212
 - slave, 8, 40, 41, 214 (*see also* slave)
 - as slave owners, 109, 211, 218, 220–222
 - in Sparta, 68
 - as symbols of liberty, 284–285
 - as war slaves, 282
 - work of, 220
- women and children, 22, 214, 219, 227, 230, 235
- workhouse, 41, 43
- Wrede, H., 87, 99nn.20, 22
- Wu (Chinese slave) 130–132
- Xenophon, 68
Memorabilia, 39
- yandy* *see* terminology for slaves
- Zalmoxis *see* mythology
- Zilfi, M., 137
- Zumbi, 167, 189n.1