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# NAMING, DEFINING, PHRASING STRONG ASYMMETRICAL DEPENDENCIES

A TEXTUAL APPROACH

*Edited by Jeannine Bischoff,  
Stephan Conermann and Marion Gymnich*

UNIVERSITÄT  BONN



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## **Naming, Defining, Phrasing Strong Asymmetrical Dependencies**

# **Dependency and Slavery Studies**



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Jeannine Bischoff and Stephan Conermann

**Volume 8**

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Jeannine Bischoff, Stephan Conermann and Marion Gymnich

# Naming, Defining, Phrasing Strong Asymmetrical Dependencies: Introduction

## 1 Introduction

The concept of ‘strong asymmetrical dependency’ is proposed by the Bonn Center for Dependency and Slavery Studies (BCDSS) as an umbrella term for various social phenomena that have traditionally been referred to by terms such as ‘slavery’, ‘serfdom’ or ‘unfree labour’. This new term is neither meant to replace established terminology, nor should it erase the manifold differences between historically specific conditions of enslavement or other forms of dependency. Instead, the term has been coined to break free from long-standing associations and to facilitate an interdisciplinary dialogue about the social conditions and the experience of a wide range of enduring coercive social structures. The study of strong asymmetrical dependencies requires paying attention to the terms used to talk about relevant historical phenomena as well as to the (cultural) narratives in which asymmetrical dependency is represented, affirmed, questioned or negotiated. In his influential monograph *The Problem of Slavery as History: A Global Approach*, Joseph C. Miller argued in favour of “understanding slaving as a historical strategy” rather than “only as an institution”.<sup>1</sup> Approaching the history of slaveries across different regions and historical periods from this vantage point also implies that exploring the ways in which enslavement is talked about in historical (and historiographic) discourses is bound to produce interesting results.

The present volume, which brings together expertise from different disciplines, including Islamic history, Scandinavian studies, theology, German medieval literary studies and law, is based on presentations and discussions in the context of the first Annual Conference of the BCDSS on October 1–2, 2020. This (online) conference marked the end of the first of five ‘thematic years’ that serve as milestones for the progress of research activities in the BCDSS over the period from 2020 to 2025. The conference was structured around the three key concepts ‘semantics’, ‘lexical fields’ and ‘narratives’, which were at the centre of the first ‘thematic year’. The contributions during the two-day conference confirmed that studying the semantics of terms associated with asymmetrical dependency and the narratives in which these are embedded is crucial for overcoming the idea of a straightforward dichotomy of free vs. unfree that tends to inform discourses about enslavement in modern/post-Enlightenment societies. Such a binary opposition fails to do justice to the often highly complex situation in societies, in particular in pre-modern ones, but to some extent also in today’s world.

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<sup>1</sup> Joseph C. Miller, *The Problem of Slavery as History: A Global Approach* (New Haven, CT/London: Yale University Press, 2012): x.

## 2 Semantics of Dependency

In research on the global history of enslavement and other forms of asymmetrical dependency there is a certain tension between the use of umbrella terms, which partially derives from the necessity of having an academic ‘meta-language’, on the one hand and the plurality of actual, local, historical terms on the other hand. Using the term ‘slavery’ or the plural ‘slaveries’ as general terms for the very different kinds of asymmetrical dependencies that existed throughout human history cannot capture the enormous heterogeneity that informed social relationships involving dependency. While this critique of course holds true for *any* umbrella term, the more descriptive term ‘strong asymmetrical dependency’ proposed by the BCDSS arguably has the advantage of being comparatively free of the at times quite fixed associations older expressions have accumulated over the course of their history. Thus, the new term may help to remove obstacles for an academic comparison across very different regional and historical contexts and also facilitates the type of comparison that seeks to acknowledge local and historical differences. While umbrella terms are useful for generating dialogue, a thorough analysis of the history of asymmetrical dependencies requires studying the terms that actually existed in a particular context.

Drawing upon the expertise provided by historical semantics and etymology, semantic analyses of the terms used to refer to dependent people in a specific historical context offer an important method for gaining a better understanding of the complexity of asymmetrical dependencies.<sup>2</sup> Studying the terms that form part of one and the same lexical field (e.g., enslavement) in a particular society provides information on which social distinctions were deemed relevant. This approach may help, for instance, to grasp some of the fundamental differences between transatlantic slavery and enslavement in the Ottoman Empire.<sup>3</sup> As the renowned American linguist and anthropologist Edward Sapir put it, “[t]he complete vocabulary of a language may indeed be looked upon as a complex inventory of all the ideas, interests, and occupations that take up the attention of the community”.<sup>4</sup> The social distinctions that can be identified by means of a semantic analysis of the lexical field of enslavement/dependency often go significantly beyond a simple binary opposition of ‘free’ vs. ‘unfree’ people. Semantic

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2 Cf. the contributions in Jeannine Bischoff and Stephan Conermann, eds., *Slavery and Other Forms of Asymmetrical Dependencies: Semantics and Lexical Fields* (Berlin/Boston: De Gruyter, 2022).

3 On enslavement in the Ottoman Empire, cf., for example, Stephan Conermann and Gül Şen, “Slavery is Not Slavery: On Slaves and Slave Agency in the Ottoman Empire: Introduction,” in *Slaves and Slave Agency in the Ottoman Empire*, ed. Stephan Conermann and Gül Şen, Ottoman Studies/Osmanistische Studien 7 (Göttingen: V&R unipress, 2020): 11–27 as well as the articles by Tolino and Czygan in this volume.

4 Edward Sapir, “Language and Environment [1912],” in *Selected Writings in Language, Culture, and Personality*, ed. David G. Mandelbaum (Berkeley/Los Angeles/London: University of California Press, 1985): 90–91. In his pathbreaking studies from the beginning of the twentieth century, Sapir, for instance, introduced the idea of linguistic relativity.

analyses confirm that the ‘unfree’ people in a society did not necessarily constitute a uniform group. Serena Tolino and Stefan Brink show in their contributions to this volume that texts from the Fatimid Empire and from medieval Scandinavia make use of terms that subdivide unfree people into categories that differ, for instance, in terms of their provenance, their rights or their social status. There is, however, not always a one-to-one relationship between social categories and words. As Hossein Sheikh stresses in his discussion of Old Persian and Middle Iranian terminology in this volume, polysemous words are among the factors that complicate the analysis to some extent.

A feature that sets the lexical field of enslavement apart from many other lexical fields (and simultaneously enhances the likelihood of one-to-one relationships between social categories and linguistic items) is the fact that the vocabulary referring to asymmetrical dependency typically includes terms that are defined in legal texts and whose use thus has legal implications. From the point of view of semantics, legal terms appear to have a somewhat special status in so far as they need to be defined precisely to serve their purposes within society. Many other words in languages, by contrast, correspond to semantic categories that defy clear definitions, involving blurred boundaries instead, which may at times make it difficult to assign a term to a phenomenon: “there is a focal range in which judgments are secure and consistent, but it shades into a borderline range in which there is conflict with a neighboring category, and in which judgments become less secure and more context-dependent”.<sup>5</sup> A legal framework might be expected to preclude this kind of blurred semantic category, and the normative function of legal texts should thus give rise to a clearly structured lexical field as far as enslavement is concerned. Yet, even though laws are certainly apt to order and stabilise the structure of the lexical field of enslavement to some extent, jurisprudence is also an area where definitions continue to be debated and where borderline cases are far from uncommon, as the contribution by Barbara Herceg Pakšić illustrates.

### 3 Metaphors of Dependency

A semantic analysis of the (historical) repertoire of terms associated with asymmetrical dependency can be complemented by paying attention to the metaphorical usage of these terms and to diachronic changes in this respect. Especially the umbrella terms ‘slave’ and ‘slavery’ (as well as their counterparts in other languages) appear to have been used metaphorically for a long time. As Andrea Binsfeld shows, for instance the idea of being a ‘slave of love’ can already be found in ancient Greek

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<sup>5</sup> Ray Jackendoff, *Foundations of Language: Brain, Meaning, Grammar, Evolution* (Oxford: Oxford University Press, 2002): 351.

literature.<sup>6</sup> In nineteenth-century Britain, the terms ‘slave’ and ‘slavery’ occur in various contexts to refer to the experience of asymmetrical dependency in situations that were *not* defined as slavery from a legal perspective. A case in point is the emergence and dissemination of the concept of ‘white slavery’, which is discussed by Ruth Ennis in the present volume. Yet, a tendency towards using the term ‘slave’ metaphorically cannot only be observed in larger discourses, where the metaphor comes to be employed systematically. There are also isolated instances of metaphorical usage, i.e., passages in specific texts that use the term to establish a comparison. In Charlotte Brontë’s novel *Jane Eyre* (1847), for example, the orphaned title character, who is treated very badly in the household of rich relatives and sees no way of escaping from this situation, compares herself to an enslaved person, when she describes her experience as follows: “like any other rebel slave I felt resolved, in my desperation, to go all lengths.”<sup>7</sup> In a novel that was published only fourteen years after the Slavery Abolition Act had been passed in the United Kingdom and during ongoing efforts to abolish slavery in the United States, even a brief reference to slavery like the one quoted above can be expected to resonate strongly with many readers. The cultural and political context presumably motivates the metaphorical usage of the term ‘slave’ and simultaneously endows it with emotional intensity. Brontë’s novel, however, also draws the readers’ attention to another possible framework motivating the metaphorical usage of ‘slave’, i.e., Roman history, which is alluded to in the following passage, where Jane explains why she accused her cousin of being “like a slave-driver” and “like the Roman emperors” as follows: “I had read Goldsmith’s *History of Rome*, and had formed my opinion of Nero, Caligula, &c.”<sup>8</sup>

According to conceptual metaphor theory, “metaphors are deeply entrenched in the cultural discourses of their age”,<sup>9</sup> which means that “people draw on their preexisting cultural knowledge when they use or process metaphors”.<sup>10</sup> Moreover, metaphors can be “seen as underpinnings, even fundamental underpinnings, of culture”.<sup>11</sup> This certainly also holds true for a metaphorical usage of the term ‘slave’, as the examples mentioned in the previous paragraph illustrate. In societies where slavery was part of everyday life and/or where its abolition was discussed, a metaphorical usage of terms related to this institution does not seem far-fetched. Debates on

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6 Andrea Binsfeld, “Slavery and its Narratives in Ancient Novels – Stories of ‘Decline and Fall’?” in *Narratives of Dependency*, ed. Elke Brüggem and Marion Gymnich (Berlin: De Gruyter, forthcoming).

7 Charlotte Brontë, *Jane Eyre* (Harmondsworth: Penguin, 1985): 44.

8 Brontë, *Jane Eyre*: 43.

9 Ansgar Nünning, “Metaphors the British Thought, Felt and Ruled by, or: Modest Proposals for Historicizing Cognitive Metaphor Theory and for Exploring Metaphors of Empire as a Cultural Phenomenon,” in *Literature and Linguistics: Approaches, Models, and Applications. Studies in Honour of Jon Erickson*, ed. Marion Gymnich, Ansgar Nünning and Vera Nünning (Trier: WVT, 2002): 102.

10 Nünning, “Metaphors the British Thought, Felt and Ruled by”: 110.

11 Philip Eubanks, “The Story of Conceptual Metaphor: What Motivates Metaphoric Mappings,” *Poetics Today* 20, no. 3 (1999): 419.

transatlantic slavery in the eighteenth and nineteenth centuries thus provided a context that certainly encouraged for instance writers, journalists and social reformers to draw upon the terms 'slave' and 'slavery' for referring to other types of dependency. A preference for these terms can also be attributed to the fact that "the evoking of emotion is an important aspect of the metaphorical process".<sup>12</sup> In a cultural context in which people were made aware of the cruelty of slavery by testimonies of formerly enslaved people and by the efforts of abolitionists in general, the terms 'slave' and 'slavery' accumulated emotional intensity, becoming synonymous with immense suffering and injustice. Thus, when other social relationships were labelled as 'slavery', the aim was obviously to condemn these in no uncertain terms. In the discourse of 'white slavery' discussed by Ennis as well as in Brontë's novel we can recognise the "strong rhetorical overtones of injustice, inhumanity, social and political exclusion, personal abuse, and inequality that the notion of slavery carries in modern culture".<sup>13</sup> Some or all of these negatively connotated semantic features are likely to be activated cognitively when the terms 'slave'/'slavery' are used metaphorically.

According to cognitive approaches to metaphor theory, metaphors involve a "schema of *source domain*, *target domain*, and the *mapping* of source on target".<sup>14</sup> When a metaphor is used, "a number of prototypical features" of the source domain (here: slavery) are "projected onto the subject matter [i.e., the target domain] about which one wants to talk"<sup>15</sup> (here: trafficking of women for the purpose of sex work in the case of 'white slavery' or the situation of an individual orphaned child depicted in a British novel). This process is referred to as 'conceptual integration', which, as Mark Turner and Gilles Fauconnier point out, "typically works below the horizon of observation": "It occurs dynamically in the moment of thinking, acting, and speaking, for local purposes, but its products can become entrenched."<sup>16</sup> A contextualisation of both occasional and systematic (i.e., 'entrenched') metaphorical usage of terms related to asymmetrical dependency promises to provide additional insights into the historically variable discourses on dependency.

Contextualisation also implies paying attention to the narratives in which metaphors are embedded. According to Philip Eubanks, conceptual metaphors tend to be supported by 'licensing stories', i.e., by a "repertoire of ideologically inflected narratives, short and long, individual and cultural, that organize our sense of how the world works and how the world should work. That is to say, our world-making stories give us the license – provide the requisite justification – needed to regard possible metaphoric

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12 Nünning, "Metaphors the British Thought, Felt and Ruled by": 113.

13 Miller, *The Problem of Slavery as History*: x.

14 Monika Fludernik, Donald C. Freeman and Margaret H. Freeman, "Metaphor and Beyond: An Introduction," *Poetics Today* 20, no. 3 (1999): 387.

15 Fludernik, Freeman and Freeman, "Metaphor and Beyond: An Introduction": 387.

16 Mark Turner and Gilles Fauconnier, "A Mechanism of Creativity," *Poetics Today* 20, no. 3 (1999): 408.



mappings as sound”.<sup>17</sup> The proliferation of metaphors related to slavery in nineteenth-century Europe, for instance, can be interpreted as resulting from an underlying licensing story shaped by the European Enlightenment that consolidates a binary opposition between slavery as a state that needs to be left behind on the individual and collective level to ensure progress, which is linked with achieving freedom.

## 4 Narratives of Dependency

Due to the ubiquity of strong asymmetrical dependencies in human societies throughout human history it seems hardly surprising that this type of social relationship can be traced in countless texts. These are often valuable textual sources for analysing the semantics of asymmetrical dependencies from a synchronic as well as from a diachronic perspective, as the previous sections have already suggested. Texts provide the contexts that are frequently needed to grasp and perhaps to disambiguate the meaning of lexical items and to identify semantic nuances in the ways they are used. As the contributions in this volume show, a wide range of different text types and genres can be drawn upon for an analysis of the semantics and metaphors of dependency, including for instance inscriptions, letters, legal texts and fictional works. Yet, the functions of texts for the study of asymmetrical dependency go much beyond being a source for semantic analyses on the lexical level.

Some narrative texts open up the possibility of at least partially reconstructing the history of asymmetrical dependency and, more specifically, that of the *experience* of enslavement and dependency. In the context of efforts to tell the history of asymmetrical dependency, it seems necessary to adopt a wide concept of narratives, i.e., to include both texts that exhibit ‘strong narrativity’ and those that are characterised by ‘weak narrativity’ and thus may be less prototypical examples of narrative texts (and have traditionally often been ignored by narratologists for this reason).<sup>18</sup> Many text

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<sup>17</sup> Eubanks, “The Story of Conceptual Metaphor”: 426–27.

<sup>18</sup> Monika Fludernik and Marie-Laure Ryan describe the distinction between strong and weak narrativity as follows: “*strong narrativity* [ . . . ] fulfills all the conditions constitutive of basic narrativity, it also involves a mode of narration that goes much beyond the depiction of a sequence of events involving beginning, middle and end. Such narratives will focus on the mental worlds of human or human-like protagonists, this is to say, on their desires, intentions and feelings. Strong narratives must flesh out the kind of content that is constitutive of story in order to bring out its experientiality [ . . . ]. On the other end of the narrative continuum is *weak narrativity*. It comes in two kinds. The first stems from an *only partial fulfillment of the basic conditions*. For instance, a news headline is an incomplete story that needs to be fleshed out by the text that follows. [ . . . ] The other form of weak narrativity fulfills the basic conditions listed above, but it does so through a mode of representation that *limits itself to the transmission of information*. Such texts have a distinct plot made of sequences of events and actions but they do not foreground the mental activity of the protagonists or actants. [ . . . ] This reporting style is the dominant form of factual narrative, but it is also found in some types of fiction”

types that prove to be particularly important sources of information on asymmetrical dependency, for example the customary law texts studied by Caroline Laske in her article in this volume, have to be categorised as weakly narrative texts. The task of reconstructing a history of asymmetrical dependency by means of narratives is fraught with problems. The most important challenge is certainly that texts tended to be written by enslavers rather than by enslaved people. This is likely to cause huge gaps in our knowledge and to confront us with a bias that privileges the perspective of the enslavers. Notwithstanding such problems, even these narratives may turn into important sources of knowledge if they are read against the grain and if details and silences are paid attention to. In a similar vein, Elke Brüggem argues in her contribution to this volume that canonical literary texts can produce information on asymmetrically dependent people if marginal characters are focused on and contextualised in the histories of enslavement.

Narratives that address asymmetrical dependency provide manifold insights into the cultural framework and its discourses that either support or challenge asymmetrical dependency in a society. Narratives may offer culture-specific justifications for the existence of slavery or indicate which values, norms and belief systems support the practice of enslaving people. As Chris de Wet shows in his discussion of various narratives that originated in the context of Early Syrian Christianity, actual enslavement may for instance be entangled in complex ways with religious ideas of a spiritual enslavement. The archive of texts that provide information on the history of asymmetrical dependency can be subdivided into two large groups on the basis of their attitude: (a) those that simply take asymmetrical dependencies for granted or even provide justifications of the institution and (b) those that criticise asymmetrical dependency and seek to abolish it.

The former constitute by far the largest group, which seems hardly surprising since the voices of hegemonic groups tend to be the ones that are primarily preserved in documents. In terms of text types and genres, this group of narratives is extremely diverse, including for example legal and religious texts as well as literary works and personal documents. In order to read between the lines or against the grain, as suggested above, the conventions informing the different text types and genres need to be taken into account. Moreover, tropes that occur across genres may provide interesting insights, as Rachel Zelnick-Abramovitz shows in her interpretation of the trope of ‘the slave who made it’ in ancient Greek literature.

The second group of texts, those that criticise asymmetrical dependency and argue for its abolition, is on the whole much smaller, but it includes a few texts that are extremely well-known today. This is certainly true for some of the autobiographical texts that have come to be known as ‘slave narratives’, i.e., texts by formerly

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(Monika Fludernik and Marie-Laure Ryan, “Factual Narrative: An Introduction,” in *Narrative Factuality: A Handbook*, ed. Monika Fludernik and Marie-Laure Ryan [Berlin/Boston: De Gruyter, 2020]: 9).

enslaved people like Olaudah Equiano, Frederick Douglass and Mary Prince that have played an important role in the efforts to abolish transatlantic slavery. As Vicent Sanz and Michael Zeuske stress, this type of narrative is comparatively rare and should strictly speaking be called ‘ex-slave narrative’, given the fact that enslaved people are typically in no position to publish texts.<sup>19</sup> Many of the authors of texts that were written to support the abolition of transatlantic slavery were white abolitionists, and in some regions these voices have even dominated the cultural memory for a long time, as Ulrike Schmieder shows in her study on Martinique in this volume. The letters written by a formerly enslaved woman from sixteenth-century Istanbul that are analysed in Christiane Czygan’s article are particularly intriguing, since they offer a complex negotiation of the writer’s position and show again that the institution of slavery in the Ottoman Empire differed significantly from transatlantic slavery.

## 5 The Contributions in this Volume

The eleven articles in this volume approach themes and questions outlined so far from different angles and disciplinary vantage points. They illustrate that a focus on the semantics and lexical fields that are relevant to asymmetrical dependency tends to provide impulses for the study of narratives of dependency and vice versa. The majority of the contributions discuss pre-modern societies, but it also becomes clear that a text-centred approach revolving around the semantics, lexical fields, metaphors and narratives of dependency is equally useful for an analysis of post-Enlightenment societies.

Stefan Brink examines the semantics and etymology of the terms that were used to refer to different types of enslaved people in medieval Scandinavia, especially in legal and literary texts. The juxtaposition of these terms reveals that being enslaved was a heterogeneous phenomenon in Scandinavian societies, even though the opposition between free and unfree persons at first appears to be binary from a purely legal perspective. As Brink shows, the features that set the different concepts apart include gender (e.g., *ambótt* ‘female slave’ vs. *bráell* ‘male slave’), but also differences in terms of the social position of enslaved people. A comparison with related terms in other Indogermanic languages as well as an analysis of diachronic changes provide insights into the cultural conceptualisation of the varying social roles of enslaved people as well as into the history of enslavement. This is perhaps most obvious in a specific semantic shift: words referring to (foreign) ethnic groups adopt the meaning ‘slave’.

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<sup>19</sup> Vicent Sanz and Michael Zeuske, “Towards a Microhistory of the Enslaved: Global Considerations,” in *El tabaco y la rearticulación imperial ibérica (s. XV–XX)*, ed. Santiago Luxán Meléndez and João Figuerôa Rêgo (Évora: Publicações do Cidehus, 2019).

This change in meaning can be observed in Scandinavia as well as across Indo-European languages and reflects in particular the enslavement of war captives.

Drawing upon sources such as inscriptions, letters and contracts written in ancient Near Eastern languages, Hossein Sheikh provides a similar contrastive semantic analysis of a large number of terms related to slavery. The starting point of Sheikh's overview is the Old Persian word *bandaka*, which, depending on the context, can mean either 'servant/slave' or 'subject'. Sheikh compares this term with cognates in other languages from the region, including the three Middle Iranian languages Sogdian, Pahlavi and Bactrian as well as various Semitic languages. According to Sheikh, semantic similarities between these languages can to some extent be accounted for culturally, by shared underlying concepts of (divine) superiority and inferiority, which do not correlate with the (modern) binary opposition of free vs. unfree. The social category 'gender' turns out to be a distinctive feature in the lexical field, giving rise to different terms referring to male and female slaves/servants.

In her discussion of the terminology used to refer to eunuchs in Islamic societies, Serena Tolino argues that it is necessary to study the semantic distinctions inherent in different terms referring to people in dependent positions in order to break free from Western-centric notions that tend to be informed by the simplified dichotomy of free vs. unfree. Even though most eunuchs were enslaved, they could still hold a range of influential political and administrative positions and they could have certain rights. For her analysis, Tolino uses primarily sources from the ninth to twelfth centuries, drawing upon chronicles from the Fatimid Empire, legal texts (*fiqh* manuals) as well as three lexicographic sources from the tenth century. These text types present several terms for eunuchs and thus imply different distinctive features. The chronicles, for instance, distinguish types of eunuchs depending on their rank and social function. In legal texts, by contrast, the terms used to refer to eunuchs indicate the degree of castration, which had an impact on the rights a eunuch was granted.

In an article focusing on early Syrian Christianity, Chris de Wet explores concepts and images of enslavement in a region that has been largely ignored in slavery studies. He traces changing implications of the image of the captive monk and narratives revolving around this figure over the course of several centuries, addressing different ways in which ascetical theology and practice were informed by the notion of being enslaved. De Wet argues that a historical context in which enslavement was ubiquitous fostered a tendency to conceptualise ascetic practices in terms of enslavement. In theological discourses in late ancient Syria, enslavement was regarded as a consequence of free will, which estranges the person from God – a state that can be overcome by becoming a slave *of God*. The texts examined by de Wet include the apocryphal *Acts of Thomas*, which feature an early example of the figure of the captive monk and intertwine notions of institutional, spiritual and metaphorical enslavement, Jerome's *Life of Malchus*, where physical enslavement is presented as a punishment for sins, and the *Book of Steps*, which presents enslavement of the body as ascetic practice.

Ruth Ennis revisits the problematic expressions ‘white slavery’ / ‘la traite des blanches’, seeking to unentangle the dissemination of these terms across various Francophone and Anglophone (con)texts in the nineteenth century. Ennis thus engages in the debate to what extent the idea of a widespread trafficking of white women, which came to be referred to as ‘white slavery’ or ‘la traite des blanches’, was a myth fueled by processes of Othering in terms of both nationality and class. Having started out as metaphors that were used comparatively unsystematically to refer to diverse kinds of exploitation, the expressions ‘white slavery’ / ‘la traite des blanches’ eventually turned into a powerful and highly gendered concept in its own right, which referred specifically to trafficking women for the purpose of sex work. Ennis describes the emerging narrative of ‘white slavery’ as a transnational production and circulation of knowledge that involved many historical actors, served a range of different functions and was closely linked with prejudices regarding nationality and class.

Rachel Zelnick-Abramovitz explores stories about manumitted slaves from the ancient Greek world that present their formerly enslaved protagonists as achieving wealth and/or fame by various strategies. As Zelnick-Abramovitz shows, this type of narrative can be found across different genres, including philosophical texts by Plato and Plutarch, writings by the historian Herodotos and by the geographer Strabo as well as the fictitious biography *Life of Aesop* from the first century CE. While there are a few accounts of actual manumitted slaves in ancient Greece who became successful, some well-known narratives about former slaves have probably fictitious protagonists with legendary features, such as Aesop, to whom many fables have been ascribed. What the various (formerly) enslaved protagonists share is their wit, which is the quality that ensures their success and that links them to the character type of the ‘cunning slave’ in comedies. According to Zelnick-Abramovitz, such narratives may have fulfilled multiple social functions, responding to hopes of enslaved people and to fears of enslavers alike.

In her discussion of one of the most famous Middle High German epic poems, Wolfram von Eschenbach’s *Willehalm* from the thirteenth century, Elke Brüggem demonstrates that reading pre-modern canonical texts against the grain and specifically through the lens of asymmetrical dependency may provide innovative readings of these works. The character of Rennewart in *Willehalm* has already attracted considerable interest among literary scholars. Nevertheless, as Brüggem claims, interpreting this Muslim character of royal descent as someone who was abducted as a child, who has been forcibly removed from the cultural and religious context he was born into and who has lived as a servant at the court of a Christian king makes it possible to glean allusions to what could be classified as alienating, even traumatic experiences. Thus, a literary figure like Rennewart can be situated in the history of the abduction and enslavement of children in the Holy Roman Empire – a facet of enslavement that has traditionally been marginalised in studies of slavery in European history.

The contribution by Christiane Czygan focuses on letters written by Hurrem, a controversial historical figure from Ottoman history in the sixteenth century, who rose from being an enslaved woman in the Ottoman Imperial harem to exerting a considerable amount of political power. Czygan describes the Imperial harem as an environment where a comparatively high social status was often coupled with an equally high degree of dependency. In the sixteenth century, female slaves in the Imperial harem generally played an important role by producing male heirs, and having given birth to several sons certainly contributed to Hurrem's influential position at court. The letters Hurrem wrote to Sultan Süleyman while the latter was away from the court provide a glimpse of Hurrem's voice and display her efforts to consolidate a position that was highly unusual for a woman like her. According to Czygan, the rhetorical strategies drawn upon by Hurrem to achieve her goals include expressions of love as well as a strong emphasis on her obedience, which corresponds to repeatedly referring to herself as the sultan's slave.

In her contribution to this volume, Caroline Laske analyses the *Sachsenspiegel*, a customary law text written down in eastern Saxony in the thirteenth century, through the lens of asymmetrical dependency. This approach stresses that the far-reaching lack of women's legal capacity in medieval society situated them in a dependent position. The *Sachsenspiegel*, like other late medieval customary law texts, tends to deny women legal capacity as far as control of both resources and actions is concerned. In the *Sachsenspiegel*, the norm of male guardianship, which was experienced by married women due to the legal principle of the *feme covert*, was not only inherent in the legal provisions. As Laske shows, this norm was additionally reinforced in references to the narrative of the Roman figure of Calpurnia, whose insolent demeanour was supposed to justify the silencing of women in legal contexts. The allusions to Calpurnia were also incorporated on the visual level, by means of images highlighting the insolence and even indecency of Calpurnia as a warning.

Ulrike Schmieder addresses various narratives about enslavement on Martinique and explores the competing memory cultures on the Antillean island, where the descendants of enslaved people and the *békés*, whose ancestors were enslavers, have traditionally remembered the past differently. These narratives include abolitionist Victor Schoelcher's account of the crimes committed by the Jaham brothers, whose cruel torture of enslaved people was meant to convince readers of his *Histoire de l'esclavage pendant les deux dernières années* (1847) that the abolition of slavery was necessary. As Schmieder shows, hegemonic French memory culture as well as that of many *békés* initially privileged the commemoration of the abolition of slavery rather than recalling the cruel reality of enslavement; in recent decades, however, descendants of enslaved people have increasingly challenged the *békés'* account, for instance by articulating a de-colonial counter-memory that emphasises resistance, self-liberation and agency on the part of the enslaved people.

Barbara Herceg Pakšić demonstrates what it means to approach slavery from the point of view of human rights and criminal justice today. She stresses that enslavement

is a human rights violation that cannot be relegated to the past, given that slavery continues to evolve into new forms. This, as Herceg Pakšić points out, implies that legal anti-slavery measures for the benefit of vulnerable groups are still called for. For contemporary societies, the concept of *de facto* slavery, which encompasses actual exploitative practices, might be more useful than the notion of *de jure* slavery, which can be applied to traditional forms of strong asymmetrical dependency. Herceg Pakšić discusses the definitions of slavery drawn upon by the European Court of Human Rights, by the International Criminal Tribunal for Former Yugoslavia and by Australian jurisprudence to distinguish between slavery and phenomena like forced labour in court decisions. In case studies, she illustrates the judicial reasoning, which helps to problematise the notion of (modern) slavery.

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Stefan Brink

# A ‘Grammar of Asymmetrical Dependency’ for Early Scandinavia (to c. 1350)

*Nomina si nescis perit cognitio rerum.*

## 1 Introduction

In this article I address the question of how to identify slaves in medieval Scandinavian society.<sup>1</sup> The problem for us working on early medieval Scandinavia is the scarcity of written sources which could help us to reconstruct the social fabric. We know that during this period slavery is in decline and then disappears in the thirteenth and fourteenth centuries; a *terminus post quem* seems to be 1335, when we have a royal decree in Sweden abolishing slavery,<sup>2</sup> while the other Scandinavian countries saw the abolition taking place even earlier. Regarding this written evidence, we have the runic inscriptions from the Viking Age, which – unsurprisingly – have very little (virtually nothing) to say about the slavery we know existed, and then we have some documents in Latin from the thirteenth century, where members of the south Scandinavian nobility free their slaves in manumission letters. Instead, we have to rely on the earliest (provincial) laws and the Old Norse saga literature, which is problematic from a source-critical point of view.

The method I am using here is applying etymological and semantic analyses and then contextualising the results by exemplifying how these categories are portrayed especially in the medieval laws, but also in Old Norse literature. This is, hence, working within the inter-disciplinary, philological field of *Wörter und Sachen*,<sup>3</sup> which is very productive when you confront the linguistic entities and language-historical, diachronic development with the results from analysing the actual societies, i.e. the (pre-)historical

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<sup>1</sup> In this article, the following abbreviations will be used: Arab. = Arabic; Da. = Danish; Gall. = Gallic; Germ. = German; Goth. = Gothic; Gr. = Greek; Lat. = Latin; Latv. = Latvian; MNo. = Middle Norwegian; MSw. = Middle Swedish; OE = Old English; ODa = Old Danish; OHG = Old High-German; OInd = Old Indian/Sanskrit; OIr = Old Irish; ON = Old Norse; OSax = Old Saxon; OSw = Old Swedish; PGmc = Proto-Germanic; PIE = Proto-Indo-European; Scand. = Scandinavian; Sw. = Swedish.

<sup>2</sup> Gösta Hasselberg, “Den s.k. Skarastadgan och träldomens upphörande i Sverige,” *Västergötlands fornminnesförenings tidskrift* 5, no. 3 (1944): 51–90.

<sup>3</sup> See, e.g., Dorothee Heller, *Wörter und Sachen. Grundlagen einer Historiographie der Fachsprachenforschung*, Forum für Fachsprachen-Forschung 43 (Tübingen: Narr, 1998); Ruth Schmidt-Wiegand, *Wörter und Sachen als methodisches Prinzip und Forschungsrichtung*, 2 vols., Germanistische Linguistik (Hildesheim: Olms, 1999): 145–48.



evidence, especially from historical texts and documents and also archaeology. In this paper I will discuss a selection of terms for ‘slave’,<sup>4</sup> which are representative and indicative of the thesis I am pursuing, namely that although being a slave was from a judicial point of view a (in principle) black-and-white phenomenon, from a social point of view there is more of a sliding scale: some slaves could have some social standing, whereas others were despised and firmly at the bottom of society. This exposition is therefore an example of a society where we had *asymmetrical dependencies* in several ways.

## 2 Definitions of ‘Slavery’ and ‘Slave’ and Other Kinds of ‘Asymmetrical Dependencies’

Anyone who wants to study slavery in bygone times must first define what constitutes a ‘slave’ or ‘thrall’.<sup>5</sup> This may seem obvious, but in fact it is not. The judicial situation for any slave was more or less rather black-and-white: you were either legally free or unfree. In the latter case, you were not a legal subject, you could not engage in legal disputes or matters but had to be represented by your master. However, as we find in all early European laws, you were a legal object. There are numerous enactments regulating the slave’s life and deeds. The same laws, perhaps especially the early Scandinavian laws, describe the social situation for slaves, where we find that some slaves had a higher social position than others (according to fines to pay for injuring, killing or fornicating with a slave), and in some cases a slave could be very high up on the social ladder. If nothing else, this shows that views of slavery consist of much more than a dichotomy because we have to operate with a rather complex scale of grey to understand.<sup>6</sup> This is evident not least when trying to define the different terms for

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4 For a more comprehensive survey and discussion of this terminological corpus, see Stefan Brink, *Thralldom. A History of Scandinavian Slavery in the Viking Age* (Oxford/New York: Oxford University Press, 2021).

5 For definitions of ‘slave’ and ‘slavery’ see, for example, Orlando Patterson, *Slavery and Social Death. A Comparative Study* (Cambridge, MA: Harvard University Press, 1982): passim; William D. Phillips, *Slavery from Roman Times to the Early Transatlantic Trade* (Manchester: Manchester University Press, 1985): 5–11; Michael Zeuske, *Sklaverei. Eine Menschheitsgeschichte von der Steinzeit bis heute* (Ditzingen: Reclam, 2018): 7–40; Michael Zeuske, *Handbuch Geschichte der Sklaverei. Eine Globalgeschichte von den Anfängen bis zur Gegenwart*, 2nd ed. (Berlin/Boston: De Gruyter, 2019): 194–205; see also references below. General introductions to slavery are found e.g. in Junius P. Rodriguez, ed., *The Historical Encyclopedia of World Slavery*, 2 vols. (Santa Barbara, CA: ABC-Clío, 1997); Paul Finkelman and Joseph C. Miller, eds., *Macmillan Encyclopedia of World Slavery*, 2 vols. (New York: Macmillan, 1998); Keith Bradley and Paul Cartledge, eds., *The Cambridge World History of Slavery*, vol. 1 (Cambridge: Cambridge University Press, 2011); and Zeuske, *Handbuch Geschichte der Sklaverei*.

6 This is productively discussed by Igor Kopytoff and Suzanne Miers, “African ‘Slavery’ as an Institution of Marginality,” in *Slavery in Africa. Historical and Anthropological Perspectives*, ed. Suzanne Miers and Igor Kopytoff (Madison, WI: University of Wisconsin Press, 1977): 3–84.

'farmer' during the continental Early Middle Ages (c. 400–1200), such as *servus*, *mancipium*, *ancilla*, *villicus*, *rusticus*, *villanus*, *colonus*, and so on; were they free farmers, semi-free tenants, or unfree slaves?<sup>7</sup> To obfuscate the issue even further, most of these Latin terms for 'farmer' have undergone semantic changes over time so that, for example, *rusticus* ('free farmer') could refer later on in medieval times to a more or less semi-free farmer who could be sold when the master sold his estate and who was tied to his farm and his land, while the old and indisputable term for a slave, *servus*, during the thirteenth century could refer to a type of tenant, such as in English law.<sup>8</sup> To confuse the terminology even more, in France around the year 1000 the term *villani* indicated free farmers, while in England at the same time *villani* could refer to unfree persons.<sup>9</sup>

A standard definition of slavery was given in The Slavery Convention of the League of Nations (1926): "the status or conditions of a person over whom any or all of the powers attaching to the right of ownership are exercised".<sup>10</sup> Before that, in 1910, the ethnographer Herman J. Nieboer gave an economic definition of a slave as "a man who is the property of another, politically and socially at a lower level than the mass of the people, and performing compulsory labour", and "the great function of slavery can be no other than a division of labour".<sup>11</sup> The sociologist Orlando Patterson did define slavery, on the basis of a broad comparative analysis of slavery, as "the permanent, violent domination of natively alienated and generally dishonoured persons".<sup>12</sup> Another fairly

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7 See e.g., Pierre Bonnassie, *From Slavery to Feudalism in South-Western Europe*, trans. J. Birrell (Cambridge: Cambridge University Press, 1991): 294–95; Hans-Werner Goetz, "Serfdom and the Beginnings of a 'Seigneurial System' in the Carolingian Period: A Survey of the Evidence," *Early Medieval Europe* 2 (1993): 29–51; Mathieu Arnoux, "Effacement ou abolition? Réflexion sur la disparition de l'esclavage dans l'Europe non méditerranéenne (XI<sup>e</sup>–XIV<sup>e</sup> siècles)," in *Mediterranean Slavery Revisited (500–1800)/Neue Perspektiven auf mediterrane Sklaverei (500–1800)*, ed. Stefan Hanss and Juliane Schiel (Zurich: Chronos Verlag, 2014): 49–74; Frands Theuvs, *The Free and Unfree of the Historians and the Rural Population of the Archaeologists*, unpublished paper at the conference "Law and Archaeology," Carlsbergsakademien, Copenhagen, 7–8 Dec. 2010.

8 Paul R. Hyams, *Kings, Lords and Peasants in Medieval England. The Common Law of Villeinage in the Twelfth Centuries* (Oxford: Clarendon Press, 1980): passim; and William D. Phillips, "Continuity and Change in Western Slavery: Ancient to Modern Times," in *Serfdom & Slavery. Studies in Legal Bondage*, ed. M.L. Bush (London: Longman, 1996): 80–81.

9 Guy Fourquin, "Serfs and Serfdom: Western European," in *Dictionary of the Middle Ages*, vol. 11, ed. Joseph R. Strayer (New York: Scribner, 1988): 203; cf. F.M. Stenton, *Anglo-Saxon England*, 3rd ed. (Oxford: Oxford University Press, 1971): 477–81.

10 David Turley, *Slavery* (Oxford: Blackwell, 2000): 6.

11 Herman J. Nieboer, *Slavery as an Industrial System. Ethnological Researches*, 2nd ed. (Haag: n.p., 1910): 5 and 7. Orlando Patterson, "The Structural Origins of Slavery. A Critique of the Nieboer-Domar Hypothesis from a Comparative Perspective," in *Comparative Perspectives on Slavery in New World Plantation Societies*, ed. Vera Rubin and Arthur Tuden, *Annals of the New York Academy of Sciences* 292 (New York: New York Academy of Sciences, 1977): 12–34, has critically discussed Nieboer's definition.

12 Patterson, *Slavery and Social Death*: 13; for critical remarks on this definition, see Robin Blackburn, *The Overthrow of Colonial Slavery 1776–1848* (London: Verso, 1988): 278 n. 13; see also critical aspects *pace* Patterson in Juliane Schiel and Stefan Hanss, "Semantics, Practices and Transcultural Perspectives

basic definition by the influential historian David Brion Davis says roughly that a slave lacks the right to make his or her own decisions and is someone else's possession and that the work or service of a slave is of a binding nature and warrants no financial compensation.<sup>13</sup> Another, more socially oriented definition of a slave is, according to the anthropologist Edmund Leach, "a man or woman who has no recognised kin outside his owner's family (*familia*)".<sup>14</sup> In other words, a slave was the property of a slave owner; this compares to the Old Icelandic term for a thrall: *mansmaðr* 'a man's man'. Legally, a slave was without rights, but was nonetheless a legal object in the sense that slaves are often mentioned in laws that stipulate how the situation must be handled when a slave has committed a crime; the slave can never be a legal subject, his own spokesman in a court case, and any legal compensation that a slave may be awarded belongs to his owner. Legally speaking, the slave lives through his or her owner, who in principle has unrestricted power over the slave's life and body; the master is allowed to beat, flog and even kill the slave at will. Roman law makes the further distinction that a slave who lacked an owner (which must have been a highly unusual situation) was defined as *res nullius* (properly 'things or land belonging to nobody', 'nobody's property'), and as such a 'nothing'. This means that a definition of 'slave' and 'slavery' actually needs to encompass an economic, a social and a legal dimension,<sup>15</sup> which makes it difficult to construct a general definition; in fact, so difficult that the abovementioned Edmund Leach would have liked for one such to be eliminated from scholarly discussion altogether!<sup>16</sup>

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on Mediterranean Slavery," in *Mediterranean Slavery Revisited (500–1800)/Neue Perspektiven auf mediterrane Sklaverei (500–1800)*, ed. Stefan Hanss and Juliane Schiel (Zurich: Chronos Verlag, 2014): 14 and 17.

**13** David Brion Davis, *The Problem of Slavery in Western Culture* (Ithaca, NY/London: Cornell University Press, 1966): 31 ("his person is the property of another man, his will is subjected to his owner's authority, and his labor or services are obtained through coercion"); cf. David Brion Davis, *Slavery and Human Progress* (New York/Oxford: Oxford University Press, 1984): 8–22. Also, Thomas E.J. Wiedemann, *Slavery. Greece and Rome*, New surveys in the Classics 19 (Oxford: Clarendon, 1987): 22, emphasises the social aspect of slavery above the economic. For other definitions of slavery, see, e.g., Moses I. Finley, "The Extent of Slavery," in *Slavery: A Comparative Perspective. Readings on Slavery From Ancient Times to the Present*, ed. Robin Winks (New York: New York University Press, 1972): 3–15 and Pierre Dockès, *Medieval Slavery and Liberation*, trans. Arthur Goldhammer (London: Methuen, 1982): 4–15; Tore Iversen, *Trelldommen. Norsk slaveri i middelalderen*, Historisk institutt, Universitetet i Bergen, Skrifter 1 (Bergen: Historisk institutt, Universitetet i Bergen, 1997): 27–30, has also productively discussed the definition of 'slave' and 'slavery' (in Norwegian).

**14** Edmund Leach, "Caste, Class and Slavery: The Taxonomic Problem," in *Caste and Race: Comparative Approaches*, ed. Anthony V.S. de Reuck and Julie Knight (London: J. & A. Churchill, 1967): 14.

**15** A similar view has been proposed by Jean-Pierre Devroey, *Puissants et misérables. Système social et monde paysan dans l'Europe des Francs (VIe-IXe siècles)*, Mémoires de la Classe des lettres, Académie royale de Belgique, Collection in 8 Sér. 3, 40 (Brussels: Académie Royale de Belgique, 2006): 315.

**16** "The ambiguities of this word [*slave*] are indeed so confusing that sociologists might be well advised to eliminate it from their discussion altogether." (Leach, "Caste, Class and Slavery": 14). Kopytoff and Miers, "African 'Slavery' as an Institution of Marginality," hold the same opinion.

Igor Kopytoff delved into the problem from an anthropological point of view and has presented us with a comprehensive and thorough analysis of the different attempts to define 'slave' and 'slavery', and he did also try to find a general definition, but resigned and concluded:<sup>17</sup>

'Slavery' may then be used not as an *analytical* concept but as an *evocative* one – much as we use 'economics' and 'politics,' for all the endless debates about their true definition. 'Slavery' evokes certain kinds of relationships and draws attention to them, but it is not a useful analytical component of general theoretical models intended for cross-cultural use.

The discussion how to properly define a 'slave' and 'slavery' continues to this day, perhaps mostly in the context of whether obnoxious phenomena such as trafficking and forced labour are to be counted as *slavery*.<sup>18</sup>

Before we start to analyse Scandinavian terms for 'slave', it is very productive to widen the perspective and highlight some of the more common terms in Early Europe for 'slave', as a comparison.

### 3 Terms for 'Slave' in an Early European Context – Gr. Σκλαβηνός, slave, Sklave, Arab. saqāliba, Gr. doûlos, Lat. servus

In an exciting philological exposition, Emile Benveniste has investigated words that display the double meaning of 'slave' and 'foreigner' (= 'enemy').<sup>19</sup> During Homeric times, Greek had the word *doûlos* (δοῦλος) 'slave'.<sup>20</sup> The word lacks an etymological

<sup>17</sup> Igor Kopytoff, "Slavery," *American Review of Anthropology* 11 (1982): 221.

<sup>18</sup> See for example the discussion between Professors Kevin Bales and Orlando Patterson: Kevin Bales, "Slavery in its Contemporary Manifestations," in *The Legal Understanding of Slavery: From the Historical to the Contemporary*, ed. Jean Allain (Oxford: Oxford University Press, 2012), and Orlando Patterson, "Trafficking, Gender and Slavery: Past and Present," in *The Legal Understanding of Slavery: From the Historical to the Contemporary*, ed. Jean Allain (Oxford: Oxford University Press, 2012). See also Kevin Bales, *The Slave Next Door* (Berkeley: University of California Press, 2010); Kevin Bales, *Blood and Earth: Modern Slavery, Ecocide, and the Secret to Saving the World* (New York: Spiegel & Grau, 2012); Kevin Bales, *Disposable People: New Slavery in the Global Economy*, 2nd ed. (Berkeley: University of California Press, 2012); Kevin Bales, Zoe Trodd and Alex Kent Williamson, *Modern Slavery: A Beginner's Guide* (Oxford: Oneworld, 2011).

<sup>19</sup> Emile Benveniste, *Indo-European Language and Society* (London: Faber & Faber, 1973): 289–94.

<sup>20</sup> Cf. Fritz Gschnitzer, *Studien zur griechischen Terminologie der Sklaverei*, vol. 1, *Grundzüge des vorhellenistischen Sprachgebrauchs*, Akademie der Wissenschaften und der Literatur. Abhandlungen der Geistes- und sozialwissenschaftlichen Klasse 13 (Wiesbaden: Steiner, 1964); vol. 2, *Untersuchungen zur Älteren, insbesondere homerischen Sklaventerminologie*, Forschungen zur antiken Sklaverei 7 (Wiesbaden: Steiner, 1976).

basis in Greek, but related words are found in non-Indo-European languages in Asia Minor. The word is therefore assumed to be a very early loanword from one of these Asian languages. In Latin, the most common word for ‘slave’ was *servus*. We find, already in the Justinian law code, a plausible and, considering the views of slavery during his time, justified etymology of the word. In *Institutes* (I.3.3) Justinian elaborates that the “name ‘slave’ is derived from the practice of generals to order the preservation and sale of captives, instead of killing them; hence they are also called *mancipia*, because they are taken from the enemy by the strong hand”.<sup>21</sup> In spite of Justinian’s early etymological attempt, the case of *servus* seems to resemble that of Greek *δοῦλος* (*doûlos*) in that it has been supposed impossible to find an etymological basis for the word in Latin (although there have been attempts);<sup>22</sup> closest at hand is the verb *servāre* as Justinian intended, but which, according to Benveniste, is probably better translated as ‘guard’.<sup>23</sup> Benveniste emphasises, however, that from a legal as well as a social point of view it is difficult to imagine that a slave could have had such tasks. An attempt to save the ‘guard’-hypothesis by Adrian Pârvulescu, by giving the word another “semantic link”, and by comparing *servāre* and *servus* with, according to Pârvulescu, the semantically close word-pair *retain* and *retainer*,<sup>24</sup> is for me difficult to follow. Instead, the word may be a loan from the (poorly known) Etruscan language, which seems to have contained the stem *servi-*, *serve-*.<sup>25</sup> Latin *servus* would then, if

21 <http://amesfoundation.law.harvard.edu/digital/CJCiv/JInst.pdf> [accessed 21.09.2022]; cf. Alan Watson, *Roman Slave Law* (Baltimore/London: Johns Hopkins University Press, 1987): 8.

22 See, e.g., Antonio Tovar, “Lat. *servus*, ein Indogermanisches Wort,” in *Sprache und Geschichte. Festschrift für Harri Meier zum 65. Geburtstag*, ed. Eugenio Coseriu and Wolf-Dieter Stempl (München: Fink, 1971): 557–62; cf. Per Persson, *Beiträge zur indogermanischen Wortforschung*, Skrifter utgivna av Kungl. Humanistiska vetenskapssamfundet i Uppsala, 10:[1–] 2 (Uppsala: Akademiska bokhandeln, 1912): 563.

23 Emile Benveniste, *Indo-European Language and Society*: 292; see also the discussion by Adrian Pârvulescu, “Lat. *servus*,” *Indogermanische Forschungen* 115 (2010): 190–97.

24 Adrian Pârvulescu, “Lat. *servus*”: 192 semantically links *servāre* and *servus* to *retain*, ‘to keep attached to one’s person or engaged in one’s service, to engage, hire’, and *retainer* ‘a dependent or follower of some person of rank or position; one attached to a house, or owing it service’. The *servus* should hence originally be more like the “half-free” *serf* we know from later times in Europe. I am of the opinion that the *slave/servus* status probably has to be seen in a much more cruel, alienating and dehumanised context, already from the beginning. However, Pârvulescu gives in his article an excellent and comprehensive research history (with references) to the etymological discussion of the word *servus*.

25 This etymology by Benveniste, *Indo-European Language and Society*: 292–94 of the word *servus* ‘slave’ is accepted in e.g. *Lateinisches etymologisches Wörterbuch*, vol. 2, ed. Alois Walde and J.B. Hofmann, 3rd ed., *Indogermanische Bibliothek 2: Wörterbücher 1* (Heidelberg: Carl Winter, 1956): 527, but, according to the new etymology proposed by Pârvulescu, “Lat. *servus*,” it is possible to derive *servus* – whereby he follows Benveniste in that the word cannot be of an Indo-European origin, but is rather a Latin formation (a proposal he does not explain or expand upon) – from the verb *servare* ‘to keep, retain’ as a *nomen postverbale* with an original meaning ‘retained (for service), hired’. Helmut Rix, *Die Termini der Unfreiheit in den Sprachen Alt-Italiens*, *Forschungen zur antiken Sklaverei* 25 (Stuttgart: Franz Steiner Verlag, 1994): 54–87 is also critical of Benveniste’s etymology and background in Etruscan, but he proposes instead an Indo-European background to the word, where the PIE root

we follow Benveniste, have an Etruscan origin. In other words, in both Latin and Greek the two words for 'slave' may have been borrowed from other, neighbouring languages, from neighbours with whom these peoples fought and from whom they took slaves.

In ancient as in later civilizations, slaves were in a way outside of society. Slaves were taken as captives during wars, and battles were fought predominantly with neighbours. In other words, 'stranger' became synonymous with 'enemy' and thus also with 'slave'. The words *slave*, Scandinavian *slav*, French *esclave*, German *Sklave* and so on are most likely to be understood in the same way as Greek *doûlos* and Latin *servus*. The word probably originates as an ethnic designation, *sloveninu*, for a Slavic person, coined from a south Slavic linguistic form,<sup>26</sup> probably Serbian or a related dialect (cf. Slovenia).<sup>27</sup> From this word the Byzantine Greek *Σκλαβηνοί*, *sklavēnoi* has later been formed, resulting in an ethnic designation *sklavoi*, as the source of the variant forms of the word 'slave' found across the Western world.<sup>28</sup> The Arabic word

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had the meaning 'watch, observe'; and he is of the opinion that Latin *servus* from the beginning had the meaning 'shepherd' (Germ. *Hirte*) and sees this in the light of the famous transhumance of sheep on the Appennine peninsula (which thus must be considered to be very early). For other attempts to etymologise *servus*, see Joseph Vendryes, "À propos de lat. servus," *Bulletin de la Société de Linguistique de Paris* 36 (1935): 124–30; Rigobert Guenther, "Etr. *serve*- lat. *servus*. Ein Deutungsversuch," *Acta Antiqua Academiae Scientiarum Hungaricae* 8 (1960): 45–50; Tovar, "Lat. *seruus*, ein Indogermanisches Wort"; Renzo Lambertini, "L'etimologia di *servus* secondo i giuristi latini," in *Sodalitas. Scritti in onore di Antonio Guarino*, vol. 5 (Naples: Jovene, 1984): 2385–94.

26 This identification and etymology were already presented by Friedrich Ludwig Karl Weigand in *Deutsches Wörterbuch*, vol. 2, 5th ed. (Gießen: Töpelmann, 1909–1910): 877, "hervorgegangen aus der byzantinischen Benennung der südslaw. Völker *Σκλαβηνοί*, *Σκλαβηνοί* (im 6. Jh. n. Chr.) [. . .] daher in Italien im 8./9. Jh., mlat *Sclavi* als Bezeichnung der als Leibeigene verkauften slawischen Kriegsgefangenen" (comes from the Byzantine designation for South Slavic people *Σκλαβηνοί*, *Σκλαβηνοί* (in AD sixth c.) [. . . and] therefore in Italy in the eighth/ninth c. the Middle Latin *Sclavi* was used as a description for sold servile Slavic war-captives), cf. Georg Korth, "Zur Etymologie des Wortes 'Slavus' (Sklave)," *Glotta* 48, no. 1–2 (1970): 145.

27 Cf. Paul Aebischer, "Les premiers pas du mot *sclavus* = esclave," *Archivum Romanicum* 20 (1936): 484–90; Charles Verlinden, "L'origine de *Sclavus* = Esclave," *Bulletin Du Cagne: Archivum Latinitatis Medii Aevi* 17 (1942): 97–128; Charles Verlinden, "Slavery, Slave Trade," *Dictionary of the Middle Ages*, vol. 11 (New York: Scribner, 1988): 338; Benveniste, *Indo-European Language and Society*: 293; Adam Łukaszewicz, "De Slavinis et slavīs . . .," *Dialogues d'Histoire Ancienne* 24, no. 2 (1998): 129–35; Arnoux, "Effacement ou abolition?": 60–63. However, there are attempts to explain the word in other ways, derived from a non-ethnic word, cf. Korth, "Zur Etymologie des Wortes 'Slavus' (Sklave)". According to Renée and Henry Kahane, "Notes on the Linguistic History of *Sclavus*," in *Studi in onore di Ettore Lo Gatto e Giovanni Maver* Collana di Ricerche slavistiche 1 (Florence: Sansone, 1962): 360 the meaning of 'slave' occurred first in the ninth century AD, when the ethnonym *Sklav-* 'Slav' semantically shifted to a common noun, *sklav-* 'slave' (cf. Weigand above); according to Alberto Manco, "On the Toponym *Schiava* 'slave'," *Indogermanische Forschungen* 113 (2008): 271 n. 1 this happened in the tenth century.

28 For the shift *slave* ~ *sklave*, see Theodor Frings, "sl und scl," *PBB: Beiträge zur Geschichte der deutschen Sprache und Literatur* 66 (1942): 227–31.

*saqāliba* has also been seen as a development from the same word, Byzantine Greek Σκλαβηνοί, *sklavēnoi*, shortened to Σκλάβοι, *sklávos*.<sup>29</sup>

The reason for the spread and success of the word *slave* has to do partly with the fact that slaves of Slavic origins were taken in great numbers. According to many scholars, Slavic lands were the main supply region for slaves,<sup>30</sup> especially via France to Spain (al-Andalus). This may partly explain why the old, and within the Latin world most common, word for ‘slave’, namely *servus*, underwent a semantic shift towards the end of the first millennium and came to refer to a ‘tenant’, that is a free or semi-free farmer who farmed someone else’s land against paying the owner a fee.<sup>31</sup> This shift results in the word *servus* being used in medieval times, and later as English *serf*, about just such a ‘tenant’, which means that a new word was needed to cover the semantic field formerly occupied by *servus*, and this seems to have been *slave*.<sup>32</sup>

### **val**

The Old English *wealh*, pl. *wealas*, with the earlier meaning ‘foreigner, Briton (of Celtic origin), Welshman’, had in Anglo-Saxon times acquired the secondary meaning ‘slave’, supposedly due to the many fights during which Britons and Welsh were taken captives.<sup>33</sup> In her analysis of the word, Margaret Lindsay Faull finds that the shift in OE *wealh* from ‘Celt’ to ‘foreigner, slave’ must have taken place already by the end of the

29 Ahmed Nazmi, *Commercial Relations between Arabs and Slavs (9th–11th Centuries)* (Warsaw: Wydawnictwo Akademickie, 1998): 74; Steven A. Epstein, *Speaking of Slavery. Color, Ethnicity, and Human Bondage in Italy* (Ithaca/London: Cornell University Press, 2001): 18; Heinz-Dieter Pohl, “Slawen/Slowenen/Windische und Deutsche/Nemci,” *Kultur Land Menschen – Die Kärntner Landsmannschaft* 9–10 (2013): 6–11; Zeuske, *Sklaverei. Eine Menschheitsgeschichte von der Steinzeit bis heute*: 51–52. Fr. Weigand, *Deutsches Wörterbuch*, vol. 2, wrote already in 1910 (col. 877): “bei den spanischen Arabern im 10. u. 11. Jh. *sikláb*, Pl. *sakálibah*” (“[used] by Spanish Arabs [hence in al-Andalus] in the tenth and eleventh century *sikláb*, Pl. *sakálibah*”), which means, I assume, that Weigand was of the opinion that the Arabic word *saqāliba* (sg. *sikláb*) evolved in al-Andalus in Muslim Iberia as late as in the tenth and eleventh centuries, a stance difficult to uphold.

30 See, e.g., Joachim Henning, “Slavery or Freedom? The Cause of Early Medieval Europe’s Economic Advancement,” *Early Medieval Europe* 12 (2003): 271.

31 Cf. Phillips, *Slavery from Roman Times to the Early Transatlantic Trade*: 57.

32 Phillips, “Continuity and Change in Western Slavery: Ancient to Modern Times”: 80–81.

33 Alexander Bugge, *Vesterlandenes indflydelse paa nordboernes og saerlig nordmaendenes ydre kultur, levesaet og samfundsforhold . . .*, Videnskabselskapet i Kristiania 2, Historisk-filosofisk Klasse. Skrifter 1904:1 (Christiania: Videnskabselskapet i Kristiania, 1905): 43; Elof Hellquist, *Svensk etymologisk ordbok*, 3rd ed. (Lund: Gleerup, 1948): 986; Benveniste, *Indo-European Language and Society*: 293; Margaret Lindsey Faull, “The Semantic Development of Old English *wealh*,” *Leeds Studies in English* 8 (1975): 20–44; Elizabeth Stevens Girsch, “Metaphorical Usage, Sexual Exploitation, and Divergence in the Old English Terminology for Male and Female Slaves,” in *The Work of Work: Servitude, Slavery, and Labor in Medieval England*, ed. Allen J. Frantzen and Douglas Moffat (Glasgow: Cruithne Press, 1994): 51 n. 3.

seventh century.<sup>34</sup> The feminine counterpart was OE *wielen* (< \**walhinjō*).<sup>35</sup> The word *wealh* is also found in the name of a queen in the poem *Beowulf*, *Wealhtheow*, where the second element is the word PGmc \**þewa* 'slave, servant'. Is she a female slave taken from the Britons (*wealh*-), married to an Anglo-Saxon (or Scandinavian) king? Possible links between her name and her background have puzzled scholars for a long time.

The word is found in Scandinavian languages as *val* (< \**walha*-) 'Celt, foreigner (southerner)', which appears in the adjective Sw. *välisk* 'southern' and the compound noun *walnut* (Sw. *valnöt* 'nut from the Roman countries') and in *Wales* and *Wallo-nia*.<sup>36</sup> The word occurs already on the famous Tjurkö bracteate from Blekinge, whose inscription from the middle of the first millennium reads: *wurterunoranwalhakurne heldarkunimudiu*, which is usually normalised as: *wurtē rünōr an walhakurnē Heldar Kunimundiu*,<sup>37</sup> and translates approximately as: "Heldar made the runes on the southern corn (= gold) for Kunimundur". The "southern corn" is apparently a *kenning* (a sort of metaphor) for the gold from which the bracteate is made, gold that must then be supposed to have come from the south.

### **vassal**

The word *vassal* refers to a liege answering to a king, emperor, bishop, prince or some other overlord during medieval times and is formed from Latin *vassus*, which in turn proves to be a loan from Celtic, represented by Old Irish *foss* 'slave, servant' and deriving from *gwas*- 'human being, young man, servant, slave'.<sup>38</sup> In other words, it has been rather common to borrow the word for 'slave' from neighbours; at times, even ethnic designations for those neighbours have come to be used as words for 'slave' (as with *wealh*).

There are hence several cases in Greek, Latin and early Celtic and Germanic languages of terms for a 'slave' which have an origin as an ethnic term, or in a person being a neighbour, or a foreigner, or captured in war. As will be discussed further below, we find also a sharp distinction in ancient times between a 'free man' and a

34 Faull, "The Semantic Development of Old English *wealh*": 35.

35 Bengt Odenstedt, "Nuns and Midwives, Slaves and Adulteresses: Old English Terms Denoting Women," in *New Trends in Semantics and Lexicography*, ed. Henryk Kardela and Gunnar Persson, Umeå Studies in the Humanities 127 (Umeå: Umeå universitet, 1995): 142.

36 Hellquist, *Svensk etymologisk ordbok*: 1305.

37 See, e.g., Klaus Düwel, "Tjurkö. § 3 Runologisch," *Reallexikon der germanischen Altertumskunde* 31 (2006): 14–16.

38 Gabriele von Olberg, *Die volkssprachigen Wörter der Leges barbarorum*, vol. 2, *Die Bezeichnungen für soziale Stände, Schichten und Gruppen in den Leges barbarorum*, Arbeiten zur Frühmittelalterforschung 11 (Berlin/New York: De Gruyter, 1991): 231–34. For a very energetic discussion, or rather deconstruction, of the terms and concepts of *vassal* and Lat. *vassus*, see Susan Reynolds, *Fiefs and Vassals. The Medieval Evidence Reinterpreted* (Oxford/New York: Oxford University Press, 1994).



‘slave’ wherein the ‘free man’ was a person born into the social community, into society (*ingenuus*) and who as such had all the rights attributed to a man. The opposite was thus a person who did not belong to the community, who was a stranger. A stranger was a potential enemy and if a stranger (= enemy) was taken captive in war then he consequentially became a ‘slave’.<sup>39</sup>

## 4 The Early Scandinavian ‘Slave’ Terminology

In a unique paragraph of the Norwegian Gulathing Law (198) different kinds of slaves are mentioned: *Tvær ero hans hinar bezto ambatter. Seta. oc deigia. oc tveir þrælar: þionn oc bryti*, “two are his [the farmer’s] best female slaves [*ambáttir*]: *seta* (she who sits inside, and weaves?) and *deigja* (she who bakes, the housekeeper); and two male slaves [*þrælar*]: *þjónn* and *bryti* (the farm overseer)”. It emerges from this that in the West Norse area *ambátt*, *ambótt* seems to have been an umbrella term for female slaves,<sup>40</sup> while *þræll* was the male counterpart. We also find this word pair in early laws, but we also find other pairs in Old Norse poems and sagas, such as *þræll* and *þír*, and *þræll* and *þý* as the general terms for, respectively, male and female slaves. However, we may assume that *þræll* and *ambótt* were the general designations for, respectively, male and female slaves during medieval times across Scandinavia.

Below I will enumerate the major terms I have been able to find in early written sources (as well as runic inscriptions) for ‘slaves’/‘thralls’ and discuss their etymological background as well as the semantics of the words on the basis of later literature and laws. In several cases it is interesting to see how the meaning has developed over time (as expected), especially where the free–unfree status has changed (perhaps even back and forth).

### ***ambátt, ambótt***

The word ON *ambátt, ambótt* f., OSw *ambut, ambot, ambat*, which designates a female slave, is generally thought to be a loan from the Gallo-Latin *ambactus* ‘servant’ (cf. Eng. *embassy*, Sw. *ämbete*, Da. and Germ. *Amt*, etc.).<sup>41</sup> It was borrowed into Proto-Germanic as well as into Medieval Latin, and there are indications that the word was brought into

<sup>39</sup> Benveniste, *Indo-European Language and Society*: 294.

<sup>40</sup> Cf. Elisabeth Karg-Gasterstädt, “Ahd. thiun und thiorna,” *PBB: Beiträge zur Geschichte der deutschen Sprache und Literatur* 66 (1942): 320.

<sup>41</sup> Hans Kuhn, “Amt. 1. Sprachliches,” *Reallexikon der germanischen Altertumskunde* 1 (1973): 258; and Friedrich Kluge, *Etymologisches Wörterbuch der deutschen Sprache*, article *Amt*.

Germanic via the Visigoths.<sup>42</sup> The origin of the word is Old Celtic *\*amb(i)aktos* 'servant, companion' (which is in turn the root of the Gallo-Latin *ambactus* 'official').<sup>43</sup> This Old Celtic word is presumed to have the original meaning 'one who walks or runs about' or perhaps 'one who herds (and guards) livestock', constructed from *amb-* 'around' and a stem belonging to PIE *\*ag-* 'drive, lead'. *Ambátt* is probably one of the many words relating to legal, social and administrative aspects that were borrowed into Proto-Germanic already from Old Celtic (e.g. ON *arfr* 'inheritance', *eiðr* 'oath', *friðr* 'peace', *gísl* 'hostage' and *riki* 'realm, kingdom'; cf. Old Celtic *\*-rígs*, Gall. *-rix*, OIr *rí*, Goth. *reiks*, OE *rica* 'ruler, king' – Latin *rex*),<sup>44</sup> thus in very distant times (probably more than 2,000 years ago). We also find the word in other Germanic languages, as in OE *ambiht*, *embiht*, *ymbiht* m. 'servant', and Gothic as *andbaht* 'official, servant' as in *andbahti* 'office, service' (where the prefix *and-* has been understood as resulting from influence from the preposition *and*).

This word appears in Germanic languages in both a weak and a strong masculine variant, OHG *ambaht*, OSax *ambahteo*, Goth. *andbahts*, OE *ambiht* etc. (< *\*ambahta-*) 'official, civil servant', as well as in a neuter variant, Goth. *andbahti*, OSax *ambaht*, OE *ambiht*, *embeht*, OHG *ambahti* (> *Amt*), ON *embætti* (< *\*ambahtja-*) 'office, service'.<sup>45</sup> In Germanic languages, then, we have to reckon with one loanword for the official and one for the office. It is remarkable that in all Germanic languages, with the exception of Old Norse, this is a masculine word designating an 'official'. In Scandinavia, a term corresponding to PGmc *\*ambaht-* never occurs with masculine gender. Instead, the word has come to refer to a female servant, an enslaved woman. This situation has not previously been discussed, as far as I am aware. The only explanation I can find for this anomaly is that there was already a word for a male slave in Scandinavia,

42 See von Olberg, *Die volkssprachigen Wörter der Leges barbarorum*, vol. 2: *Die Bezeichnungen für soziale Stände, Schichten und Gruppen in den Leges barbarorum*: 208, with further references.

43 Bernhard Mees, "Celtic Influence in the Vocabulary of Hierarchy during the Common Germanic Period," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Germanistische Abteilung* 115 (1998): 375; Vladimir Orel, *A Handbook of Germanic Etymology* (Leiden/Boston: Brill, 2003): 18.

44 Sigmund Feist, *Vergleichendes Wörterbuch der Gotischen Sprache – Mit Einschluss des Krimgotischen und sonstiger verstreuter Überreste des Gotischen*, 3rd ed. (Leiden: Brill, 1939): 48–49; Jan de Vries, *Altnordisches etymologisches Wörterbuch*, 2nd ed. (Leiden: Brill, 1962): 8; Niels Åge Nielsen, *Dansk etymologisk ordbog*, 3rd ed. (Copenhagen: Gyldendal, 1976): 8 and passim; von Olberg, *Die volkssprachigen Wörter der Leges barbarorum*, vol. 2, *Die Bezeichnungen für soziale Stände, Schichten und Gruppen in den Leges barbarorum*: 207.

45 Kluge, *Etymologisches Wörterbuch der deutschen Sprache*, article *Amt*; Rudolf Much, *Die Germania des Tacitus*, *Germanische Bibliothek* 1:5:3 (Heidelberg: Carl Winter, 1937): 157–58; Winfred P. Lehmann, *A Gothic Etymological Dictionary* (Leiden: Brill, 1986): 36; David A. Carlton, *Semantic Shift in Old English and Old Saxon Identity Terms* (London/Ontario, CA: Western University, 2019): passim. Vladimir Orel (*A Handbook of Germanic Etymology*: 18) reconstructs the word as a strong masculine *-a* stem PGmc *\*andbaxtaz*, presumably based on Gothic *andbahts*, while Guus Kroonen, *Etymological Dictionary of Proto-Germanic*, Leiden Indo-European etymological dictionary series 11 (Leiden: Brill, 2013): 24, reconstructs a weak masculine *-an* stem, *\*ambahta-* (cf. Carlton, *Semantic Shift in Old English and Old Saxon Identity Terms*: 54).

namely *þræll*, wherefore \**ambaht* came to have its gender changed (Germ. *movie-rung*) so that it referred to a female slave.<sup>46</sup>

We can get an impression of the function of an *ambatt* in early Scandinavian society – not by any contemporary written sources, but thanks to Old Norse literature (from roughly the twelfth century onwards) and from the earliest Scandinavian laws (from c. 1100–1350):

*Þorgerðr brák het ambatt Skalla Grims. hon hafði fostrað Egil í barnæsku. Hon var mikil firer ser, stark sem karlar, ok fiolkunnig miok* (Þorgerðr brák was the name of Skalla Grim's *ambátt*, she had nursed Egil in childhood. She was an imposing woman, as strong as men and knowledgeable in magic; *Egil Saga Skallagrímsson* ch. 40).

*Gilli spyrr, hvat þeir vilja kaupa fǫrunautar. Hǫskuldr segir, at hann vill kaupa ambátt nǫkkura, 'ef þú hefir at selja'* (Gilli asked what it was [he and] his companions wished to buy. Horskuld said that he wanted to buy a slave woman, 'if you should happen to have one for sale'; *Laxdæla saga* ch. 12).

*En nest kirkju garðe. skal grafa manna mann. oc ambottor* (And nearest to the church fence, male slaves and slave women shall be buried) (EidL, Eidsivathing Law, 50.5).

*En ef maðr hever ambótt sína við sína kono. oc hever inni areneliu* (If a man has a female slave beside his wife and keeps her in his house as a concubine) (GuL, The Book of Christian Law: 25).

*Nu gefr maðr þræle sínum þeim frælsi er verð reiðir æða ambotto. frials er hvern er frælsi er gevet* (Now a man gives his male slave or his bondwomen their freedom in return for payment; everyone is free who has been given his freedom) (GuL, Freedman's Law: 61).

*Sticell maþær þræl manz ællærambut löpær bort* (If a man steals another man's thrall or thrall woman and runs away [with him or her]) (VgL, Older Västgöta Law, Book of theft: 16).

*En ef stelr leysingia mannz. æða ambott her alen. þa scal skera af henne annat eyra. En ef hon stelr annat sinn. þa scal skera af henne annat eyra. En ef hon stelr hit þriðia sinn. þa scal skera af henne nef. þa heiter hon stuva oc nuva. oc stele æ sem hon vill.* (If a man's freedwoman steals, or a native bondwoman, they should cut off one of her ears. If she steals once more, they should cut off her other ear. If she steals a third time, they should cut off her nose, then she is called 'stumpy and stubby' and may steal so long as she wants.) (GuL, The Book on Theft: 259)

These few cases show that an *ambótt/ambátt* most certainly was a female household slave, legally on par with the male *thrall*, but could also be used as an *amma* (wet nurse), and therefore probably held in some affection within the family.

<sup>46</sup> It is likewise noteworthy, as was pointed out above, that the word *ambótt* could acquire an extended semantic meaning since the word was (secondarily) used about a '*frilla* (concubine)', but in *Þrymskviða* also about a 'servant girl, bridesmaid', and also in religious texts as 'Guds ambátt', etc. for a pious woman.

**thrall**

Since *ambátt*, *ambótt* is quite clearly a loanword for a female slave, although it may be an old loan, we might consider testing whether *thrall* (< *þræll*) has also come into the Scandinavian languages as a loan. It can be established that counterparts of *þræll* do not occur in other Germanic languages, only the Scandinavian ones; OE *þræll* (ME *þrǎll*) was apparently borrowed into Anglo-Saxon from Old Norse.<sup>47</sup> One possibility could be to link it to Celtic, specifically an Old Irish word that appears in Middle Irish as *tráill* and that has been connected to the word *þræll*.<sup>48</sup> Such a possibility would moreover fit well factually, since many thralls in Scandinavia had been brought from Ireland and since many Scandinavians in the Viking Age traded slaves in and from Ireland. However, the possibility of a borrowing from Old Irish can be dismissed since this Irish *tráill* is, as far as can be ascertained, likewise a borrowing from Old Norse.<sup>49</sup> More promising would be to link *þræll* to OHG *drigil* 'servant' (< \**þrezila*).<sup>50</sup> The problem with this possibility is explaining why we lack forms with -g- in the Scandinavian word. Therefore, Old Scandinavian *þræll* (< \**þrahila*) is probably a North-Germanic word that is not found in other Germanic languages. Related word formations are found in West as well as East Germanic languages, in OHG *drigil* (< \**þrezila*) and OE *þrægan* 'sprint' and Goth. *þragjan* 'sprint', hence coming from PGmc \**þrezila* < *þraz-*, whereas the Scandinavian word has its background in PGmc \**þrahila*.<sup>51</sup>

47 See Erik Björkman, *Scandinavian Loan-Words in Middle English*, Studien zur Englischen Philologie 7 (Halle: Niemeyer, 1900): 19, who explains that OE and ME *ll* like ME *ǣ* can only be explained as loans from Scandinavian languages, wherein *ll* < *lr*, while the *þræl* (pl. *þrælas*) occurring in OE arose from some Scandinavian grammatical case, resulting in ME *þræl* (pl. *þrælas*). Sara M. Pons-Sanz, *The Lexical Effects of Anglo-Scandinavian Linguistic Contact on Old English*, Studies in Early Middle Ages 1 (Turnhout: Brepols, 2013): 69–70, discusses this word and makes an attempt to understand OE *ðrǣl(l)* as an internal Anglian derivation of a PGmc \**þrahilaz*, but finds this less probable, for the reasons given by Björkman.

48 de Vries, *Altnordisches etymologisches Wörterbuch*: 625.

49 Carl J.S. Marstrander, "Træll," in *Heidersskrift til Marius Hægstad fraa vene og læresveinar 15de Juli 1925* (Oslo: Norli, 1925): 173–76.

50 Karg-Gasterstädt, "Ahd. thi u und thiorna": 41, understands OHG *drigil* as identical to ON *þræll*, albeit "historisch offenbar selbständig entwickelt" ("historically obviously developed independently"). August Fick, Hjalmar Falk and Alf Torp, *Vergleichendes Wörterbuch der indogermanischen Sprachen*, vol. 3, *Wortschatz der germanischen Spracheinheit* (Göttingen: Vandenhoeck & Ruprecht, 1909): 190, suggests that this may be the etymological background of *thrall* ("Wenn an. *þræll* hierher gehört"), but in this case not from PIE \**trēgh*, \**tragh*, but from the PIE root \**trēkh*, \**trakh*, which would then result in PGmc \**þregila*. See moreover Lehmann, *A Gothic Etymological Dictionary*: 3.

51 Marlis Wilde-Stockmeyer, *Sklaverei auf Island. Untersuchungen zur rechtlich-sozialen Situation und literarischen Darstellung der Sklaven im skandinavischen Mittelalter*, Skandinavistische Arbeiten 5 (Heidelberg: Carl Winter, 1978): 41, follows an earlier suggestion by Fick, Falk and Torp, *Vergleichendes Wörterbuch der indogermanischen Sprachen*, vol. 3, *Wortschatz der germanischen Spracheinheit*: 190, that *þræll* was derived from an earlier \**þranhila-*, on the OSw stem *þrængia* 'force', and thus with the meaning 'one who is forced', which semantically speaking fits well. There are, however, arguments against such a proposal, see Marstrander, "Træll," and Emil Olson, *De appellativa substantivens*

In an interesting explanation Michaelsen and Stech discuss the Slavic word *otrok* and its potential relationship to Scandinavian *þréll*.<sup>52</sup> The word *otrok* is found in all Slavic languages with meanings such as ‘servant’ or ‘child’, especially ‘young boy’. The previous etymology of the word was based on an earlier meaning of ‘someone with no right to speak’. They show that this etymology is in all likelihood false; instead, they identify Slavic *\*trok-* with PGmc *\*brah-*, which they consider to be a direct counterpart.<sup>53</sup> It is pointed out that in Indo-European languages a multitude of words for ‘slave, servant’ have had the basic meaning of ‘one who runs (errands)’, such as *þius*, *þewar*, *þý* and so forth.<sup>54</sup>

Michaelsen and Stech see a possibility of etymologically linking *þréll* to the large group of words deriving from *\*þeu-*, such as *þius*, *þewar*, *þý* and so on, if one supposes that the PIE root *\*tek-/ \*tok-* ‘to run’ had a parallel root *\*trek-/ \*trok-* with the same, perhaps enhanced, meaning: ‘to run – fast’, and they provide parallels for such a development. This etymology, linking the entire group of words that all have the semantic contents of ‘slave, servant’ deriving from the earlier meaning ‘to run (errands for someone)’, seems attractive. Greek provides the examples of *trécho* (τρέχω) ‘sprint, run’, *tróchos* (τρόχος), *tróchis* (τρόχισ) ‘runner, messenger, servant’,<sup>55</sup> *trochílos* (τροχίλος) ‘(the bird) sandpiper’, as well as the name *Trochílos*, one of Demeter’s priests, where the last-mentioned word and the name appear to possibly be linguistically related to a Proto-Nordic *\*þrahilar*.

I think, in other words, that there are grounds for supposing that the word *þréll* (< *\*þrahilar*) can be assumed to be a formation native to North Germanic, apparently an *-ila*-derivation of the above-discussed stem *\*brah-* with the probable meaning ‘to run (errands for someone)’.<sup>56</sup> The original meaning of *þréll* (< *\*þrahilar*) could then

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*bildning i fornsvenskan. Bidrag till den fornsvenska ordbildningsläran* (Lund: Gleerup, 1916): 25. It must be added that Fick, Falk and Torp, *Vergleichendes Wörterbuch der indogermanischen Sprachen*, vol. 3, *Wortschatz der germanischen Spracheinheit*: 190, include as possible background to *þréll* the very same *\*þrahila* as does Hellquist.

52 T. Michaelsen and Sv. Stech jr, “Det slaviske ordet ‘otrok’ og dets germanske ekvivalenter,” *Arkiv för nordisk filologi* 78 (1963): 232–40.

53 One can note that apparently already Fick, Falk and Torp, *Vergleichendes Wörterbuch der indogermanischen Sprachen*, vol. 3, *Wortschatz der germanischen Spracheinheit*: 190, were aware of this possibility since they include into their discussion of the word *thrall* Oslav *trūkū* and Slovenian (this, I understand, is actually Croatian) *trčati* ‘to run’, and point to Old Gallic *ver-tragos* ‘Windhund (greyhound)’: “vgl. asl. trūkū Lauf. nslov. trčati laufen. Daneben tragh in gall ver-tragos Windhund.”

54 On this, see also Marstrand, “Træll”: 175, with more PIE examples.

55 See Feist, *Vergleichendes Wörterbuch der Gotischen Sprache*: 500; and Lehmann, *A Gothic Etymological Dictionary*: 362.

56 On the use of the *-ila*-suffix in order to construct so-called *nomina agentis*, see Friedrich Kluge, *Nominale Stammbildungslehre der Altgermanischen Dialekte*, 2nd ed., *Sammlung Kurzer Grammatiken Germanischer Dialekte, Ergänzungsreihe 1* (Halle: Max Niemeyer, 1899): 10; Olson, *De appellativa substantivens bildning i fornsvenskan*: 23–26. The appellatives *karl* and *jarl*, which are related in terms of

be 'one who runs (errands), does services, often (constantly?) and quickly'. Whether this hypothesis will hold remains to be shown by future scholarship.

As mentioned above, a *thrall* was on the lowest rung in society, equivalent to the female *ambótt/ambátt*. This is confirmed in the earliest laws as well as in Old Norse literature:

*Ef grið men hafa i verki verit, oc skulldar men, eða þrælar oc a frelsinga fyrst at sækia.* (If household men have taken part in the work and bounden debtors or slaves, it is the free men who are to be first prosecuted) (Grágás, Kónungsbók: § 9).<sup>57</sup>

*Nu getr hann lavn barn anat meðan hann er i sculdini, oc verðr hann þa þræll hins, er féit átti at honom, sva sem hann væri ambáttar sonr* (If he begets another illegitimate child while he is in debt bondage, then he becomes the slave of the man to whom he owes money, as if he were a slave woman's son) (Grágás, Staðarhólsbók: § 165).<sup>58</sup>

*Vmage ma engu kaupi kaupa, ne raða, þræll ma oc engu kaupi raða, nema knivi sinum einum* (A minor can neither make a purchase nor conclude a valid bargain. Neither can a slave make any bargain, except about his own knife) (GuL, The Book of Marriage of Women: 66)

*En ef vinnr man manna útlenzt firi utan drottens rað. þa scal beria huð af þeim. æða böta aurum . iij. biscope* (If a man's foreign slave works without his master's consent, then he should have him flogged or pay a fine of three *aurar* to the bishop) (GuL, The Book of Christian Law: 16)

*Nu leiðir maðr þræll sinn i kirkiu. æða a kistu setr. oc gefr frælsi. [---] Nu reiðir þræll æða ambott verðaura sina. þa scal þau til kirkiu föra oc leggja boc a hofuð þeim. oc geva frælsi. Nu scal hann þar vinna .xii. manaðr firi skapdrotne sinum.* (Now someone leads his slave to church or puts him on a chest and gives him his freedom [---] Now a slave or a bondwoman pays his/her ransom (for their value as slaves), then (their master) should lead them to church and lay a (Gospel) book on their heads and give them their freedom. Afterwards he still has to work twelve months for his master.) (GuL, Freedman's Law: 61)

*Dat heitr floccr er .v. menn ero saman at fæsta koste. Nu ganga menn fiorer at gotu saman. oc verðr þar einn mannbane. oc vigr at öðrom sinum förunaut. þa er sa mannbane er einn er a sinu male. ef þræll er i for með þeim. þa er hann mannbane ef þeir vilia hanom kenna.* (It is called a group when at least five men are together. Now four men walk on the road together and one of them becomes a killer there and kills one of his companions, then he is the killer who stands alone in his assertion. If a slave is in company with them, then he is the killer if they choose to accuse him) (GuL, The Book Concerning Personal Rights: 154)

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word formation, are assumed to be formed without a middle vowel, thus *\*karlaz* and *\*erlaz* (Olson *loc. cit.*).

<sup>57</sup> Vilhjálmur Finsen, ed., *Grágás. Elzta lögbók íslendinga eptir skinnbókinni í bókasafni konungs*, vol. 1 (Copenhagen: Det Nordiske Literatur-Samfund, 1852): 26; Andrew Dennis, Peter Foote and Richard Perkins, eds. and trans., *Laws of Early Iceland. Grágás*, vol. 1 (Winnipeg: University of Manitoba Press, 1980): 42.

<sup>58</sup> [Vilhjálmur Finsen], ed., *Grágás efter det Arnamagnæanske Haandskrift Nr. 334 fol., Staðarhólsbók*, vol. 2 (Copenhagen, 1879): 194; Andrew Dennis, Peter Foote and Richard Perkins, eds. and trans., *Laws of Early Iceland. Grágás*, vol. 2 (Winnipeg: University of Manitoba Press, 2000): 277.

*Nv er manne þat kent at hann vege þræl sinn. þvi vigi skal lysa. ellar er hann morðenge. [---] Nu drepr maðr þræl annars mannz. þa scal hann bôta aptr. sem menn meta nôctan hann. (Now a man is accused of having killed his slave; that killing shall be publicly announced, otherwise he is a murderer. [---] If someone kills another man's slave, he must pay such compensation as men assess for the naked slave.) (GuL, The Book Concerning Personal Rights: 182)<sup>59</sup>*

*En ef steln þræll heralenn. þa scal drepa hofuð af hanom. [---] Ef steln útlennzkr þræll. æða utlencra manna synir. þa scal beria húð af hanom. (If a slave of native birth steals, then they should cut his head off [---]. If an alien slave steals, or the son of an alien slave, then they have to flog him.) (GuL, The Book of Theft: 259)*

*illt er at eiga þræl at einka vin (It is bad to have a thrall for a best friend) (Njáls saga ch. 49)*

I have here concentrated on clauses from the Gulathing Law of western Norway, because it has the most mentions of slaves in any Scandinavian law, albeit a slavery which is in abatement. In the law, there are clauses where slaves (native slaves) were to be beheaded when stealing (whereas foreign slaves should be flogged), references to the manumission of slaves, and even to giving a slave his freedom with necessities for life as a free man. Some slaves are probably to be likened with chattel slaves, some are household slaves of some social standing, but there are also some of unfree status with higher social standing. From the Icelandic sagas, we see that male slaves could be used as “tools” (as assassins) for taking revenge by feisty women, which is a trope in several sagas.

### **deja**

Another designation for a female slave is a term encountered in the above-mentioned Gulathing Law, namely ON *deigja* (< \**daizjōn*), which is derived from the word *deig*, meaning ‘dough’ and thus means ‘one who bakes’. During later stages of Scandinavian vernacular languages, this word, MNo. *deigja*, MSw. *deja*, has secondarily acquired meanings such as ‘milk maid’, etc.<sup>60</sup> A direct counterpart is found in Old English *dæge* ‘bakeress, milk maid’, which forms part of the term *hlæfdige* (< *hlāf-dæge*), which is ‘bread-bakeress’, later developing into *lady* and which in medieval times came to mean ‘a mistress in relation to servants or slaves; the female head of a household’.<sup>61</sup> The masculine counterpart to the English *lady* is *lord* (see below), while the masculine counterpart of *deigja* in Scandinavia can be assumed to have been *bryti* (see below).<sup>62</sup>

<sup>59</sup> Cf. Iversen, *Trelldommen*: 44.

<sup>60</sup> Olson, *De appellativa substantivens bildning i fornsvenskan*: 66; de Vries, *Altnordisches etymologisches Wörterbuch*: 75; and Hellquist, *Svensk etymologisk ordbok*: 137.

<sup>61</sup> *The Oxford English Dictionary*, vol. 8, ed. John A. Simpson and Edmund S. Weiner, 2nd ed. (Oxford: Oxford University Press, 1989): 582.

<sup>62</sup> See A. Gjessing, “Trældom i Norge,” *Aarbøger for nordisk Oldkyndighed og Historie* (1862): 158.

The word is today archaic and more or less obsolete in the Scandinavian languages, but in dialects we find meanings such as 'milk maid', 'a female overseer of the cowhouse', and in some cases the word has developed to get a more pejorative meaning 'paramour (e.g. for a monk or a priest)'.

The *degja* also occurs in the Frostathing Law (Book of Women: 24): *Hauldr scal taca .iij. aura talda á bryta sínum oc þíoni oc deigju oc setu. en á öllum öðrum man-smönnum .ij. aura* (A *hauldr* shall take three counted *aurar* in compensation for his *bryti* and *þíon* and *deigja* and *seta*, but for all the other slaves two *aurar*). This is a very illuminating paragraph, telling us that a *deigja* was not on the lowest rung among the slaves (which probably were the *þráll* and the *ambátt*). She had a higher legal valuation, on par with the *bryti*, *seta* and *þíon*.

### **fostre/fostra**

In Old Swedish we find the words *fostre* m. and *fostra* f. as terms for a kind of slave.<sup>63</sup> The words mean approximately 'male slave/female slave born and brought up in the home', which indicates that these thralls were not captured in war or bought abroad, but were born and brought up on the farm. In Sweden a *fostre/fostra* was probably a male slave/female slave who grew up with the 'freeborn' children of the farm household. This distinction between indigenous slaves and acquired slaves also shows in a document from Uppland in 1292.<sup>64</sup> In the Older Västgöta Law (VgL, The Book of Inheritance: 4:2) it is stated that if a widow wanted to enter into a new marriage she could not part from house and children unless the children owned a male or female slave, specified as a *fostre* or *fostra*, who could run the household. This clause reveals that the *fostre/a* was apparently more trusted and had a different social and legal position than other thralls, a position recalling the one allotted to a *bryti*. That the *fostre/a* was, however, unfree is evident from the fact that a *fostre/a* could be sold (ÖgL, The Book Concerning Land: 23) and that children born to a *fostre/a* outside of marriage belonged to the *fostre/a's* master (ÖgL: The Book Concerning Matrimony: 29). The trusted position of the *fostra* is further verified by a clause in the Younger Västgöta Law (VgL: The Book Concerning Matrimony: 11), which says that an 'unfree *fostra*' was entrusted with the master's keys. The fine for adultery with a *fostra* was four times higher than for an ordinary slave woman and half that for a free woman. If we consult the Östgöta Law, we find that the term *fostre* is used to refer to a thrall who occupies a special legal position. It says (ÖgL, The Book Concerning Accidents and Wounds: 16, 31:1) that in questions of wounds and strikes a *fostre* and other thralls were on equal par, but the penalty for killing a *fostre* was a full eight *marker* where a thrall was valued at

<sup>63</sup> See Gösta Hasselberg, "Den s.k. Skarastadgan och trældomens upphörande i Sverige": 85–90.

<sup>64</sup> DS 1737.



three *marker*. A *fostre* could own property, and moreover, according to the book on matrimony (29), a free person could marry a *fostre/fostra* with the effect that any children born in such a marriage would be free. Finally, it is noteworthy that a *fostre* had, under certain circumstances according to the Västmannalag (VmL, The Book Concerning Personal Security, 25:9), so independent a position that he could perform military duty, which seems very strange since this was the prerogative of free men.

***man n., mansmaðr m. or mansman n.?***

A very interesting – and perhaps surprising – word for a slave is the term *man n.* ‘thrall, female thrall or thralls collectively’. It is, then, a neutral word, which moreover includes meanings such as ‘household, including children, thralls and other servants’.<sup>65</sup> According to Gjessing, the word occurs only in Scandinavian, not in other Germanic languages.<sup>66</sup> The word is semantically related to *hjón n.* in that it can denote both an individual in a servile status as well as a collective. The word *man n.* is probably an older Proto-Nordic *ga-man*,<sup>67</sup> i.e. constructed with a (probable) collective *ga-* prefix to *man*, cf. Goth. *gaman*. The *ga-* prefix as well as the neuter gender of the word could indicate an earlier meaning of ‘servants, thralls’ or similar. As Emil Olson has pointed out, this little group of individual, neutral designations for a person all show strongly derogatory meanings (Sw. *man*, *våp*, *troll* and OSw *fol* ‘fool’).<sup>68</sup>

The compound *mansmannr m.* or *mansman n.* occurs, for example, in the Frostathing Law (as *mansmanna* and *mansmönnum*). The word means ‘a person who belongs to a man’ and is explained as an *ánauðigr maðr* (see below). The question, which has had vital importance in Norwegian historical research (for calculating the number of slaves in early medieval society), is if it is possible to translate *mansmannr* as ‘slave/thrall’. One would have expected a form *\*mansman*, where the qualifier is the word *maðr m.* (gen. *mans-*) and the denominator *man n.* Therefore, I find it highly dubious, to consequently translate *mansmannr* as ‘slave/thrall’, as has been done in Norwegian research. Instead, a more probable meaning of the compound would be ‘farm-hand’, ‘(free) labourer’, hence someone who works on a farm as part of the labour force, a farm-hand, as well as ‘slave’.

The word *man n.* ‘slave/thrall’ is found in the Gulathing Law (GuL 46): e.g. *ef manni verðr eigi frelsi gefit dróttinsdag þann, þá skolo þeir menn, er þann mann eigu at fá, bæta aurum 12 biskope ok kaupa man ok geva frelsi, þó at síðarr sé* (“if a man is not given his freedom on that Sunday, the men who were to provide such a man [to be

65 Johan Fritzner, *Ordbog over det gamle norske sprog*, 4 vols., 4th ed. (Oslo: Universitetsforlaget, 1972–73): article *man n.*, and Olson, *De appellativa substantivens bildning i fornsvenskan*: 77.

66 Gjessing, “Trældom i Norge”: 313.

67 For example de Vries, *Altnordisches etymologisches Wörterbuch*: 378.

68 Olson, *De appellativa substantivens bildning i fornsvenskan*: 78.

given his freedom at the Gula thing] shall pay a fine of twelve *aurar* to the Bishop; and let them buy [another] man and give him his freedom, even if it [has to] be at a later time”), whereas we find the word *mansman* n. (or here the qualifier and obviously also the denominator in the plural, *mannaman* ‘men’s men’) in the Eidsivathing Law (EidL 50, 5): *næst kirkjugarði skal grafa manna man ok ambóttor* (and nearest to the church fence, slaves (*mannaman*) and slave-women (*ambóttor*) shall be buried).

### *líni*

In a name-*pula*, a list of names, preserved in *Codex Wormianus*, we encounter the word ON *líni* m., which is usually translated as ‘thrall, servant’, but which must originally have meant ‘one who works with flax or linen’.<sup>69</sup> The word appears to be unique, a *hapax legomenon*, and has been discussed by Dag Strömbäck, who regards it as an *an*-stem derivation to ON *lín* n. ‘flax’ and considers the following as related formations: ON *fjósi* to *fjós* ‘stable, byre’, and *mjólki* to *mjólk* ‘milk’.<sup>70</sup>

### *ánauðigr maðr*

In the Older Västgöta Law (VgL, The Book on Manslaughter: 2) we find another word designating a thrall or, rather, a person who was previously a thrall. A freed thrall is described here using the adjective *ánauðigr* ‘enslaved’ (*ætlaeddann man* [. . .] *þæn annøpoghær havir farit*, “a free man, who has been enslaved”),<sup>71</sup> a word that has disappeared from use but that occurs in old languages such as OSw *an(n)øpugher*, ODa *an(n)øthughær*, ON *ánauðigr* ‘enslaved, unfree’. This word can also be found in the Östgöta Law and in the archaic Pentateuch Paraphrase.<sup>72</sup> The word, which Vendell translates as ‘enslaved’,<sup>73</sup> must be constructed on ON *ánauð* f. ‘suppression, need, force, thralldom’ in the compound *ánauðarmaðr* ‘thrall’,<sup>74</sup> which in turn is assumed to

69 de Vries, *Altnordisches etymologisches Wörterbuch*: 357.

70 Dag Strömbäck, “Till Codex Wormianus av Snorre-Eddan. Textkritiska och lexikaliska bidrag till dess Wb-redaktion,” *Arkiv för nordisk filologi* 51 (1935): 114.

71 See Åke Holmbäck and Elias Wessén, *Äldre Västgötalagen, Yngre Västgötalagen, Smålandslagens kyrkobalk samt Bjärköarätten*, Svenska landskapslagar 5 (Stockholm: Geber, 1946): 24, 43.

72 See *Östgötalagen: Codex iuris Ostrogotici = Östgöta-lagen*, ed. H.S. Collin and C.J. Schlyter, *Sweriges gamla lagar* 2 (Stockholm: n.p., 1830): 238.

73 Herman Vendell, *Terminologin i Äldre Västgöta- och Östgöta-lagarne. Sammanställd* (Helsingfors: n.p., 1894): 3.

74 *Norrøn Ordbok*, 4th ed. (Oslo: Det norske samlaget, 1990): 28; and Holmbäck and Wessén, *Äldre Västgötalagen*: 43 n. 40. The OSw and ODa medieval forms often display double consonants (*ann-*), which is thought to be due to a shift in the accent and a shortening of the initial vowel, see Johs. Brøndum-Nielsen, “Bidrag til Dansk Sproghistorie,” *Acta Philologica Scandinavica* 21 (1952): 44–49.

have been derived from a verb corresponding to Gothic *ananaubjan* ‘force, subject someone to force’.<sup>75</sup>

The Icelandic ethnologist Jón Hnefill Aðalsteinsson discusses the contextually interesting ON word *ǫnnungr*, which at first glance could be taken to be related to *ánaudigr* and which occurs only a few times in Old Icelandic literature: in the law codex *Grágás* and in Snorri’s *Edda*.<sup>76</sup> The word is commonly supposed to mean ‘thrall’.<sup>77</sup>

Etymologically, *ǫnnungr* is to be distinguished from *ánaudigr* since the word appears to be derived from ON *ǫnn* f. ‘work, toil’,<sup>78</sup> OSw *an(d)* f. ‘work the soil in spring and autumn, especially about harvesting’,<sup>79</sup> a word that has shifted from the meaning ‘work’ to ‘the time for a certain type of work’. In Swedish dialects, the word occurs as *ann*, *and* ‘busy time of work’ and in compounds such as *anntid* ‘harvest time’, *höand* ‘time for making hay’ etc.<sup>80</sup> ON *ǫnnungr*, Icelandic *önnungur*, is a derivation, with an individualising *-ung-*suffix, to *ǫnn*, which most likely shows that the original meaning of the word must quite simply have been ‘worker’. The word has cognates in OE *esne* m., OHG *asni* m. ‘worker, slave’, Goth. *asans* f. ‘harvest’, *asneis* m. ‘day laborer’, etc.

In a chapter on *Mannaheiti* (‘terms for people’) in *Skáldskaparmál*, Snorri says: *Heitir ok þræll kefsir, þjónn, ǫnnungr, þírr*,<sup>81</sup> (“a thrall may also be called *kefsir*, *ǫnnungr* and *þírr*”). A so-called *þula*, a list of names or words, in this case a listing of words for thralls and servants, runs as follows: *þjónar, þrælar, þírr, ǫnnungar, verkmenn, kefsar ok vílmegir*.<sup>82</sup> In the first case, *ǫnnungr* appears in a context relating exclusively to thralls, in the second case together with words meaning ‘thrall’ as well as ‘servant,

75 Holmbäck and Wessén, *Äldre Västgötalagen*: 43 n. 40; Orel, *A Handbook of Germanic Etymology*: 282–83.

76 Jón Hnefill Aðalsteinsson, “Önnungar,” *Úr Sögu. Tímariti Sögufélags* 22 (1984): 31–40; cf. Fritzner, *Ordbog over det gamle norske sprog*, art. *ánaud* and *ánaudigr*.

77 Thus, e.g., *Lexicon Poeticum*, ed. Finnur Jónsson, 2nd ed. (Copenhagen: n.p. 1931): 663; Björn Þorsteinsson, *Ný Íslandssaga* (Reykjavík: Heimskringla, 1966): 127; and Jón Jóhannesson, *Íslands historie i mellomalderen. Fristatstida*, trans. Hallvard Magerøy (Oslo/Bergen/Tromsø: Universitetsforlaget, 1969): 300. In modern Icelandic, *önnungur* is translated as ‘þræll’ (*Íslenzk orðabók*, ed. Árni Böðvarsson [Reykjavík: Menningarsjóðs, 1963]: 848).

78 The etymology of this word is not entirely clear, even though the basic meaning of ‘work’ appears reasonable; see de Vries, *Altnordisches etymologisches Wörterbuch*: 687–88, with references, as well as Hellquist, *Svensk etymologisk ordbok*: 19–20; and Harald Björvand and Frederik Otto Lindeman, *Våre arveord. Etymologisk ordbok*, rev. ed., Inst. for sammenlignende kulturforskning, Serie B: Skrifter 105 (Oslo: Novus, 2007): 831–32.

79 *Svenska akademis ordbok*, vol. 1: col. 1280; and Hellquist, *Svensk etymologisk ordbok*: 19–20.

80 Johan Ernst Rietz, *Svenskt dialektlexikon. Ordbok öfver svenska allmogespråket* (Lund: n.p., 1867): 8.

81 Snorri Sturluson, *Edda: Skáldskaparmál*, vol. 1, ed. Anthony Faulkes (London: Viking Society for Northern Research, 1998): 106.

82 From an anonymous *þula*: *Manna heiti* (see, e.g., *Den norsk-islandske skjaldedigtning*, A: Tekst efter håndskrifterne, I–II; B: Rettet tekst med tolkning, I–II, ed. Finnur Jónsson [Copenhagen: Nordisk forlag, 1912–15]: A:1, 661; B:1, 662–63).

worker'. The Icelandic law codex *Grágás* has a section that discusses *önnungsverk*: "The work that someone does by order of the householder is called *önnungsverk*."<sup>83</sup> Jón Hnefill's interesting conclusion is that this term was used for a person occupying a position between an unfree thrall and a free worker in early Iceland. It is possible that he is right. On the other hand, one could argue that this is an example of the fluid transition that I think existed in prehistoric times between different types of servants, so that an *önnungr* was a man who could be used or hired to carry out farm work, a free or unfree worker.

### ON *þír f./ þý f.*

The poem *Rígsþula*'s designation for the female slave, *þír f.*, is a word closely related to another known Old Norse term for a female slave, namely *þý f.* (< \**þeujō*),<sup>84</sup> which is presumably identical with a word in the dative singular, *þýio*, in the Eddic poem *Helgakviða Hundingsbana II* (st. 2). The word appears also in Old Swedish, but only in the compound *þybarn* 'illegitimate child' (actually 'female slave's child') and in the Old Gotlandic *þysun* 'illegitimate son'. These words belong to a large group of words within the Germanic languages which by the so-called Siever's shift resulted in two closely related stems, \**þeu-* and \**þeg-*,<sup>85</sup> showing meanings such as 'slave, servant', two bases on which many words were constructed with gender-specific suffixes.<sup>86</sup>

Direct counterparts to ON *þý f.* are OE *þéowe*, *þéowu f.*,<sup>87</sup> OSax *thiu*, *thiwi f.*, OHG *thiu*, *diu*, *diuwa f.* and Goth. *þiwi f.*<sup>88</sup> The forms *þý* and *þír* must have sprung from separate case forms, depending on the development of the diphthong *eu*.

<sup>83</sup> Vilhjálmur Finsen, ed., *Grágás*, vol. 1 (*Kristinna laga þáttir 17*): 35: *þat erv avnongs verk. ef maðr viðr hvern dag þar er bvané vil.*

<sup>84</sup> Sophus Bugge, "Svensk ordforskning," *Arkiv för nordisk filologi* 4 (1888): 125, de Vries, *Altnordisches etymologisches Wörterbuch*: 629.

<sup>85</sup> See Karg-Gasterstädt, "Ahd. thiu und thiorna": 322, 326.

<sup>86</sup> We possibly ought to expect two parallel stems, \**þēua-* and \**þēua-*, respectively, but it appears reasonable to assume analogous formations and connections, which seem obvious in some cases.

<sup>87</sup> David A.E. Pelteret, *Slavery in Early Mediaeval England. From the Reign of Alfred until the Twelfth Century*, *Studies in Anglo-Saxon History* 8 (Woodbridge: Boydell, 1995): 305; OE *þír f.* 'slave woman' is in all likelihood a loan from ON *þír*, cf. somewhat incorrectly Pelteret, *Slavery in Early Mediaeval England*: 316. Cf. Pons-Sanz, *The Lexical Effects of Anglo-Scandinavian Linguistic Contact on Old English*: 69, discussion of the OE *ðir*.

<sup>88</sup> See Feist, *Vergleichendes Wörterbuch der Gotischen Sprache*: 499, cf. 352 (Goth. *mawi*); Joseph Wright, *Grammar of the Gothic Language* (Oxford: Clarendon, 1910): 37, 71, 91; Gottfried Schramm, *Namenschatz und Dichtersprache. Studien zu den zweigliedrigen Personennamen der Germanen*, *Ergänzungshefte zur Zeitschrift für vergleichende Sprachforschung* 15 (Göttingen: Vandenhoeck & Ruprecht, 1957): 167, and Orel, *A Handbook of Germanic Etymology*: 419.

**ON þírr m., Proto-Nordic -þewar**

Words for ‘male slave or servant’ were also constructed on the same stem, \*þeu-, such as Goth. *þius* m.,<sup>89</sup> OHG *theo*, *deo* m.,<sup>90</sup> OSax *dio*- m., OE *þéow*, *þéowa* m.,<sup>91</sup> and ON *þírr* m. In Scandinavia, the stem occurs in early runic inscriptions as Proto-Nordic *-þewar*.

On a hartshorn amulet from the sixth century recently discovered at Sorte Muld, Ibsker parish in Bornholm, Denmark, is the inscription: **balika ar- . . . . . (f)ulaz þewaz**.<sup>92</sup> The inscription is very hard to comprehend. However, the word *þewar* is clear. The word is not evidenced in the old languages wherein a parallel to Goth. *þius* m. (< \*þeuz) would have resulted in either \*þjór or \*þér/\*þær, in the same way as we have the variants ON *sjór* and *sær* from Proto-Nordic \*sewar (< \*siaw-) ‘sea, lake’.<sup>93</sup> We encounter this word especially as the second element in some Proto-Nordic compounded man’s names (in the same way as in Proto-Germanic personal names<sup>94</sup>), probably in three different forms: As *-þér*, in names such as *Sigþér*, *Eggþér*,<sup>95</sup> wherein *-þér* is gradually reduced to *-þir*. As *-þjófr*, which is probably correctly assumed to have developed from \*þjór (< \*þeuzar), which is a form in all likelihood based on an accusative

89 Evidenced only as nom. pl. *þiwōs* and gen. pl. *þiwē*; Wright, *Grammar of the Gothic Language*: 37, 89; Feist, *Vergleichendes Wörterbuch der Gotischen Sprache*: 497–98; and Wilhelm Braune, *Gotische Grammatik*, ed. Ernst A. Ebbinghaus, 18th ed., Sammlung kurzer Grammatiken germanischer Dialekte A:1 (Tübingen: Niemeyer, 1973): 65.

90 Evidenced only once in OHG, namely in the early continental Frankish law compilation *Pactus legis Salicae* (Tit. 26 § 2: 97); see von Olberg, *Die volkssprachigen Wörter der Leges barbarorum*, vol. 2, *Die Bezeichnungen für soziale Stände, Schichten und Gruppen in den Leges barbarorum*: 203. The word is, however, evidenced in compound personal and place names. In certain manuscripts of *Lex Salica* the word *theoleodi* ‘wergild for a servant’ (‘Knechtsmanngeld’) occurs, containing OHG *theo* and the word *leodi* ‘wergild’, which is based on Salian-Frankish *leod*, OHG *liut*, cf. ON *lýðr* ‘people’ (< PGmc \*leuðiz m.) (Gabriele von Olberg, “Zum Freiheitsbegriff im Spiegel volkssprachiger Bezeichnungen in den frühmittelalterlichen Leges,” in *Akten des 26. Deutschen Rechtshistorikertages*, ed. D. Simon, Ius Commune, Sonderhefte: Studien zur Europäischen Rechtsgeschichte 30 [Frankfurt am Main: Vittorio Klostermann, 1987]: 416–17).

91 For the OE words, see comparisons in Felix Liebermann, *Die Gesetze der Angelsachsen* 2:1 (Halle: Niemeyer, 1903–1916): 220–21. On the weak variant *þéowa* m., see George Hempl, “Etymologies,” *American Journal of Philology* 22, no. 4 (1901): 427.

92 DR AUD2002:131U.

93 Elias Wessén, *Nordiska namnstudier*, Uppsala universitets årsskrift 1927. *Filosofi, språkvetenskap och historiska vetenskaper* 3 (Uppsala: Lundequistska bokhandeln, 1927): 117; Elias Wessén, *Isländsk grammatik*, 2nd ed. (Stockholm: Svenska bokförlaget, 1966): § 39; de Vries, *Altnordisches etymologisches Wörterbuch*: 575–76.

94 In Germanic names such as Gothic *Alatheus*, OE *Angeltheow*, OE *Ecgtheow*, OE *Ongentheow*, *Wealtheow*, Goth. *Godosteus*, OHG *Herideo* and others. Many of these, and other personal names in \*-þewar, will be discussed below.

95 Adolf Noreen, *Altisländische und Altnorwegische Grammatik unter Berücksichtigung des Urnordischen*, Sammlung kurzer Grammatiken germanischer Dialekte 4: *Altnordische Grammatik* 1, 4th ed. (Halle: Niemeyer, 1923): 253, 258; and de Vries, *Altnordisches etymologisches Wörterbuch*: 609.

\**þeu* > \**þjó*,<sup>96</sup> presumably influenced by or linked to the word *þjófr* 'thief' (< PGmc \**þeubaz*).<sup>97</sup> Perhaps also as \**-þýr*,<sup>98</sup> which in unstressed positions as second element developed into *-tyr*,<sup>99</sup> in names such as *Angantyr* (< *Hanganþýr*).<sup>100</sup>

The ON *þírr* m. – found in two enumerations of words for slaves and servants by Snorri in *Skálskaparmál* and in a *þula* (see above), which seems to be a masculine counterpart to the feminine *þír* f. discussed above – is rather difficult to etymologise. As already Sophus Bugge noted, the word cannot be understood as identical with Goth. *þius* m., OSax *dio-* m., OE *þéow*, etc. Bugge's suggestion is that it is derived with another suffix to the stem *þeu-*.<sup>101</sup>

Adjectives have also been constructed from the same stem \**þeu-*, e.g. OE *þéow* 'unfree', as well as verbs, e.g. ON *þjóna* (< \**þeuanōn*) 'serve', OHG *dionōn*, *dionen* and ON *þjá* (< \**þeuan*) 'treat as a slave, suppress, torment', Goth. \**þiwan* (in *gabiwan* and *anabiwan*), OE *þéowian*, OHG *dewēn*. Later (?) formations include words such as ON *þjónn* m. (< \**þeuanar*) 'servant, slave', OE *þéowen* 'thrall, servant' (cf. *þéowian* 'make somebody a slave'), ON *þján* f. (< \**þeuanō*) 'suppression', and ON *þerna* (< \**þeuernō*) 'servant girl', Sw. *tärna*.<sup>102</sup>

96 From PGmc \**þeua-* derive the following variants that occur in Old Scandinavian languages: \**þér-/þær-* and (if the combination *-eu-* occurs as the final sound or before a consonant, and also with a shift of the accent) \**þjó*, which must derive from the accusative \**þeu* > \**þió* with inverted accent. See Wessén, *Isländsk grammatik*: § 39.

97 Wessén, *Nordiska namnstudier*: 117; Orel, *A Handbook of Germanic Etymology*: 422; cf. de Vries, *Altnordisches etymologisches Wörterbuch*: 613; Klaus von See, *Altnordische Rechtswörter. Philologische Studien zur Rechtsauffassung und Rechtsgesinnung der Germanen*, Hermaea, Germanische Forschungen. N.F. 16 (Tübingen: Max Niemeyer, 1964): 10.

98 R.D. Fulk, "Unferth and his Name," *Modern Philology* 85 (1987–88): 115.

99 Johs. Brøndum-Nielsen, *Gammeldansk grammatik*, vol. 1, *Vokalismus*, 2nd ed. (Copenhagen: Schultz, 1950): 102. The fact that the name occurs in other Germanic languages speaks in favour of this, OHG *Angandeo*, OE *Ongenþeow* and similar, which points towards a Common PGmc form \**Anganþew-*.

100 It is possible that *-tyr* in *Angantyr* derives from the form \**Anganþér* wherein the second element came to be associated with the name of the deity *Týr* (de Vries, *Altnordisches etymologisches Wörterbuch*: 10); E.V. Gordon, "Wealhþeow and Related Names," *Medium Ævum* 4 (1935): 170 n. 1 suggests that *-týr* may be a substitution for *-þér* due to "etymological misunderstanding", while Erik Brate, *Äldre Vestmannalagens ljúdlära*, Upsala Universitets Årsskrift 1887. Filosofi, Språkvetsenskap och Historiska vetenskaper 3 (Uppsala: Akademiska bokhandeln, 1887): 34 assumes a change according to a sound law *p > t* following *n*.

101 Sophus Bugge, "To nyfundne norske Rune-Indskrifter fra den ældre Jærnalder," *Kristiania Videnskabs Selskabs Forhandling* (1872): 317. Maybe *þírr* is a secondary development to the feminine *þír* f. (\**þeuír* f. nom. and \**þeuírar* m. nom.?), where the ultimate *-r* in the feminine word has been perceived as a radical *-r*. On the other hand, since the word seems only to have been found twice, and both times in *þulur*, lists of words, and not within any context in a law, saga or poem, it should perhaps be understood as an occasional formation, as a masculine counterpart to the feminine *þír*, and never in actual use in the language.

102 von Olberg, *Die volkssprachigen Wörter der Leges barbarorum*, vol. 2, *Die Bezeichnungen für soziale Stände, Schichten und Gruppen in den Leges barbarorum*: 203; de Vries, *Altnordisches etymologisches Wörterbuch*: 612, 614; Karg-Gasterstädt, "Ahd. thiú und thiorna": 323.

Elisabeth Karg-Gasterstädt discussed in an etymological analysis this latter word, OHG *thiorna*, which appears in the sources with the same meaning as OHG *thiu* f., where, however, the former is considered a later formation, often used as a designation for the Virgin Mary in early religious texts. The word *thiorna* is assumed to be a specifically German formation later borrowed into the other Germanic languages. The Scandinavian word *tärna*, *tærne*, *terna*, ON *þerna*, which in medieval times designated a ‘young servant girl to a mistress’, has obviously, as mentioned already, been borrowed from German. The male counterpart, ‘young male servant’, was OHG *thegen*, which is, of course, paralleled by ON *þegn*, modern Scandinavian *tegn*.

This exposition results in the conclusion that the Germanic languages contain a multitude of words for ‘male slave, female slave, servants’ that are assumed to have been constructed from a single stem *\*þeṷ-* (< *\*þaiṷ-*) (: PIE *\*tek<sup>w</sup>-* ‘sprint, run, move’, *\*tek<sup>w</sup>o-* ‘runner’).<sup>103</sup> Vladimir Orel postulates two gender-specific etymons: PGmc *\*þeʒwaz* m. (for e.g. Goth. *þius*, ON *-þer* and *þý*, OE *þeów*, etc., cf. Sanskrit *takvá-* ‘quick’ < *\*tek<sup>h</sup>uós*, derived from PIE *\*tek<sup>h</sup>-* ‘to run’) and *\*þeʒwō* f. (for e.g. Goth. *tiwi*, OE *ðeowe*, OHG *diu*, etc. to be derived from the aforementioned *\*þeʒwaz*, or PIE *\*tekūi*, according to Hirt).<sup>104</sup> The fact that the *-ʒ-* in this postulated stem is not evidenced in any of these Germanic words for ‘slave, servant’ is puzzling.

This PIE root *\*tek<sup>h</sup>-*, ‘to run’, is found in words such as OInd *tákti* ‘hurry’, *takvá-h* m. ‘runner’, Lith. *tekù* ‘sprint’, Latv. *teksnis* m. ‘runner/servant’, OIr *techid* ‘flee, escape’. Based on this root – or via paradigmatic linkage – Germanic languages then constructed feminine words with an *-i-*, *iō-* or *jō-* suffix, such as e.g. ON *þý* f., *þír* f., Goth. *þiwi*, OHG *thiu*, *diu*, OSax *thiu*, *thiwi*, OE *þeow(u)*,<sup>105</sup> and masculine words with an *-a-* suffix, such as ON *þúrr*, *-þér*, *-þjófr* (< *\*þjór*) and *\*þýr* (> *-tyr*), Goth. *þius*, OE *þeow(a)*, OHG *theo*, *deo*.<sup>106</sup> It can be assumed that an earlier basic meaning for this group of words from *\*þeṷ-* was ‘one who runs, does errands’, in the same way as with *þrél*, if the suggested etymology is correct (several other explanations have been suggested).

Thus, I think it is possible to explain words within this semantic sphere, which appear as both *\*þeṷ-* and *\*þeg-*, as grammatical variants of the supposed PIE root *\*tek<sup>w</sup>-*. In Northern Europe, we then get the pairs Goth. *þius* m.: *þiwi* f., OE *þeow(a)* m.: *þeow(u)* f., OHG *theo* m.: *thiu* f., ON *-þér*/*\*-þjór* m.: *þý* f., thus PGmc *\*þeṷaz* m.: *\*þeṷjō* f., which designated respectively a male and female slave or servant. It is possible

<sup>103</sup> See, e.g., Feist, *Vergleichendes Wörterbuch der Gotischen Sprache*: 497–98; Julius Pokorny, *Indogermanisches etymologisches Wörterbuch* (Bern/Munich: Francke, 1959): 1059; de Vries, *Altnordisches etymologisches Wörterbuch*: 609, 629; Lehmann, *A Gothic Etymological Dictionary*: 362; and J.P. Mallory and D.Q. Adams, *Encyclopedia of Indo-European Culture* (London: Fitzroy Dearborn, 1997): 491.

<sup>104</sup> Orel, *A Handbook of Germanic Etymology*: 419.

<sup>105</sup> The somewhat complicated circumstances of word formation for the feminine words have been commented on by Olson, *De appellativa substantivens bildning i fornsvenskan*: 74–75.

<sup>106</sup> One of the earliest to list these related words (< *þewa-*) was Sophus Bugge, “To nyfundne norske Rune-Indskrifter fra den ældre Jærnalder”: 317).

that these 'original' conceptual pairs for 'slave, servant' from the Germanic areas paralleled the Latin pair *servus* – *ancilla* (and *puer* – *puella*).<sup>107</sup>

### Scand. *tegn*, ON *þegn*

It is uncertain whether the word Scand. *tegn*, ON *þegn*, 'warrior, servant', OSw *þæghn*, OE *þegen*, 'servant' also belongs here.<sup>108</sup> Reasons for including it have been given by Elisabeth Karg-Gasterstädt who, following an in-depth etymological analysis, assumes that *tegn* (in her opinion < \**þeg-n-az*) is to be regarded as a variant (assuming a shift of *g*: *w* according to Siever's Law) of, and therefore linguistically very close to, the word ON *þerna* (< \**þeu-ern-ō[n]*); a parallel could then be the words Goth. *magus* 'boy' and *mawi* 'girl', showing the same shift *g*: *w*.<sup>109</sup> In this way, *tegn* could similarly be assumed to derive from the PIE root \**tek*<sup>w</sup>- 'run'. In most etymological dictionaries, *tegn* is thought to derive from a different root, namely PIE \**tek*- 'to give birth', in Greek *téknon* (τέκνον) 'child',<sup>110</sup> but in my opinion there are semantic reasons that speak in favour of Karg-Gasterstädt's etymology, which says that the stem of *tegn* (< \**þeg-naz*) is a variant of the stem of ON *þerna* (< \**þeu-ern-ō[n]*). Jan de Vries hints at this other possibility and notes as an alternative etymology of ON *þegn* an earlier Proto-Germanic form \**þeganar*, which would be a variant of \**þegunar* (> *þjónn*).<sup>111</sup> Sara Pons-Sanz notes that OE *þegn* could have the meaning 'slave', or rather 'young slave', in tenth-century Northumbria.<sup>112</sup> In this context, one could also point out the

<sup>107</sup> Cf. von Olberg, *Die volkssprachigen Wörter der Leges barbarorum*, vol. 2, *Die Bezeichnungen für soziale Stände, Schichten und Gruppen in den Leges barbarorum*: 203–04; Arnoux, "Effacement ou abolition?": 62.

<sup>108</sup> See Willy Krogmann, "Adel und Udel," *Zeitschrift für deutsche Philologie* 63 (1938): 191; and Feist, *Vergleichendes Wörterbuch der Gotischen Sprache*: 498. Perhaps to be compared to ON *þjónn* m., mentioned above, see de Vries, *Altnordisches etymologisches Wörterbuch*: 614. For an in-depth semantic analysis of the West-Germanic OE *þegn*, OS *thegan*, see Carlton, *Semantic Shift in Old English and Old Saxon Identity Terms*: passim.

<sup>109</sup> Karg-Gasterstädt, "Ahd. thiū und thiorna": 326; cf. Orel, *A Handbook of Germanic Etymology*: 418; see also Carlton, *Semantic Shift in Old English and Old Saxon Identity Terms*: 109–10 and passim.

<sup>110</sup> See, e.g., Olson, *De appellativa substantivens bildning i fornsvenskan*: 55, D.H. Green, *The Carolingian Lord. Semantic Studies on Four Old High German Words: Balder, Frô, Truthin, Hêrro* (Cambridge: Cambridge University Press, 1965): 99, 101; and Orel, *A Handbook of Germanic Etymology*: 418. Guus Kroonen, *Etymological Dictionary of Proto-Germanic*: 536 has given an alternative, interesting etymology, well worth considering, namely that the word denoted not a 'child' or a 'young man', but instead a 'retainer.'

<sup>111</sup> de Vries, *Altnordisches etymologisches Wörterbuch*: 607; on the etymology of the word *þjónn* see *ibid.*: 614.

<sup>112</sup> Sara M. Pons-Sanz, "A Reconsideration of Wulfstan's Use of Norse-Derived Terms: The Case of *bræ̆l*," *English Studies* 88 (2007): 14.



interesting OE *þinen* f. ‘servant’ (< \**þeghninjō*).<sup>113</sup> Finally, we might mention the Scandinavian word *tjuv/tyv* ‘thief’ (< \**þeubaz*), ON *þjófr* m., Goth. *þiufs*, *þiuhs*, OHG *dioh*, OE *þeof*; all of these forms are, however, regarded as derived from the PIE root \**teup-* ‘squat (in order to hide)’,<sup>114</sup> although the etymology of this word is uncertain.<sup>115</sup>

### ***hapter and est***

It is a common development within the entire Indo-European linguistic area that terms for foreigners have taken on the semantic contents of ‘slave’, which obviously relates to the fact that captives or kidnapped foreigners were often enslaved. That taking captives during warfare was, as mentioned before, the most common way of acquiring slaves in classical times is evidenced by a word found in many Indo-European languages and encountered all over the continent, in Romance languages as Latin *captus*, *captivus*, in Celtic languages as Welsh *caeth*, OIr *cacht*, and in Germanic languages as ON *haptr*, OSw *hapter*,<sup>116</sup> where the meaning of the words varies between ‘captive’ and ‘slave’.<sup>117</sup> In the case of Sweden it may be noted that the ethnic designation *est* (pl. *ester*) ‘Estonian’, occurs during medieval times with the apparent meaning of ‘thrall, unfree’,<sup>118</sup> which probably shows that Estonians could be brought to Sweden and become enslaved.

### ***kæfsir?***

Another word that has been taken to mean ‘thrall’ and that appears in the old languages is ON *kæfsir* (*kæfsi*), *kæpsir* m. (< Proto-Nordic \**kabisia*).<sup>119</sup> This word is very obscure and lacks any obvious derivation.<sup>120</sup> It is probably a word borrowed into Old

113 Odenstedt, “Nuns and Midwives, Slaves and Adulteresses: Old English Terms Denoting Women”: 140, 142.

114 Nielsen, *Dansk etymologisk ordbog*: 453.

115 de Vries, *Altnordisches etymologisches Wörterbuch*: 613; Lehmann, *Gothic Etymological Dictionary*: 362; and Orel, *A Handbook of Germanic Etymology*: 422.

116 The word has been assumed to be constructed from the verb \**haffan* ‘capture’ (de Vries, *Altnordisches etymologisches Wörterbuch*: 209), from the PIE root \**kap-* ‘take, catch’ (Olson, *De appellativa substantivens bildning i fornsvenskan*: 5).

117 Bernhard Mees, “Celtic Influence in the Vocabulary of Hierarchy during the Common Germanic Period”: 363 n. 8.

118 K.F. Söderwall, *Ordbok öfver svenska medeltids-språket* (Lund, 1884–1918), article *ester*; Hjalmar Lindroth, “Estnisk bosättning i Sverige under äldre tider,” *Ymer* 36 (1916): 198; *Svenska akademiens ordbok* 1, article *est*.

119 de Vries, *Altnordisches etymologisches Wörterbuch*: 304.

120 See de Vries, *Altnordisches etymologisches Wörterbuch*: 304.

Norse, or even Proto-Nordic. It has been suggested that it could have been borrowed from Latin *captivus*, but that explanation leads to linguistic muddles.<sup>121</sup>

A paragraph in the Book of Marriage (*Giptar bolker* 4:3) in the Older Västgöta Law (VgL) deals with the case of how a male slave (*þræll*) could marry a wife:

*Vill þræll fa huskono giui tva öræ til þem ær hana a. ækki kæpsir i barnum*

If a thrall wants a wife [he shall] give two örar to the one who owns her. The *kæpsir* has no [part or] legal right to the children. (My trans.)

And similarly, in the Book of Marriage (*Giptar balker* 29) in the Östgöta Law (ÖgL), it is again regulated that a *kæpsir* has no right to his children:

*nu gangær fostre manns æfte fostru: þa a egh kæpsir i barnum:*

Now a man's *fostre* goes after [i.e. marries] a *fostra*, then a *kæpsir* has no [part or] legal right to the children. (My trans.)

First to be noted is that in the Västgöta Law we are dealing with a *þræll*, whereas in the Östgöta law the slave is a *fostre* (and his 'wife' a *fostra*). There is a social and legal difference between a *þræll* and a *fostre*, in that the latter 'slave' had a higher social standing in society and was given a higher value in legal cases; the penalty was three to four times higher for a *fostre/fostra* than a *þræll*. However, the outcome of a case where an unfree man had offspring with an unfree woman is identical in both laws; the children which the slaves had begotten did not belong to them, but to the owner of the slave mother. This is what should be expected in early medieval laws, the owner of a slave owned both the slave and her offspring.<sup>122</sup>

The word occurs three more times in Old Scandinavian. We find it twice in the Snorra Edda: in *Nafnaþulur* as a name for men, obviously thralls (*kefsar*), and in *Skáldskaparmál* (81. *Mannaheiti*): *Heitir ok þræll kefsir, þjónn, önnungr, þirr*, "(A) thrall is also called *kefsir, þjónn, önnungr, þirr*". The third occurrence (*kefsir*) is in the poem *Rígsþula* (9) in the enumeration of names for male thralls. In these examples in Old Norse poetry, the word seems exclusively to stand in a slave context.

The problem is the Old Swedish legal clauses. The word *kæpsir* is etymologically obscure,<sup>123</sup> and the context in the short sentences does not help us regarding the semantics; the person alluded to must be the thrall who is denied his children. But is

<sup>121</sup> See de Vries, *Altnordisches etymologisches Wörterbuch*: 304. The Latin word *captivus* could, however, possibly be a loan via some other mediating language, which would explain the form. One possibility for understanding the Scandinavian word is suggested by Kluge, *Etymologisches Wörterbuch der deutschen Sprache*, article *Kebse* f. 'concubine'.

<sup>122</sup> The word and the link to marriage, cohabitation, concubinage and illegitimate children has been discussed in an interesting, not yet published article by Dr. Cecilia Ljung (MS.).

<sup>123</sup> See, e.g., Kluge, *Etymologisches Wörterbuch der deutschen Sprache*: 199b: "Das wort (*kabisjō*) ist etymologisch leider ganz dunkel"; de Vries, *Altnordisches etymologisches Wörterbuch*: 304 "Das wort ist dunkel"; Heinrich Schröder, "Beiträge zur deutschen Wortforschung II," *Zeitschrift für deutsche Philologie* 38 (1906): 523 "Ist das Wort germanisch(?)", etc.

the word a term for a slave? Jan de Vries assumes that the word denoted a slave ('sklave'), with the remark: "eig. der unfreie Mann in seinem verhältnis zu der Sklavin, mit der er zusammenlebt",<sup>124</sup> which is pretty much what we are able to squeeze out from the two short legal clauses.

Everyone who has discussed the word can, of course, see the link to a word found in West Germanic: Germ. *kefse* 'concubine' (*Nebenfrau*), OHG *kebis* (ninth century), *ke-bisa* (eleventh century), OE *cefes* 'concubine', etc., a word the etymologists derive from \**kabisō* f. or \**kabisjō*. An early attempt was to link the word to Lat. *cap(i)tio* 'prisoner of war' and *captivus* 'prisoner',<sup>125</sup> which seems like a rather obvious and natural possibility, but thus leads to decisive linguistic difficulties. Elmar Seebold has recently derived Germ. *Kebse* f. 'concubine' (< PGmc \**kabisjō*) from the stem in Germ. *Kaue* and *Koje* 'hut, room with no window', which in its turn is a loan from Lat. *cavea* 'cage, den, cavity', giving *Kebse* the original meaning 'Bettgenossin' (bedfellow; I assume a euphemism for concubine).<sup>126</sup> However, the leap from 'cave' to 'bedfellow' seems daring, to say the least, and the proposal does not convince. Recently Gabriele von Olberg presented a research history of the word *Kebse* and the different attempts to explain its background.<sup>127</sup>

Moreover, the etymon for the Scandinavian masculine word is difficult to understand, it is not known in the West Germanic languages. Perhaps it is an exclusively Old Scandinavian (or even a Proto-Nordic) word.

A new and interesting etymology can now be considered after the Slavic philologist Karl H. Menges' discussion of a Polish word *kobieta* 'female person, woman, wife', also found in several other Slavic languages: Ukrainian *kob'ita*, Belarussian *kab'eta*, Slovak *kobieta*, Czech *koběta*, etc., for which he is of the opinion that it is probably a loanword for 'girl' from Uralic.<sup>128</sup> I think it is possible to see the background to *kefsir* in the light of Menges' discussion, where *kefsir*, *k(i)æfsir* (probably also the West-Germanic word *Kebse*, etc.) is to be derived from a word of Old Slavic origin for a woman or girl, which was borrowed into Old Scandinavian in the Viking Age as \**kabis*, with, as Emil Olson probably correctly assumed, a meaning of 'woman, concubine'.

This loan hypothesis seems the much more plausible since we know that Scandinavians, *Rūs*, probably especially 'Swedes', took many girls and women as slaves and concubines during their slave raids and trades in the Slavic world in the east during the Viking Age. We know of several Arabic historians, such as Ibn Fadlan, Ibn Rustah, Ibn al-Athīr and others, who mention how Scandinavians (*Rūs*) took especially girls and

124 de Vries, *Altnordisches etymologisches Wörterbuch*: 304.

125 See de Vries, *Altnordisches etymologisches Wörterbuch*: 304; and Kluge, *Etymologisches Wörterbuch der deutschen Sprache*: 481 for refs.

126 Kluge, *Etymologisches Wörterbuch der deutschen Sprache*: 481.

127 Gabriele von Olberg, "Kebse," *Reallexikon der germanischen Altertumskunde* 16 (2000): 347–52.

128 Karl H. Menges, "Wieder einmal zu poln. 'kobieta', weibliche Person; Frau," *Zeitschrift für Slavische Philologie* 43, no. 2 (1983): 400–406.

women and used them as slave concubines. The story of the burial of a Rūs chieftain, accompanied by his slave concubine on the pyre, witnessed by Ibn Fadlan, is famous,<sup>129</sup> but the same Arabic author also describes how Rūs regularly were accompanied by beautiful slave girls for trading and that each one of the Rūs had a slave woman who was said to serve him, wash his head, cook food and make drink, as well as another woman who slept with him.<sup>130</sup> These Arabic authors, thus, talk frequently of the Rūs keeping slave women as concubines, and even burying them with their dead master.

If this hypothesis is correct, the word *\*kabis* is to be seen in the same category as many other words for ‘slave’, as *haptr*, *slav*, *est*, *wealh*, *doûlos*, etc., of people becoming slaves who were caught, captured or bought, where the word was brought with the ‘object’, so to say, a common route for new loanwords into any language. The word *kefsir*, *k(i)æfsir*, which is the one that has survived in our sources in only five cases, must either be a masculine derivation with an *-ia*-suffix to this word *\*kabis*, as Emil Olson already postulated, or an Oslav. loanword, which was associated with words of, and aligned to, this grammatical category, such as *hirðir*, *læiknir*, *hlytir*, *spillir*, *deilir*, (*bog*)*sveigir*, etc., and the original meaning must be ‘a man (not necessarily a slave then!) who has and sleeps with a slave woman (a concubine)’.

This analysis can probably be placed in a wider (pre-)historic context, namely in the Viking Age slave-trade in the East, and the usage of bought or captured slave girls of Slavic origin as concubines by Rūs (Scandinavian/‘Swedish’) ‘vikings’. These Scandinavians must have heard a word used by the Slavs for a ‘girl’, which the Scandinavians perceived as or then transformed into *\*kabis*, a word they brought back to Scandinavia, probably with several concubines of Slavic origin. To this word, a new word was formed in early Viking Age Scandinavia, *kefsir*, *kæfsir*, for a male who had a concubine (from the beginning probably of Slavic origin).<sup>131</sup>

### ***bryti and lavard – lord and lady***

As is already apparent from the above, thralls did not at all constitute a homogeneous group. Many were pure work slaves on farms, presumably equated with livestock, but there were also slaves who performed specific tasks, such as *deigja* (see above), and in a few special instances highly qualified tasks. With this we draw close to the borderline to trusted servants and officials. One such – as has commonly been assumed –

<sup>129</sup> See, e.g., James E. Montgomery, “Ibn Faḍlān and the Rūsīyyah,” *Journal of Arabic and Islamic Studies* 3 (2000): 1–25.

<sup>130</sup> See Stefan Brink, “Slavery in Medieval Scandinavia. Some Points of Departure,” in *Viking-Age Trade. Silver, Slaves and Gotland*, ed. Jacek Gruszczyński, Marek Jankowiak and Jonathan Shepard (London/New York: Routledge, 2021): 47.

<sup>131</sup> Stefan Brink, “*K(i)æfsir* in the Old Västgöta and Östgöta Laws,” in *Tidens landskap: en vänbok till Anders Andrén*, ed. C. Ljung et al. (Lund: Nordic Academic Press, 2019).

originally unfree servant who appears relatively early as a comparatively well-esteemed person is the ON *bryti*.<sup>132</sup> If the word is to be regarded as native it should derive from Proto-Nordic *\*brūtjan* and is then a *nomen agentis* constructed on the stem of the weak verb OSw *brytia*, ON *brytja* ‘break into pieces, break asunder’. This term has for a long time been assumed to originally designate ‘one who breaks (bread and distributes food)’. The word appears in Old Scandinavian with meanings such as ‘manager (of someone else’s property), farm bailiff, particularly one who in return for a share in the yields runs and farms someone else’s farm’.<sup>133</sup> The word *bryti* has also been borrowed into Finnish as *ruttio*, *ruttia* ‘steward, slave’.<sup>134</sup> It has been assumed that a *bryti* was originally the foremost among thralls, a particularly trusted thrall, whose job it was to watch over the other thralls and to distribute food (bread) among them.

A *bryti* must originally have been some sort of farm manager, a bailiff watching over the other thralls. In written medieval sources, *bryti* appears to have undergone a shift in meaning, from (unfree?) ‘farm steward’ to ‘ombudsman, especially within the royal management’ to then decrease in social status and come to refer to a ‘farmer, especially tenant’.<sup>135</sup>

132 Cf. Ivar Lindquist, “Kungadömet i hednatidens Sverige,” in *Festskrift till Jöran Sahlgren 8/4 1944*, ed. K.G. Ljunggren (Lund, 1944): 225; K. Wührer, “Bryte,” *Reallexikon der germanischen Altertumskunde* 4 (1981): 25–26; Svend Gissel, “Bryte,” *Reallexikon der germanischen Altertumskunde* 4 (1981): 26–27; Grete Authén-Blom, “Bryte,” *Reallexikon der germanischen Altertumskunde* 4 (1981): 27; and Stefan Brink, “Bryten,” in *Medeltida storgårdar*, ed. Olof Karsvall and Kristofer Jupiter, *Acta Academiae Regiae Gustav Adolphi* 131 (Uppsala: Kungl. Gustav Adolfs akademi, 2014): 59–82.

133 See, e.g., Fritzner, *Ordbog over det gamle norske sprog*, article *bryti*.

134 de Vries, *Altnordisches etymologisches Wörterbuch*: 62.

135 That the position of the *bryti* changed during medieval times is entirely apparent, most clearly in Denmark. Here, the originally unfree and later on free farm manager – assuming this can be taken as the early social status of a *bryti*, as seems to be generally accepted (see literature below) – developed into becoming a sort of steward (*villicus*), especially in the king’s service, in terms of the administration of taxes and of justice. During the later part of the Middle Ages (after the thirteenth century), *bryti* (*villicus*) becomes a designation for a farmer, practically synonymous with a tenant, and the term *bryti* is often used as contrast to a tax-paying farmer. See H.M. Velschow, “Om Bryderne,” [*Danish*] *Historisk Tidsskrift* 1, no. 1 (1840): 112–47; Erland Hjærne, “Roden. Upphovet och namnet. Området och jarlen,” *Namn och bygd* 35 (1947): 36; Fridlev Skrubbeltrang, “Bryde,” *Kulturhistoriskt lexikon för nordisk medeltid* 2 (1957): 269–72; Thomas Riis, “Villici og coloni indtil 1340. Et forsøg på en begrebsanalyse,” in *Landbohistoriske studier tilegnede Fridlev Skrubbeltrang*, ed. Svend Gissel, *Landbohistoriske skrifter* 4 (Copenhagen: Landbohistorisk Selskab, 1970): 1–20; Gissel, “Bryte”: 26–27; Janken Myrdal and Clas Tollin, “Brytar och tidigmedeltida huvudgårdar,” in *Trälar. Ofria i agrarsamhället från vikingatid till medeltid*, ed. Thomas Lindkvist and Janken Myrdal (Stockholm: Nordiska museet, 2003): 133–68; Brink, “Bryten”; and Bjørn Poulsen and Hans Jacop Orning, “Holding Royal Office and the Creation and Consolidation of the Elites in Scandinavia c. 1050–1250,” in *Nordic Elites in Transformation, c. 1050–1250*, vol. 1, *Material Resources*, ed. Bjørn Poulsen, Helle Vogt and Jón Viðar Sigurðsson (Abingdon/New York: Routledge, 2019): passim.

It is interesting that this word *bryti* occurs at least twice, probably three times, on runestones. On the famous runestone at Hovgården on Adelsö in Lake Mälaren, central Sweden, a *Tolir bryti* is mentioned, who probably is to be identified as the manager/steward on the royal estate here.<sup>136</sup>

The runic evidence thus states that a *bryti* was a highly esteemed man, albeit a servant, but not a 'slave' belonging to the bottom of society. Instead, he was a trusted official, probably an estate manager, whose work brought him into close contact with kings and other important men.

The word also occurs in early laws. The *bryti* can be assumed to have a sort of slave-status in, for instance, the Frostathing Law XI: 21 (*bryti* and *thión* and *deigia* and *seta*), and in the Östgöta Law, Book on Trading, 12 (a *bryti* sits on a man's farm and is his thrall), and in the same law, Book on Manslaughter, 14 (Now a king's *bryti* is killed in *Uppsala bo* [--] Now a *jarl's bryti* in *Rops bo*, etc.). From the last citation in the Östgöta Law, it seems clear that the compensation for a killed *bryti* does not represent a 'wergild', the honour price of a man, but instead looks like compensation for the loss of a *bryti's* labour, therefore there is a sliding scale from the king down to a farmer. The *bryti* is understood as a 'tool', working for a king, jarl, bishop, lawman or a farmer. This has – rightly or wrongly – been taken to represent an earlier state of affairs.

From the Västgöta Laws and also the Danish laws it is not certain whether a *bryti* was of free or unfree legal status,<sup>137</sup> while in the Svea laws it is clear that the *bryti* was a free farm-manager; however, the Danish legal historian Poul Johannes Jørgensen is of the opinion that "it is not evident from the word itself that the *bryti* is a slave, but originally he probably was that as a rule".<sup>138</sup>

Perhaps the sections that deal with the *bryti* in the Law of Jutland can throw some further light on this issue. In this law, the *bryti* practically never appears as ombudsman/steward, nor in the Law of Sjælland or the Law of Scania, but instead almost exclusively as a person mentioned in connection with the property belonging to his master, his patron. It is clear that he was not able to act as his own master at the thing assembly, but had to rely on his master speaking on his behalf with the exception that if a *bryti* or his family were subjected to violence, he could bring an action

<sup>136</sup> See especially Elias Wessén in *Upplands runinskrifter* 1 (Stockholm: Almqvist & Wiksell international, 1940): 11–20; Mats G. Larsson and Staffan Fridell, "Runristningen på Hovgårdsstenen," *Saga och sed* (2013): 95–109; Magnus Källström, "Kungen, bryten och märket. Till tolkningen av runblocket U 11 vid Hovgården på Adelsö och något om runstenarnas placering," *Saga och sed* (2015): 67–86.

<sup>137</sup> Clara Nevéus, *Trälarna i landskapslagarnas samhälle. Danmark och Sverige*, *Studia Historica Upsaliensia* 58 (Uppsala: Uppsala universitet, 1974): 69–70.

<sup>138</sup> Poul Johannes Jørgensen, *Dansk Retshistorie*, 6th ed. (Copenhagen: Gad, 1974): 195: "at det ligger ikke i selve ordet, at bryden er træl, men oprindelig har han vistnok regelmæssigt været det", cf. Nevéus, *Trälarna i landskapslagarnas samhälle*: 114; Poulsen and Orning, "Holding Royal Office and the Creation and Consolidation of the Elites in Scandinavia c. 1050–1250": 218.

against somebody without the intervention of his lord; the other exception was in cases where the *bryti* himself had his own *bryti*.<sup>139</sup>

This situation, which the law clauses in the Law of Jutland describe, appears to speak of a patron–client relationship and actually need not have its origins in a free–unfree dichotomy, but rather in some sort of relationship of dependency or service. What we find here is actually rather confusing: In one case the *bryti* seems to be on par with a slave (*threl*), and in a second it is stated that a *bryti* should have property and could be a *sannend men* (‘men of truth’),<sup>140</sup> hence used in legal cases, which seems to be contradicted by some other cases, where it says that nominated men for a jury had to be householders and not *brytar* nor tenant-farmers, but then in another case, a man nominated to a legal jury could not be a *bryti*, and then again we learn that the *bryti* had to rely upon his householder (owner?/owner of the farm?). The majority of these cases, however, places a *bryti* in some patron–client relationship, where they normally could not be used as subjects in court cases.

In Old Norse languages another word occurs within the same semantic sphere, namely ON *lavarði*, *lavarðr* m. ‘lord’, OSw *lavardher* m. ‘lord, master’, which is a loan from OE *hlaford*, *hlæford*, a compound of *loaf*, OE *hlāf* ‘bread’ and *ward*, OE *weard* ‘manager, guard’.<sup>141</sup> This word provides the basis for the English designation of nobility *lord*. It is, of course, tempting to compare OSw *bryti* to the OE *hlæfbrytta* m. ‘steward (servant)’, a compound of *hlāf* ‘bread’ and *brytta* m. ‘servant, lord’, etc., yielding ‘the one who breaks the bread’, a word that occurs only once and on that one occasion in a letter of emancipation from 1330–50.<sup>142</sup> This Old English word is, of course, semantically very close to *lord*, OE *hlāford* (< *hlæfweard*) ‘one who guards bread’, OE *hlāfæta* ‘one who eats bread (servant, slave)’, a word occurring only in the earliest of the Anglo-Saxon laws, Æthelberht’s Law (25).<sup>143</sup> *ceorles hlāfæta*, a *ceorl*’s servant/slave, and *lady*, OE *hlæfdige* ‘bread-bakeress’, the second element in *lady* (*-dige* < *-dæge*) is to be linked to Gothic *deigan* ‘to knead’, which results in the meaning ‘(female) bread-kneader’, hence the one who bakes the bread. These Old English appellatives lack direct counterparts in other Germanic languages, although I think that the word *bryti* belongs to the

139 Ditlev Tamm and Helle Vogt, *The Danish Medieval Laws. The Laws of Scania, Zealand and Jutland*, Routledge Medieval Translations (Abingdon/New York: Routledge, 2016): 251, 264, 266, 267. Cf. Riis, “Villici og coloni indtil 1340. Et forsøg på en begrebsanalyse”: 6–7.

140 For the concept of *sandemæn* in the Law for Jutland, see P. Skautrup, “Fylling på sandemænd,” in *Studier tilegnede Verner Dahlerup paa Femoghalvfjerdedsaarsdagen*, ed. Poul Andersen, Aage Hansen, and Peter Skautrup (Aarhus: Universitetsforlaget, 1934): 231–43; and Per Andersen, “‘The Truth Must Always be Stronger’. The Introduction and Development of *Næfnd* in the Danish Provincial Laws,” in *New Approaches to Early Law in Scandinavia*, ed. Stefan Brink and Lisa Collinson, *Acta Scandinavica* 3 (Turnhout: Brepols, 2014): 7–36.

141 Hellquist, *Svensk etymologisk ordbok*: 588; de Vries, *Altnordisches etymologisches Wörterbuch*: 349.

142 Pelteret, *Slavery in Early Mediaeval England*: 292.

143 Liebermann, *Die Gesetze der Angelsachsen*.

same semantic sphere. The words relate of a time when a sort of 'food-community' constituted a unifying institution with a bread-baker (female servant), a bread-guard (male official of a higher rank than the following), bread-distributor (male servant of a higher rank than ordinary servants, slaves), bread-eaters (slaves, workers, servants) and we actually have preserved the word for the gathering of the 'food-community', the common meal; it was known in Old English as *hlāfgang* 'going to eat bread'.<sup>144</sup>

The Old English phenomenon of the 'food-community' gathering around the bread is highly interesting,<sup>145</sup> and it was probably widespread since German provides a semantic counterpart to *lord* (< *hlāfweard*) in the word *brotherr* m., "herus, der seinen leuten brot gibt, welchen altpatriarchalischen sinn auch das ags. *hlāford*, vielleicht *hlāfveard*, verkürzt in engl. *lord*, enthält" ("the master of the house [Lat. *herus*], who gives bread to his people, which old patriarchal sense is also contained in ags. *hlāford*, perhaps *hlāfveard*, shortened in Eng. *lord*"),<sup>146</sup> hence 'bread-lord', the one who distributes bread to his subjects.

Against this background I think it is reasonable to hypothesise that the term and the phenomenon of *bryti* came into Scandinavia at the time when farming of a feudal agrarian sort was adopted, or perhaps rather the kind of "tributary society" Chris Wickham is discussing, where the relations were as those between patrons and clients, unlike feudal relations between landlords and serfs,<sup>147</sup> with estates with a main

<sup>144</sup> Stefan Brink, *Lord and Lady – Bryti and Deigja. Some Historical and Etymological Aspects of Family, Patronage and Slavery in Early Scandinavia and Anglo-Saxon England*, The Dorothea Coke Memorial Lecture in Northern Studies 2005 (London: Viking Society for Northern Studies, 2008).

<sup>145</sup> For an interesting discussion of the partially semantically parallel words *lev*, OHG *leip*, OE *hlāf*, ON *hleifr*, Goth. *hlaifs* (< \**hlaiba-*) and *bröd*, Germ. *broth*, Eng. *bread* (< \**brauda-*), see O. Schrader, "Etymologisch-Kulturhistorisches," in *Philologische Studien. Festgabe für Eduard Sievers* (Halle: Niemeyer, 1896): 5–11. It seems a similar institution, a collective or retinue around the 'bread', was also found in Slavic areas. Christoph Witzernath ("Slavery in Medieval and Early Modern Eurasia: An Overview of the Russian and Ottoman Empires and Central Asia," in *Eurasian Slavery, Ransom and Abolition in World History, 1200–1860*, ed. Christoph Witzernath [London/New York: Routledge, 2016]: 18–19) discussed, or rather intimated this, when analysing the term for a type of slave in early Russia, the *khlop*, a word related to Western Slavic *khlap* 'indicating a slave', but also denoting a 'boy' (which hence has a counterpart in e.g. Latin *puer*), see also the discussion by William G. Clarence-Smith, "Slavery in Early Modern Russia," in *Mediterranean Slavery Revisited (500–1800)/Neue Perspektiven auf mediterrane Sklaverei (500–1800)*, ed. Stefan Hanss and Juliane Schiel (Zurich: Chronos Verlag, 2014): 121–25 (the standard Russian word for 'slave' is *rob* or *rab* [раб] and *рабуня* [рабыня]). Witzernath places these words in a lexical field "centred around the family, on the *pater familias* or the lord of the family, or the leader of the sworn Varangians, who was to assign bread rations." (ibid.: 19) And he continues with suggesting that the Russian word for 'bread', *khleb* (хлеб), is "likely" a borrowing from ON *hleifr*.

<sup>146</sup> Jacob Grimm and Wilhelm Grimm, *Deutsches Wörterbuch*, vol. 2, 2nd ed. (Munich: Deutscher Taschenbuch Verlag, 1869): 405.

<sup>147</sup> Chris Wickham, *Framing the Early Middle Ages. Europe and the Mediterranean 400–800* (Oxford: Oxford University Press, 2005): 259–65 and passim; cf. Bjørn Poulsen and Søren Michael Sindbæk, "Settlement and Lordship in Viking and Early Medieval Scandinavia," in *Settlement and Lordship in Viking*



farm/manor that was run with the aid of slaveholding. Within such a unit there must have been a trusted slave who acted as foreman for the slaves, a *bryti*. This function, foreman on a large farm, apparently developed over time to take on tasks that involved more trust, as farm manager, and later on in the twelfth century a *bryti* (Lat. *villicus*) – at least in Denmark – became a royal steward,<sup>148</sup> a post high up the social ladder, until it decreased in social value during medieval times when it came to refer to a farm tenant. It is possible that *bryti* – as perhaps also *deigja* – came in at the same time as the term and phenomenon of OSw *lavarder*, ON *lávarðr*, *lávarði* were borrowed from Anglo-Saxon (< *hláfwearð*) since the terms belong together semantically and perhaps also chronologically. A *bryti* was at the earliest stage the ‘bread-distributor’, that is the steward or manager who distributed bread (food) to those who worked, servants and slaves. He was thus a *primus inter pares* for the slaves, probably a counterpart to the *villicus* on *latifundia* in the Roman Empire. These terms possibly belong to an even earlier Proto-Germanic collective institution, *\*hiwa*.<sup>149</sup>

If these terms are not Proto-Germanic, there are reasons to regard the *bryti*, and perhaps the *deigja* as well as the *lávarðr*, as being among the numerous Scandinavian cultural borrowings that have come in from Anglo-Saxon England, probably during the Viking Age. The origin and function of the *bryti* deserves a critical and detailed historical-semantic examination.

## 5 Summing Up

If we summarise the results of this semantic-etymological analysis, we find that terms for slaves appear to cluster around (at least) four semantic fields:

- 1) One who is a member of a family or a household such as ‘household servant’, that is to say, a person who waits on people and partakes in tending the farm and fields. This group includes terms such as Latin *famulus*, OSw *fostre* and *fostra* (to Sw. *föda* [upp] ‘to bring up [feed] at home’), *gæfþræl* ‘one who has sold himself as a thrall to get support’, ON *deigja*, *seta*, *bryti* and perhaps *sveinn* ‘one belonging to the household’?.
- 2) One who sprints, runs errands and does services for someone, such as OE *birele* f. ‘one who carries around the drinking cup’, ON *ambótt*, all the terms deriving from *þeuz* (< *\*tek-* ‘sprint, run’), *þegn* (?) and perhaps *þræll*.

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and *Early Medieval Scandinavia*, ed. Bjørn Poulsen and Søren Michael Sindbæk, *The Medieval Countryside* 99 (Turnhout: Brepols, 2011): 13–14.

148 Poulsen and Orning, “Holding Royal Office and the Creation and Consolidation of the Elites in Scandinavia c. 1050–1250”: 216–17, 228.

149 For the collective *\*hiwa*, see Brink, *Lord and Lady*.

- 3) Ethnic terms for 'war captives, enemies', indicating captivity, such as designations for neighbouring peoples or other ethnic groups, or words borrowed from neighbouring peoples, for example ON *haptr*, Sw. *slav*, OSw *est*, Latin *captus*, OE *wealh*, Welsh *caeth*, Greek *doúlos*, Latin *servus*, *vasall* 'servant' (from Gallo-Latin *vassus* 'slave, servant') and Goth. *frahunþans*. To compare, among the north-east Native American slaves were generically knowns as *Pawnees*, although they could have other tribal origins.
- 4) Designations for a 'child, boy, young man', such as in Latin *puer* ('boy; slave'), *vassus* 'slave, servant' (from a Celtic word for 'child', compare Welsh *gwas* 'child, servant'), *rínker/rekkr* (Latinised in the Salian Laws as *rencus* 'unfree, minor'), *þræll* (?).

We have seen above that there are differences – socially and legally – between 'slaves' in early Scandinavia. The male *þræll* and the female *ambótt/ambátt* seem to be at the lowest rung among slaves, although an *ambótt/ambátt* could be a cherished family member in her capacity as a wetnurse. Further up in the slave hierarchy, with a higher legal valuation in the law codes, were the *deigja*, *fostre* and *fostra*. And even higher up, especially from a social point of view, albeit legally unfree, was the *bryte*, who could even be the steward on a royal estate. Some of these terms died out when slavery was abolished in Scandinavia, whereas others continued to be used, but with new meanings (*deigja* 'milk maid', *bryte* 'tenant', etc.).

What we can also conclude from this linguistic analysis is that dependency and the lack of freedom did not constitute absolute categories but should be considered on the basis of a sliding semantic scale, which allows for a discussion of various degrees of asymmetrical dependency between a master and a subject. On the one hand, we have pure work slaves, chattel slaves, without any legal rights and living in social misery. On the other hand, we have people who have voluntarily become someone's slave and probably have some social standing, perhaps a special social bond to their master, or who are trusted officials and managers. A semantic-etymological analysis of this kind shows us that the early terminology for a 'slave' is a highly complex issue.

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Hossein Sheikh

# Servant or Slave: The Old Persian Words *Bandaka*, *Marika* and *Daha* and their Cognates in Middle Iranian Languages

## 1 Introduction

In this paper, I will briefly examine the concept of superiority/inferiority in the Achaemenid administrative system in particular and in the ancient Iranian world in general. In doing so, I will focus on the word *bandaka*, its meanings and its nuance in Iranian languages in the context of ancient Near Eastern culture, as this word plays a very important role in the definition of terminology related to slavery and associated terms in the Iranian world. In addition, I will discuss two additional words related to this topic that shed more light on the concept of superiority/inferiority in Ancient Iranian societies. Our main sources for this study are inscriptions, letters and contracts from a variety of Western and Central Asian cultures. In this study, I chose three middle Iranian languages, Sogdian, Pahlavi, and Bactrian, because the geography in which these languages were spoken was a part of the Achaemenid Empire.

## 2 Bandaka

In the Old Persian corpus, the word *bandaka* appears only in the Behistun inscription, a multilingual inscription in Old Persian, Akkadian, and Elamite engraved on a rock near Kermanshah in western Iran.<sup>1</sup> An Aramaic version of the inscription is also found in Elephantine. In this inscription, Darius I (reign 522–486 BCE), the king of the Achaemenid Empire, narrates how he ascended to the throne and suppressed the revolts against him and the new empire with the help of his commanders, whom he calls *mana bandaka*, which means ‘my servant’.<sup>2</sup> But the word *bandaka* also, in one case,

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1 See Rüdiger Schmitt, “Bisotun iii. Darius’s Inscriptions,” in *Encyclopedia Iranica*, ed. Ehsan Yarshater, vol. 4 (London: Routledge & Paul, 1990): 299–305.

2 For example, Vidarna nāma Pārsa manā badaka avamšām maθištam akunavam – “A Persian named Vidarna, my servant I made their commander” (Rüdiger Schmitt, *Die altpersischen Inschriften der Achämeniden* [Wiesbaden: Reichert, 2009]: 53), DB ii. 19–20 and Rüdiger Schmitt, *Wörterbuch der altpersischen Königsinschriften* [Wiesbaden: Reichert, 2014]: 87).

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**Note:** I would like to thank Mehdy Shaddel (Leiden) and Yazdan Safaee (Berlin) for their valuable comments and advice.

means ‘subject’, which he uses to refer to all the people of his empire. There he calls them *manā bandakā*, ‘my subjects’.<sup>3</sup> Thus in this inscription the word *bandaka* means ‘servant’ in some specific instances and ‘subject’ in general. However, in the other versions of the Behistun inscription, the word *bandaka* is synonymous with words which all mean ‘servant/slave’. In the Babylonian version, in all but one case, the word *bandaka* is rendered *qallu*, which in late Akkadian means ‘servant/slave’.<sup>4</sup> The exception is the word *wardu(m)*, which also means ‘servant/ slave’ and was the standard word for ‘slave’ in Akkadian, especially in the Old Babylonian period.<sup>5</sup> In the Neo-Assyrian and Neo-Babylonian texts, the common term for ‘slave’ is *qallu*,<sup>6</sup> while in Neo-Assyrian and Neo-Babylonian, the word *wardu(m)* is usually reserved for ‘servant’.<sup>7</sup> A Neo-Assyrian letter shows this difference explicitly. After greeting the king and calling himself his servant (ARAD-ka = ‘your servant’), a high official suggests that the king should first let the slaves (*qallu*) drink a drug before the crown prince.<sup>8</sup>

However, the word *qallu* does not only mean ‘slave’. In Neo-Babylonian letters this word also means ‘servant’, and in some letters, ‘inferior’, for example, calling oneself *qallu*<sup>9</sup> instead of *arad* (‘servant’)<sup>10</sup> of one’s superior.

In the Elamite version of the Behistun inscription, the word *bandaka* is equivalent to the word *li-ba-ru-ri*, which, like the above-mentioned words, means ‘servant/slave’.<sup>11</sup>

3 Imā dahyāva tayā manā patiyiṣa vašnā A. uramazdāha manā bandakā āhantā – “These are the lands which came to me; by the grace of Ahuramazda they became subject to me” (DB i.7).

4 The word *qallu* literally means ‘light, little, slight’. See CAD, vol 13 (Q): 62–64.

5 Ignace Gelb, “Terms for Slaves in Ancient Mesopotamia,” in *Societies and Languages of the Ancient Near East: Studies in Honor of I.M. Diakonoff*, ed. John Nicholas Postgate (Warminster: Aris & Phillips, 1982): 81–98.

6 M. Molina et al., “Sklave & Sklaverei,” in *Reallexikon der Assyriologie*, ed. Michael P. Streck, vol. 12 (Berlin: de Gruyter, 2009–2011): 571–72.

7 Mikko Luukku, “On Standardisation and Variation in the Introductory Formulae of Neo-Assyrian Letters,” *Iraq* 74 (2012): 98–99.

8 a-na LUGAL be-lí-ia ARAD-ka m<sup>d</sup>IM-MU-PAB lu DI-mu a-na LUGAL EN-ia d<sup>AG</sup> d<sup>AMAR-UTU</sup> a-na LUGAL EN-ia lik-ru-bu ina UGU- hi šam-mu ša LUGAL bel-í iš-pur-an SIG<sub>5</sub>-iḫ a-dan- niš bé-et LUGAL bel-í iḫ-bu-ú-ni LÚ.GÁL.MEŠ am-mu-te ni-har-ru-up ni-šá-aq-qi ha-ra-me-ma DUMD-LUGAL li-is-si – “To the king, my lord: *your servant* Adad- Šumu-ušur. Good health to the king, my lord! May Nabu and Marduk bless the king, my lord! Concerning the drug about which the king, my lord, wrote to me, what the king, my lord, said is quite right. Let us make those *slaves* drink first, and let the crown prince drink only afterwards” (Simo Parpola, *Letters from Assyrian and Babylonian Scholars* (Helsinki: Helsinki University Press, 1993): 156, Let. 191).

9 a-na mu-du en-[ia] qal-la-ka Id+ag-en-[ūru] – “to Šumu Ukīn my lord your servant Nabû-bēlu -[ušur]” (Martina Schmidl, “Rhetorik neubabylonischer Privatbriefe” [master’s thesis, Universität Wien, 2012]: 27).

10 ‘a-na’ lú gar ‘umuš’ be-lí-ia’ arad-ka’ Id+en-tin-‘it’ – “To the governor, my lord, your servant Bēluballit” (Schmidl, *Rhetorik neubabylonischer Privatbriefe*, 2012: 17).

11 Richard T. Hallock, *Persepolis Fortification Tablets* (Chicago: University of Chicago Press, 1969): 720.

Obviously, the word 'bd is the most common term for 'slave' in many Semitic languages<sup>12</sup> including Aramaic,<sup>13</sup> but in the Aramaic version of the Behistun inscription the word 'lym is equivalent to *bandaka*,<sup>14</sup> which means literally 'lad' or 'young boy',<sup>15</sup> but in Aramaic corpora the word 'lym, like 'bd, implies 'slave'.<sup>16</sup> These two words appear in Ancient and Imperial Aramaic letters in the context of 'servant'. For example, in the letter of the king of Ashkelon to the Pharaoh, the king of Ashkelon calls himself the pharaoh's 'servant ('bd);<sup>17</sup> whereas in the Imperial Aramaic letters of Arsham, Arsham calls his inferiors 'lym' zyly<sup>18</sup> ('my servant'). Nevertheless, when an inferior wrote to his superior, he would call himself 'bdk ('your servant').<sup>19</sup> Thus, it seems the word 'lym was used by superiors for addressing their inferiors, whereas the inferiors used the word 'bd to refer to themselves as servants of the superior in letters.

Technically speaking, the word 'bd, not only in Aramaic but also in Northwest Semitic languages, means 'servant/slave'. Specifically in Ugaritic, the word 'bd is the equivalent of *wardum* in Akkadian texts from the city of Ugarit.<sup>20</sup>

12 Jacob Hoftijzer, and Karel Jongeling, *Dictionary of the North-West Semitic Inscriptions* (Leiden: Brill, 1995): 816–19 and see Helmer Ringgren et al., “עֲבָדָה, עֲבָד,” in *Theologisches Wörterbuch zum Alten Testament*, ed. G. Johannes Botterweck, Helmer Ringgren and Heinz-Josef Fabry, vol. 5 (Stuttgart: Kohlhammer, 1986): 982–1012. Particularly for 'bd in the Old Testament.

13 See Holger Gzella “עֲבָדָה, עֲבָד,” in *Theologisches Wörterbuch zum Alten Testament (Aramäisches Wörterbuch)*, ed. Holger Gzella, vol. 9 (Stuttgart: Kohlhammer, 2016): 540–45.

14 Jonas Greenfield and Bezalel Porten, *The Bisitun Inscription of Darius the Great, Aramaic Version* (London: Lund Humphries, 1982): 62. Interestingly, according to Manfred Oeming, “‘See, We Are Serving Today’ (Nehemiah 9:36): Nehemiah 9 as a Theological Interpretation of the Persian Period,” in *Judah and the Judeans in the Persian Period*, ed. Oded Lipschits and Manfred Oeming (Winona Lake, IN: Eisenbrauns, 2006) and David Janzen, “Yahwistic Appropriation of Achaemenid Ideology and the Function of Nehemiah 9 in Ezra-Nehemiah,” *Journal of Biblical Literature* 136, no. 4 (2017), the word 'bdym in the book Ezra-Nehemiah is a translation of the Old Persian word *bandaka*.

15 Dirk Schwiderski, *Die alt- und reichsaramäischen Inschriften / The Old and Imperial Aramaic Inscriptions*, vol. 1: Konkordanz (Berlin/New York: De Gruyter, 2009): 653.

16 Joseph Naveh and Shaul Shaked, *Aramaic Documents from Ancient Bactria: (Fourth Century BCE)* (London: The Khalili Family Trust, 2012): Doc. C 4 Column 2 line 18.

17 'l mr' mlkn pr'h 'bdk 'dn mlk [ashqlwn] – “To the lord of kings, Pharaoh, (from) your servant, 'Adon, king of [Ashkelon]” (Joseph A. Fitzmyer, “The Aramaic Letter of King Adon to the Egyptian Pharaoh,” *Biblica* 46, no. 1 (1965): 44–45).

18 Bezalel Porten and Ada Yardeni. *Textbook of Aramaic Documents from Ancient Egypt (TAD)*, 4 vols. (Jerusalem: Hebrew University, 1986–1999): 120 let. Driver. 9, and see Christopher J. Tuplin, and John Ma, *Aršāma and his World: The Bodleian Letters in Context*, vol. 1, *the Bodleian Letters* (Oxford: Oxford University Press, 2020): 56 (Glossary and Concordance).

19 On Aramaic epistolography, see Joseph A. Fitzmyer, “Aramaic Epistolography,” in *Studies in Ancient Letter Writing*, ed. John L. White (Chico, CA: Scholars' Press, 1982): 25–57 and Frederick Mario Fales, “Aramaic Letters and Neo-Assyrian Letters: Philological and Methodological Notes,” *Journal of the American Oriental Society* 107, no. 3 (1987): 451–69.

20 See J.D. Schloen, *The House of the Father as Fact and Symbol. Patrimonialism in Ugarit and the Ancient Near East* (Winona Lake, IN: Eisenbrauns, 2001): 256 no.1 and Oswald Loretz, “Ugaritisch 'bd

As we have seen above, all the equivalents of the word *bandaka* in the Behistun inscription signify ‘servant/slave’, regardless of their literal meanings. Accordingly, it seems that the word *bandaka* was used in the sense of ‘servant/slave’ too, though in the Behistun inscription it means alternatively ‘servant’ and ‘subject’.<sup>21</sup> Now the question is why ranking officials (inferiors to the ruler) use a word that means ‘slave’ to describe their relationship with their superiors. In ancient Near Eastern cultures a superior has absolute power over his inferior/s, regardless whether the inferior is a king or a slave.<sup>22</sup>

It has its origins in the ancient Near Eastern cosmogonies. Gods who are at the top of the societies in the region created mankind to serve them.<sup>23</sup> Hence, gods have absolute power over man. To put it another way, gods are lords or masters (*bēlum*) and humans are their servants/slaves (*wardum*). Related to this subject are prayer letters addressed to gods by humans, specifically kings. A good example of this type of letter is one written by Zimri-Lim (reign ca. 1775–1761 BCE), King of Mari (1773–1759 B.C.) to the river god Nāru, in which he refers to himself as the river god’s servant.<sup>24</sup> Similarly, in a Phoenician inscription from Karatepe in southern Turkey, Azwitada, an agent of Awariku, the king of the Adaneans (eighth century BCE), describes himself as servant of God Ba’al, a storm and rain god.<sup>25</sup> Consequently, the relationship between gods

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‘Sklave, Diener, Vasall’. Eine Studie zu ug.-he. ḫbd ḫlm // bn āmt (KTU 1.14 III 22–32a et par.) in der juristischen Terminologie altorientalischer Verträge,” *Ugarit-Forschungen* 35 (2003): 355–56.

21 For other interpretations, see Wilhelm Eilers and Clarisse Herrenschmidt, “banda: servant,” in *Encyclopedia Iranica*, ed. Ehsan Yarshater, vol. 3 (London: Routledge & Paul, 1988): 682–85. and Iris Colditz, *Zur Sozialterminologie der iranischen Manichäer: Eine semantische Analyse im Vergleich zu den nichtmanichäischen iranischen Quellen* (Wiesbaden: Harrassowitz, 2000): 108–65.

22 As Westbrook notes: “In the strongly hierarchical societies of the region, the term ‘slave’ was used to refer not only to a person owned in law by another but to any subordinate in the social ladder. Thus, the subjects of a king were called his ‘slaves’ even though they were free citizens. The king himself, if a vassal, was the ‘slave’ of his emperor, and kings, emperors, and commoners alike were ‘slaves’ of the gods. A social inferior, when addressing a social superior, referred to himself out of politeness as ‘your slave.’ Context is the only criterion for determining which nuance of the term is implied, and in a legal context that will normally be the legal meaning. In addition, slaves can usually be identified by the lack of a patronymic, but this is by no means always the case. The names of free persons were not always written with a patronymic, while slave names with a patronymic are occasionally encountered” (Raymond Westbrook, “Slave and Master in Ancient Near Eastern Law,” *Chicago-Kent Law Review* 70 [1995]: 1634).

23 In the epic Enuma Elish we read: ul-tu a-me-lu-tu ib-nu-u dé-a er-šú ḫul-lu šá ilāni i-mi-du-ni šá-a-šú – “After the wise Ea had created mankind and had imposed the service of the gods upon them” (W.G. Lambert, *Babylonian Creation Myths* [Winona Lake, IN: Eisenbrauns, 2013]: 112–13. Tablet VI. 35–36).

24 A-na ḫNārim be-lī-ia qī-bī-m[a] um-ma Zi-im-ri-li-im warad-ka-a-[ma] – “Speak to Nāru, my lord: Thus says Zimri-Lim, your servant” (Georges Dossin, “Les Archives épistolaires du Palais de Mari,” *Syria* 19, no. 2 [1938]: 126).

25 ḫnk ḫztwd ḫbrk bḫl ḫbd bḫl ḫš ḫdr ḫwrk mlk dnnym – “I am Azatiwata, blessed by Ba’al, servant of Ba’al, whom Awarku, king of the Danunians, made strong.” (John C.L. Gibson, *Phoenician Inscriptions including Inscriptions in the Mixed Dialect of Arslan Tash* (Oxford: Clarendon Press, 1982): 46–47, and

and mankind was structured by a pattern of superior-inferior relationships in ancient Near Eastern societies.

In this context, it is worth mentioning verses in the Book of Daniel that describe God's absolute power and sovereignty as superior to men as inferiors.<sup>26</sup> This description is essentially an adoption of a legal formula<sup>27</sup> found in the Aramaic conveyances from Elephantine.<sup>28</sup> The formula in the Aramaic papyri affirms the owner's absolute power over their property. Accordingly, in the case of slave sale deeds, the owner (master) had absolute power over his or her property (slave) and could do whatever she or he wanted with their property (slave).<sup>29</sup> This formula demonstrates another aspect of the superiority/inferiority relationship that appears frequently in later slave sale deeds throughout Western and Central Asia from the Hellenistic period to late antiquity.<sup>30</sup> For example, in the Syriac slave sale deed from Mesopotamia, the master gains complete authority over the female slave.<sup>31</sup> Far from Mesopotamia, the same rule can be seen in Turfan, i.e. in a slave sale contract it is stated that the master (a monk) and his family will have full authority over the slave girl in the future and can do whatever they want with her.<sup>32</sup>

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K. Lawson Younger, Jr. "The Phoenician Inscription of Azatiwada: An Integrated Reading," *Journal of Semitic Studies* 43, no. 1 (1998): 13–22.

26 dy šlyt 'l'h bmlkw 'nš' wlmn dy yšb' ytnnh – "That the Most High is sovereign over the realm of man and he gives it to whom He wishes" (DANIEL 4:17, and also 4: 25, 32 and 5:21); see also Jonas Greenfield, "The Verb Sallaṭa in the Qur'ān in the Light of Aramaic Usage," *Jerusalem Studies in Arabic and Islam* 9 (1987): 40–41.

27 Jacob J. Rabinowitz, *Jewish Law: Its Influence on the Development of Legal Institutions* (New York: Bloch Publishing Company, 1956): 17–23; Avi Hurvitz, "The History of a Legal Formula," *Vetus Testamentum* 32 (1982): 259–67.

28 Reuven Yaron, "Aramaic Deeds of Conveyance," *Biblica* 41, no. 3 (1960): 259–61; Reuven Yaron, "Aramaic Deeds of Conveyance (II)," *Biblica* 41, no. 4 (1960): 386–87.

29 'nt ydnyh šlyt bptwsyry 'bd' zk zy m'k'k bhlq mn ywm' znh w'd 'lm wbnk 'hryk w lmn zy šbyt tntn – "You, Yedaniah, are empowered with regard to Pe-orsiri, that slave who came to you as a portion, from this day and forever and (so are) your children after you, and to whomever you desire you may give (him)" (TAD B2.11).

30 For a detailed discussion, see Hossein Sheikh, *Studies of Bactrian Legal Documents* (Leiden: Brill, 2023): 125–28.

31 wmn ymn' wl'm' thw' 'nt tyrw zbwn' wyrtyk šlyt b'mt' hd' dzbnt lk lmqn' wlmzbnw wlm'bd bh kl dtšb' – "And from this day and forever you Tiro, the buyer, and your heirs, are empowered this slave girl which I sold you to keep, or to sell or to do with her whatever you wish" (Han J.W. Drijvers, and John F. Healey, *The Old Syriac Inscriptions of Edessa and Osroene* (Leiden: Brill, 1999): 232–33. P1.)

32 KZNH 'PZYšn wšyw šmny 'y'sny'n xwty 'PZYšy 'xw BRY 'PZY 'xw npyšn 'PZY 'xw pšy 'PZY ZKh 'wzyh pr k'm'kw x'w't rnp'tw bynt't pr'yš't np'kw 'wsty't r'tw βxš't prβxš't wn'tw wyspy 'cwtyšn "šprmw k'm't 'krty – "Accordingly, the monk Yansyan himself and his sons, grandsons, family, and descendants may at will hit her, abuse her, bind her, sell her off, pledge her, give and offer her as a gift, and do whatever they wish" (Yutaka Yoshida, "Translation of the Contract for the Purchase of a Slave Girl Found at Turfan and Dated 639": 159–61 as Appendix in: Valerie Hansen, "New Work on the Sogdians, the Most Important Traders on the Silk Road, A.D. 500–1000." *T'oung Pao* 89 [2003]: 159–60).

There is additional evidence indicating that the word *bandaka* means ‘servant/slave’. One piece of evidence is the so-called Greek letter from Darius to satrap Gadates where he calls him his ‘*doulos*’, his servant.<sup>33</sup> As is well-known, the word *doulos* in ancient Greek is the most common term for ‘slave’,<sup>34</sup> but it also means ‘servant’, as is the case in this letter.

The other examples we look at are cognates of the word *bandaka* in some Middle Iranian languages, specifically in Pahlavi and Sogdian. In Pahlavi (and Parthian), the word *bandag*, a cognate of the Old Persian word *bandaka*, was written with the Aramaic heterogram ‘*BDK*’,<sup>35</sup> which also means ‘servant/slave’. This Aramaic heterogram indicates that at least in these two Iranian languages the word *bandag* has the same meaning as the word ‘*bd*’ in Aramaic. Our earliest attestations of the Pahlavi word *bandag* in the sense of ‘servant/slave’ are Sasanian inscriptions. In his inscription, Afsā the scribe, a Sasanian high official, describes how King Shapur (reign 239–270 CE) rewarded him among other things with male and female slaves (*OBDk knic*).<sup>36</sup> In the Paikuli inscription high officials are referred to as ‘the royal servants’, *BYT(A) OBDky*.<sup>37</sup>

However, unlike kings in Mesopotamia and the Fertile Crescent, kings in Iran and Central Asia were revered as divine beings starting in the Achaemenid period (550–330 BCE).<sup>38</sup> The Sasanian kings, for example, proclaim in their inscriptions that they are descended from the gods (*kē čīhr az yazdān*).<sup>39</sup> In another example from Bactria (northern Afghanistan), Nukunzuk glorifies his lord, Kanishka I (ca 127–150 CE), the empire of

33 Βασιλευς βασιλεων Δαρειος ο Υστασπεω Γαδαται δουλωι ταδε λεγει – “The king of kings Darius, son of Hystaspes speaks to Gadates, (his) servant” (Christopher J. Tuplin, “The Gadatas Letter,” in *Greek History and Epigraphy. Essays in Honour of P.J. Rhodes*, ed. Lynette Mitchell and Lene Rubinstein (Swansea: Classical Press of Wales, 2009): 155–84 and Anna Missiou, “Δουλοστονβασιλέως: The Politics of Translation,” *The Classical Quarterly, New Series* 43, no. 2 (1993): 377–91.

34 Rachel Zelnick-Abramovitz, “Greek and Roman Terminologies of Slavery,” *The Oxford Handbook of Greek and Roman Slavery*, ed. Stephen Hodkinson, Marc Kleijwegt and Kostas Vlassopoulos, 2018: 5, <https://doi.org/10.1093/oxfordhb/9780199575251.013.41>.

35 Samuel Nyberg, *Frahang-i pahlavik: From the Posthumous Papers of Henrik Samuel Nyberg by Bo Utas* (Wiesbaden: Harrassowitz, 1988): 82.

36 W AYK MLK’n MLK’ ZNH ptkry HZYTN ‘P-š YHBWN ‘ps’y ZY dpwyr ZHB W ‘symyn ‘BDk w knsky b’gy W ‘RK’ – “And when the king of kings saw this image then gave Apsay the scribe gold, silver, male and female slave(s) a garden and an estate” (Back, *Die sassanidischen Staatsinschriften*: 382–83).

37 MNWn BYT(A) OBDky mhst(y) W p’lswmy twmyktwmy HWYTnt – “Who were the greatest, the foremost and the noblest among the servants of the house” (Carlo Cereti and Gianfilippo Terribili, “The Middle Persian and Parthian Inscriptions on the Paikuli Tower: New Blocks and Preliminary Studies,” *Iranica Antiqua* 49 (2014): 362; see also Michael Back, *Die sassanidischen Staatsinschriften*, *Acta Iranica* 18 (Leiden: Brill, 1978): 496, Inscription ŠPs -II.

38 Helmut Humbach, “Herrscher, Gott und Gottessohn in Iran und in angrenzenden Ländern,” in *Menschwerdung Gottes, Vergöttlichung von Menschen*, ed. Dieter Zeller (Freiburg/Göttingen: Universitätsverlag Freiburg/Vandenhoeck & Ruprecht, 1988): 89–98.

39 On the meaning of this phrase, see Werner Sunderman, “Kē čīhr az yazdān: Zur Titulatur der Sasanidenkönige,” *Archiv Orientalní* 56 (1988): 338–40.

the Kushan dynasty (c. the first century to the third century CE), as God<sup>40</sup> or son of gods<sup>41</sup> in his inscriptions. However, it seems that they did not portray themselves as servants or slaves of gods but as superiors, and like them, they had absolute power over their inferiors/subordinates.

The word *βntk* in Sogdian has the same role in Pahlavi. In a Sogdian marriage contract from the eighth century CE, the bride promises to protect the bridegroom from enslavement.<sup>42</sup>

Furthermore, in Sogdian letters, as in Aramaic letters, the inferior refers to himself as *βntk* of his superior by using the term *xyrd βntk* ('his servant').<sup>43</sup> In the same way, in translations of their sacred texts into Sogdian, Central Asian Christians used the word *βntk* to translate the Syriac word 'bd.<sup>44</sup>

### 3 Marika

The word *bandaka* is not the only word used to mean 'servant/slave' in Old Persian. In the Babylonian version of the inscription NDb,<sup>45</sup> the Akkadian word *qallu* is the

40 [ . . . ] βωγο στοργο κανηβκε ι κοβανο ραβταγο λαδειγο χοαζαργο βαγ[ο] [η]ζνογο κιδι ασο νανο οδο ασο οισποανο μι βαγανο ι ραοδανι αβορδο [ . . . ] – “The great salvation, Kanishka the Kushan, the righteous, the just, the autocrat, the god worthy of worship, who has obtained the kingship from Nana and from all the gods” (Nicholas Sims-Williams, “The Bactrian Inscription of Rabatak: A New Reading,” *Bulletin of the Asia Institute, New Series* 18 (2004/2008): 55.)

41 ταδι ι βαγεποορε πιδο ι χοβι βιζ[α]ε οδο πιδο ι μανο σπαχτε ταδη αλο ι πιοριβτειγανο οδο αλο ι νιαγοβρηγανο μαρηγανο αμσασογο ωσταδημι αλο ι φαρδαμγανο – “Then the son of the gods, on account of his own good[ness] and on account of my service – he established me (as) equal(?) with (his) father’s and with (his) grandfather’s servants, with the foremost (people).” (Nicholas Sims-Williams, “A New Bactrian Inscription from the Time of Kanishka,” in *Kushan Histories: Literary Sources and Selected Papers from a Symposium at Berlin, December 5 to 7, 2013*, ed. Harry Falk [Bremen: Hempen Verlag, 2015]: 256).

42 rtnkδ ”δ’k βntk ZY np’k ZY wn”k’ ZY xypδ n’y’ty ZNH ctth ‘M ’krctyh ”z-wny pw ’nsp’nh xwy-ckh β’ty – “And if he is taken as anybody’s slave, or debtor-slave, or captive (?) or dependent Chata and her progeny must be freed without damages” (Vladimir Livshits, *Sogdian Epigraphy of Central Asia and Semirech’e* [London: School of Oriental and African Studies, 2015]: Doc B 3).

43 ’t βγw xwβw RBch ’nwth sywδy-k’ MLK’ sm’rknδc MR’Y δy-w’štyc MN xypδ βntk p’rtnc xwβw ry-w’xš-y-’n p(t)škw’nh – “To the lord, the sovereign, great support, king of Sogd and ruler of Samarkand, Dhēwāshūtīch, a humble message from his servant Rēwākshyān, the sovereign of Pārtan” (Livshits, *Sogdian Epigraphy of Central Asia and Semirech’e*: 82–84. letter Nov. 2).

44 Nicholas Sims-Williams, *A Dictionary: Christian Sogdian, Syriac and English* (Wiesbaden: Reichert Verlag, 2016): 54.

45 Walter Hinz, *Altiranische Funde und Forschungen, mit Beiträgen von Rykle Borger und Gerd Gropp* (Berlin: De Gruyter, 1969): 53–62.



equivalent of the Old Persian word *marika*, which means ‘young boy/lad’.<sup>46</sup> Unfortunately, there are no more instances of this word in Old Persian inscriptions. However, thanks to newly discovered Bactrian documents from northern Afghanistan in the past 30 years we have now access to more evidence for studying the middle Iranian cognate of this word in late antiquity. In Bactrian the word μαρηγο, which is cognate with *marika*, is used in the sense of ‘servant/slave’.<sup>47</sup> As in Sogdian, in Bactrian letters an inferior refers to himself as the servant/slave of a king or a high-ranking official (ιχοβο μαρηγο, ‘his servant’)<sup>48</sup> while in another letter the word μαρηγο also means ‘slave’, wherein the sender refers to his male slave (μαρηγο) and female slave (ζινο βανζο).<sup>49</sup>

Based on this evidence, it seems that the word *marika* means ‘servant/slave’ and has the same function as *bandaka* in Old Persian and *bandag/βntk* in Pahlavi and Sogdian. It is possible that in Old Persian there were two words for ‘servant/slave’, like *qallu/wardu* in the Neo-Babylonian period.

## 4 Daha

The words *bandaka* and *marika* are not the only ones associated with slavery in Old Persian. There are other words whose meaning is not entirely clear.<sup>50</sup> One of these is the word *daha*. We do not know exactly what this word means or how it works in Old Persian.<sup>51</sup> In classical Sanskrit, however, the cognate of *daha* (*dasa*) and its feminine

46 Rüdiger Schmitt, *Wörterbuch der altpersischen Königsinschriften* (Wiesbaden: Reichert, 2014): 212 and Albio Cesare Cassio, “Old Persian Marika-, Eupolis Marikas and Aristophanes Knights,” *Classical Quarterly* 35, no. 1 (1985): 38–42.

47 Nicholas Sims-Williams, *Bactrian Documents from Northern Afghanistan*, vol. 2: 231. For the cognates of this word in other Iranian languages, see Džoj I. Edelman, *Etymological Dictionary of the Iranian languages*, vol. 5 (Moscow: Nauka Vostochnaya Literatura, 2015): 215–16 (\*mart(i)ja).

48 αβο μανο αζιαδιγο χορη αβο ωρο[μ]οζδο φαραγανο {χοαδηο} ιχορη υαζαρο βηοαρο λροδο ασπαζαγγο πιδο μο σαρο ναμωσο ασο βορζομυρο χαρανο ιχοβο μαρηγο – “To my revered lord, Ohrmuzd Faragan the lord, a thousand, ten thousand greetings (and) homage with the head, on bended knee, from Burz-mihr Khahran, his servant” (Nicholas Sims-Williams, *Bactrian Documents from Northern Afghanistan*, vol. 2, *Letters and Buddhist Texts* [London: Nour Foundation, 2007]: Let. bg).

49 ωσιδο το χορη ζανο κοαδο μανο ταρο μαρηγο αστο οδο ζινο βανζο οδο μσο γασικο ιωγο – “Now, your lordship should know that I have slaves there (with you) and female slaves and also one concubine” (Sims-Williams, *Bactrian Documents from Northern Afghanistan*, vol. 2, *Letters and Buddhist Texts*: Let. cf).

50 See Otakar Klima, “Zur Problematik der Sklaverei im alten Iran,” *Altorientalische Forschungen* 5 (1977/1978): 96.

51 The word *daha* is an Old Persian word that also refers to an Iranian people who settled in a region in northern Iran later known as Dahistān. See François de Blois, and Willem Vogelsang, “Dahae,” in *Encyclopedia Iranica*, vol. 6, ed. Ehsan Yarshater (London: Routledge & Paul, 1993): 581–82.

form *dāsī* imply ‘servant/slave’.<sup>52</sup> In the same way, the words *dasa* and *dasi* mean ‘servant/slave’ in the Kharoṣṭhi documents from central Asia.<sup>53</sup> In some Middle Iranian languages, cognates of the word *daha* also imply ‘servant/slave’ particularly in two Iranian languages spoken in Central Asia.<sup>54</sup> In Parthian, the word *daha* becomes the abstract term *d’hyft*, which means ‘slavery/servitude’,<sup>55</sup> and in Sogdian, the word *d’yh* was the term for ‘female servant/slave’;<sup>56</sup> for example, in an ancient Sogdian letter from the fourth century CE, a daughter informs her father that a Chinese took her and her mother as slaves due to their guardian’s debts.<sup>57</sup>

It is worth noting that in three middle Iranian languages the word for female slave differs from its male form; the word for female slave in Pahlavi is *kanīg*,<sup>58</sup> in Bactrian it is *βavčō*<sup>59</sup> and in Sogdian *d’yh*, while the term for male slave in Pahlavi is *bandag*, in Bactrian *μαρηγο* and in Sogdian *βntk*. It might be that Iranians, influenced by Aramaic (and Akkadian) employed two different terms for slaves of different genders.<sup>60</sup>

52 Monier Monier-Williams, *A Sanskrit-English Dictionary: Etymologically and Philologically Arranged with Special Reference to Cognate Indo-European Languages* (Oxford: Clarendon Press, 1899): 477. For a detailed discussion of the word *dasa* in Sanskrit see Asko Parpola, *The Roots of Hinduism: The Early Aryans and the Indus Civilization* (Oxford: Oxford University Press, 2015): 100–106, 261. Still, as far as I am aware, no study has examined the word *dasa* from a legal perspective.

53 Ratna Chandra Agrawala, “Position of Women as Depicted in the Kharoṣṭhi Documents from Chinese Turkestan,” *Indian Historical Quarterly* 28, no. 4 (1952): 328 and Ratna Chandra Agrawala, “Position of Slaves and Serfs as Depicted in the Kharoṣṭhi Documents from Chinese Turkestan,” *Indian Historical Quarterly* 29, no. 2 (1953): 98. For texts, see <https://gandhari.org/dictionary/dasa> and <https://gandhari.org/dictionary/dasi> [accessed 21.09.2022].

54 The word *daha* means ‘man, male’ in Khotanese. If it has the same meaning in Old Persian is not clear. See H.W. Bailey, “Iranian Arya- and Daha-,” *Transactions of the Philological Society* 58, no. 1 (1959): 107–12; Vera S. Rastorgueva and Džoj I. Edelman, *Etymological Dictionary of the Iranian Languages*, vol. 2 (Moscow: Nauka Vostochnaya Literatura, 2003): 285–87.

55 Desmond Durkin-Meisterernst, *Dictionary of Manichaean Middle Persian and Parthian* (Turnhout: Brepols, 2004): 134.

56 B. Gharin, *Sogdian Dictionary, Sogdian, Persian and English* (Therhan: Farhang Publications, 1995): 136, no 3454.

57 ‘HRZY prw prnxwnt p’(r)h ’krt’y(m)n cynt(y) δ’yh – “Because of prnxwnt’s debt, we became servant/slaves to the Chinese” (Ancient Sogdian letter No 3 lines 34–35 <https://titus.uni-frankfurt.de/texte/etcs/iran/miran/sogd/sogdswc/sogdn.htm> [accessed 21.09.2022]).

58 David N. Mackenzie, *A Concise Pahlavi Dictionary* (Oxford: Oxford University Press, 1971).

59 Sims-Williams, *Bactrian Documents from Northern Afghanistan*, vol. 2: *Letters and Buddhist Texts*: 201.

60 In Aramaic, the feminine form of ‘bd is not used to refer to female slaves; instead, Arameans used the word ‘mh for female slaves (Dirk Schwiderski, *Die alt- und reichsaramäischen Inschriften / The Old and Imperial Aramaic Inscriptions*, vol. 1: 50–52). The same can be said for Akkadian. In Akkadian, the word *amtum* means ‘female slave’ (M. Molina et al., “Sklave & Sklaverei,” in *Reallexikon der Assyriologie*, vol. 12: 564).

## 5 Conclusion

In the conception of superiority/inferiority in the ancient Near East, the superior has ultimate power over his/her inferiors, regardless of whether the inferior is free or not. The Near Eastern concept of superiority did not change during the Achaemenid Empire, because this concept was familiar to Iranians already. Therefore, the Old Persian word *bandaka* was used as a translation for all interchangeable terms for this concept in the other versions of the Behistun inscription. Later, this concept is also preserved in middle Iranian languages: the Pahlavi word *bandag*, the Sogdian word *βntk* are used as ‘servant/slave’.

In Bactrian, the word *μαρηγο* serves the same purpose. The context must be used to determine the precise meaning of the word in each instance. However, in Sogdian, the word *d'yh* was used to refer to ‘female slave’ and thus did not play the same role as *bandag* and *μαρηγο*, since the word for ‘male slave’ was commonly used as a general term for ‘servant/slave’ in middle Iranian languages.

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Serena Tolino

# Naming Eunuchs in Islamicate Societies

## 1 Introduction

Over the last years, research on slavery has undergone a rapid revival, also within the field of Islamic and Middle Eastern Studies, and an impressive number of publications on the topic have appeared.<sup>1</sup> This scholarship, despite different theoretical and disciplinary approaches, seems to agree on at least two points: the first is that slavery (including Islamic slavery) should be situated in a continuum of different forms of dependency that encompasses different forms and degrees of coerced labour. This is also true when looking at slavery in Islamicate societies.<sup>2</sup> Even though slavery is a legal institution on its own, Islamic Law did not provide a clear-cut definition of it. As Kurt Franz has shown, in the history of Islamicate societies, some forms of slavery departed from the legal norms so much that it has been questioned ‘whether it is at all helpful’ to address them ‘by reference to the term “slavery”’.<sup>3</sup> Moreover, as Ehud Toledano put it more than 25 years ago, ‘it is quite obvious that what we are dealing with here is a continuum of various degrees

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1 Just to mention some of the publications on slavery in the Middle East over the last five years: Bernard K. Freamon, *Possessed by the Right Hand. The Problem of Slavery in Islamic Law and Muslim Cultures* (Leiden: Brill, 2019); Mary Ann Fay, ed., *Slavery in the Islamic World. Its Characteristics and Commonality* (New York: Palgrave Macmillan, 2019); Jonathan Brown, *Slavery and Islam* (Oxford: One-world Publications, 2019); Almut Höfert, Matthew M. Mesley and Serena Tolino, eds., *Celibate and Childless Men in Power. Ruling Eunuchs and Bishops in the Pre-Modern World* (London: Routledge, 2018).

2 With this term I refer to what historian Marshall G.S. Hogdson defined as ‘the social and cultural complex historically associated with Islam and the Muslims, both among Muslims themselves and even when found among non-Muslims’, in contrast to ‘Islamic’, which is instead used to refer to what has to do specifically with Islam as a religion. Marshall G.S. Hogdson, *The Venture of Islam. Conscience and History in a World Civilization*, vol. 1, *The Classical Age of Islam* (Chicago: University of Chicago Press, 1974): 59.

3 Kurt Franz, “Slavery in Islam: Legal Norms and Social Practice,” in *Slavery and the Slave Trade in the Eastern Mediterranean (c. 1000–1500 CE)*, ed. Reuven Amitai and Christoph Cluse (Turnhout: Brepols, 2017): 125.

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**Note:** For the transliteration of words from Arabic I used the system of the *International Journal of Middle East Studies* in this article. Research for the present article has mostly been carried out during my fellowship at the Heinz Heinen Center for Advanced Study (Summer Semester 2020) and builds upon previous research on eunuchs I carried out as project member of the project “Hermaphrodites, Eunuchs and Priests: Gender Ambiguities and Masculinities in the Arab and Latin Middle Ages”, financed by the Swiss National Science Foundation (2011–2018, P.I. Almut Höfert).



of servitude rather than a dichotomy between the slave and the freeborn':<sup>4</sup> such a dichotomy would not only be un-productive, but would not allow us to see other forms of dependency, which go beyond the category of slavery and which would go unnoticed if we only consider a rigid slavery/freedom binary.

The second point is that, to counter Western-centric narratives on slavery and dependency, it is necessary to generate empirically-based research that focuses on a number of different social and historical contexts. Indeed, as Stefan Hanß and Juliane Schiel stated in 2014,<sup>5</sup> even though a 'working' definition of slavery as an institution that gives some people more or less absolute power over other people who are understood as commodities is necessary to start any investigation on slavery, this is certainly not enough and does not provide fresh insights into the specific practices and meanings this concept has in different geographical and social contexts. Such a broad definition makes it complicated to obtain new insights into the specific practices and meanings this concept had for social practices. If slavery is a context-specific social relationship, then it is important to look at how slaves are addressed and described by the sources or, as noted by Hanß and Schiel, at the semantics of slavery, which are particularly relevant because 'the semantics used to describe and represent this relationship express complex lifeworlds and a variety of practices'.<sup>6</sup>

In a programmatic article recently published, historians Christian De Vito, Juliane Schiel and Matthias van Rossum suggested that one of the main historiographical trends that has not only the potential to change research on slavery, but to revolutionise the entire traditional framework of labour history and the master narrative that connects slavery to pre-modern societies and free labour to the modern period is Historical Semantics. As pointed out by De Vito, Schiel and Van Rossum:

Instead of operating with the analytical categories, conceptual dichotomies, and social taxonomies of post-1789 European experiences and discourses to describe bondage and coercion in labor relations, this strategy takes inventory of the words, expressions, and verb phrases people used in a specific time, place, and situation to articulate social domination and dependence in contexts of work. Rather than trying to fit social realities into the abstract terminology of Western humanities by translating concrete situations of word usage as slave-ry, serf-dom, serv-itude, or freedom, this approach focuses on those parts of speech (like verbs) that create and express social relations.<sup>7</sup>

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4 Ehud Toledano, "Late Ottoman Concepts of Slavery (1830s–1880s)," *Poetics Today* 14, no. 3 (1993): 483 [Issue: *Cultural Processes in Muslim and Arab Societies: Modern Period I*, ed. Israel Gershoni and Ehud Toledano].

5 Juliane Schiel and Stefan Hanß, "Semantics, Practices and Transcultural Perspectives on Mediterranean Slavery," in *Mediterranean Slavery Revisited (500–1800): Neue Perspektiven auf mediterrane Sklaverei (500–1800)*, ed. Stefan Hanß and Juliane Schiel (Zurich: Chronos Verlag, 2014): 11–23.

6 *Ibid.*: 15.

7 Christian De Vito, Juliane Schiel and Matthias Van Rossum, "From Bondage to Precariousness? New Perspectives on Labor and Social History," *Journal of Social History* 54, no. 2 (2020): 8–9.

The variety of words used in Islamicate societies to define different aspects of slavery and dependency in both the pre-modern and the modern period is impressive and largely unexplored. This means that we are also unable to make sense on the one hand of the relevant terminology in different parts of the Islamicate world, and on the other of the ruptures and continuities in declining different forms of slavery over different historical periods.

In order to contribute to this discussion, this article focuses on the case of eunuchs in Islamicate societies, to show how such an approach can help us to better conceptualise the social history of slavery in such societies. This paper is part of ongoing research into terminology on slavery in Islamicate societies. In this sense, these findings are only initial and should not be taken as conclusive.

Looking at the variety of words and concepts used to refer to slaves enables us to draw a much more nuanced picture of the slave. Indeed, sources did not always use the same words to refer to slaves: different documents used different terms in relation to different typologies of slaves, but also to define the same typology of slaves. For example, a eunuch was addressed with the general word servant (*khādim*) in chronicles, but was defined according to the grade of castration in discussions on divorce and marriage in books of *fiqh* (Islamic jurisprudence). While in chronicles the main focus was on his function as a servant, in legal discussions it was more relevant whether only his testicles had been cut (*khaṣī*) or also his penis (*majbūb/mamsū*): belonging to one or the other category would give the eunuch more or less rights to marry, to perform certain kinds of divorce and to have his paternity recognised. These terms are, first of all, specific legal terms: but far from being only legal terms, they constitute an integral part of the legal discussion, as they set legal consequences in motion that are relevant to the self-image as well as to the image that the society has of the eunuch.

To reconstruct how eunuchs were named in pre-modern Arabic-speaking Islamicate societies and what this can tell us about their functions, I will look here at three kinds of sources: lexica, manuals of *fiqh* (jurisprudence) and chronicles. With the exception of the lexica, which are partially later sources, the main focus will be on the period from the ninth to the twelfth centuries.

With regards to chronicles, I will focus here on the Fatimid Empire (296/909–566/1171), the first shiʿī Ismāʿīlī dynasty that was able to rise from secrecy to power and create an empire. The Fatimid Empire, originally based in Tunisia, included at its peak the Maghreb, Egypt, Sudan, Sicily, the Levant and Ḥijāz, leaving a remarkable impact in particular on Tunisian and Egyptian history, culture and architecture. Egypt fell under the Fatimid general Jawhar in 358/969. The fourth imam-caliph al-Muʿizz (d. 365/975) ordered then to build a new capital, al-Qāhira al-Muʿizziyya, the Victorious of al-Muʿizz, nowadays known simply as Cairo, where the imperial family and the entire Fatimid Court moved in 362/973. The scientific developments of medicine, mathematics, astronomy and astrology started to flourish, and Cairo became an imperial city. It underwent rapid growth and an incredible expansion, quickly becoming one of the most important cities of the Islamicate world and the centre of an impressive trade network connecting

Egypt to Southern Europe through Alexandria and Damietta, and to South Arabia and India via the Red Sea. However, starting around 1060, the Fatimid Empire underwent a major crisis. As a consequence of a serious famine, a civil war between different army factions started that was settled only thanks to the intervention of the general al-Badr al-Jamālī (d. 487/1094),<sup>8</sup> who was appointed as vizier. This marked the beginning of the last phase of the caliphate, wherein the real powerholders of the empire were the military viziers and not the imam-caliphs. The last of these military-viziers was Saladdin, who established soon a new dynasty, the Ayyubid one, bringing Egypt back to the sunnī world in 566/1171.<sup>9</sup>

Looking at different types of sources will allow us to better situate eunuchs within Islamicate societies. We know that most of the written sources we have at our disposal for this period allow us to reconstruct the vision of only one specific layer of society (namely the well-educated urban cosmopolitan elite), basically from the masculine perspective: these sources were often written by male authors of the elite for a male public of the elite. This does not mean that women did not compose works, but that most of them were excluded from the process of text-canonisation and are not extant today. As a consequence, when doing research with sources from this period that were passed down to us, we must understand that they have been preserved on the basis of exclusionary mechanisms, and that any research for which they are the basis will offer an incomplete picture. This becomes even truer if we focus on one single kind of source. Despite an effort to look at a more diverse set of genres, this article should be in no way understood as a comprehensive overview of the terms used to refer to eunuchs in Arabic sources: it should be considered a first mapping of some of these terms, but a more extensive study of these sources would be necessary to reach a complete picture.

## 2 Eunuchs in Islamicate Societies: Preliminary Remarks

When discussing eunuchs in Islamicate societies it is always important to remember that castration is not only prohibited in Islamic Law, but also subject to the law of retaliation. Jurists considered it a change in the creation of God, something that they understood as being completely forbidden by the Qur'an.<sup>10</sup>

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<sup>8</sup> See for example Michael Brett, *The Fatimid Empire* (Edinburgh: Edinburgh University Press, 2017): 205–6; Heinz Halm, *Die Kalifen von Kairo. Die Fatimiden in Ägypten 973–1074* (Munich: Beck, 2003): 419–20. <sup>9</sup> Michael Brett, *The Fatimid Empire*: 289–95; Heinz Halm, *Kalifen und Assassinen. Ägypten und der Vordere Orient zur Zeit der ersten Kreuzzüge 1074–1171* (Munich: Beck, 2014): 282–94.

<sup>10</sup> This is explicitly forbidden by verse 30: 30 of the Qur'an, which states: 'So direct your face toward the religion, inclining to truth. [Adhere to] the fiṭrah of Allah upon which He has created [all] people. No change should there be in the creation of Allah. That is the correct religion, but most of the people

Still, this does not mean that eunuchs did not exist in the Islamicate world. On the contrary, we know that since the third/ninth century eunuchs emerged as ‘a major political and social presence in Islamic Courts’,<sup>11</sup> after a period in which their presence had been much more marginal: it was in particular during the Abbasid Empire, indeed, that they became ‘an important presence in Islamic political life’, something that the historian Hugh Kennedy explained with two main reasons: one factor was ‘the gradual restriction of female members of the ruling dynasty to the caliphal palace’.<sup>12</sup> While in the first half of the Abbasid Empire the powerful female members of the dynasty had their own palaces and households on the Tigris, by the third/ninth century they had mostly moved to the central *Dār al-Khilāfa*. The second factor was the radical change in the design of imperial palaces, which became much larger and now included a vast number of chambers and gardens. These palaces, unlike the Umayyad palaces, constituted practically small towns and had segregated areas for women, forbidden to male visitors. The separation between segregated and non-segregated spaces was ensured by gatekeepers: these were almost exclusively eunuchs. This gave them an immense power.<sup>13</sup>

In the Fatimid Empire, the shī‘ī counter-caliphate of the Abbasids, things were no different. The presence of eunuchs was so impressive that the historiographer al-Maqrīzī, referring to the Fatimid palace, wrote: ‘When Saladin took possession of it (the Fatimid palace) and ousted whoever was there, the number of its dwellers was 12.000, none of them was a non-eunuch, with the exception of the Caliph, his kinfolk and his children.’<sup>14</sup> Even though this number is clearly an exaggeration, it still gives an idea of how imposing the presence of eunuchs must have been. This number seems at first sight also incompatible with the prohibition of castration that Muslim jurists considered to be based on the Qur’an. However, we must remember that usually castration happened outside the Islamic empire, where *sharī‘a* did not apply at

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do not know’, but also in verse 4:119, which states ‘and I will lead them astray and I will tempt them with false hopes and give them my order so they shall slit the ears of cattle and I will give them my order so they shall alter the creation of Allah. And whoever takes the Satan as friend instead of Allah has incurred an obvious loss.’ Translation Saheeh International. The mālikī Ibn ‘Abd al-Barr (d. 463/1070) for example wrote that according to ibn ‘Umar and Anas b. Mālik this refers to castration, while according to Ibn ‘Abbās, ‘Ikrima and Abū Ṣāliḥ this refers to tattoos. According to others, this refers to changing God’s religion. See Ibn ‘Abd al-Barr, *al-Istidhkar*, vol. 8, ed. Sālim Muḥammad ‘Aṭā and Muḥammad ‘Alī Mu‘awwaḍ (Beirut: Dār al-Kutub al-‘Ilmiyya, 2000): 432.

11 Hugh Kennedy, ‘Mu’nis al-Muẓaffar. An Exceptional Eunuch,’ in *Celibate and Childless Men in Power. Ruling Eunuchs and Bishops in the Pre-Modern World*, ed. Almut Höfert, Matthew M. Mesley and Serena Tolino (London: Routledge, 2018): 79.

12 Ibid.

13 Ibid.

14 al-Maqrīzī, *al-Mawā‘iz wa-l-‘tibār bi-Dhikr al-Khiṭaṭ wa-Āthar*, vol. 1 (Cairo: Bulaq, 1854): 497, quoted by David Ayalon, *Eunuchs, Caliphs and Sultans: A Study in Power Relationships* (Jerusalem: Magnes Press, 1999): 21.

all, or towards its borders, where structures were much more fluid and the government had a weaker grip in comparison to the centre of the empire. Moreover, it is reported by some sources that even the Prophet Muḥammad himself accepted a eunuch as a gift:<sup>15</sup> certainly this contributed to making it easier for jurists to see no contradiction in forbidding castration and still allowing the possession of castrated slaves. All in all, the buyer of a castrated slave was not seen as responsible for his castration, which had happened before the purchase. As a consequence, very few jurists opposed the presence of eunuchs in Islamicate societies, maintaining that, in order to avoid this mutilation, it was a duty of a Muslim to refrain from buying eunuchs, or at least to limit their number to one per master.<sup>16</sup>

Most eunuchs were technically, from the perspective of Muslim jurists, slaves, and therefore property of their masters, unless manumitted. Still, this does not mean that they could not reach important positions. On the contrary, eunuchs were established in the most important fields of the political and administrative spheres, both at the Court and outside the Court. They could act as commanders, administrators and admirals. Moreover, they had prominent positions in the police and in the *hisba*,<sup>17</sup> or as provincial governors. Finally, they are also well-known as harem guardians,<sup>18</sup> an important function that allowed them to move freely between the masculine and the feminine worlds and to become close to the women (and the children) who populated the harem. Far from being an irrelevant position, being a gatekeeper to the harem was central: indeed, as has been already demonstrated, the harem was a very important centre of power in Islamicate Courts,<sup>19</sup> and being well connected to the women

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15 According to the sources, the eunuch, whose name was Mābūr, was offered to him together with the slave Māriya al-Qibṭiya, Maria the Copt, her sister and other gifts by al-Muḥawwīs, usually identified with the Melkite Patriarch of Alexandria. Muḥammad b. Sa'd, *Kitāb al-Ṭabaqāt al-Kabīr*, vol. 10 (Cairo: Maktabat al-Khānījī, 2001): 201. See also Serena Tolino, "Eunuchs in the Fatimid Empire: Ambiguities, Gender and Sacredness," in *Celibate and Childless Men in Power: Ruling Eunuchs and Bishops in the Pre-Modern World*, ed. Almut Höfert, Matthew M. Mesley and Serena Tolino (London: Routledge, 2018): 252.

16 Abū 'Abd Allāh Muḥammad b. al-Ḥasan al-Shaybānī, *Kitāb al-Ḥujja 'alā Ahl al-Madīna* (Beirut: 'Ālam al-Kutub, 1980): 474.

17 The supervision of moral behavior, especially in the market, whose responsible is called *muhtasib*. See Kirsten Stilt, *Islamic Law in Action: Authority, Discretion, and Everyday Experiences in Mamluk Egypt* (Oxford: Oxford University Press, 2011): 41.

18 The word refers to those parts of a house to which access is forbidden, usually reserved for women.

19 The literature on the topic is really extensive. See for example Nadia Maria El Cheikh, "Caliphal Harems, Household Harems: Baghdad in the Fourth Century of the Islamic Era," in *Harem Histories: Envisioning Places and Living Spaces*, ed. Marilyn Booth (Durham: Duke University Press, 2010): 87–103; Leslie P. Peirce, *The Imperial Harem: Women and Sovereignty in the Ottoman Empire* (Oxford: Oxford University Press, 1993); Ayse Saraçgil, *Il maschio camaleonte: strutture patriarcali nell'Impero ottomano e nella Turchia moderna* (Milan: Mondadori, 2001).

who populated it would have had a number of advantages.<sup>20</sup> Besides, eunuchs often also acted as teachers and guardians to the caliph's children: this meant that they were particularly close to the potential successor of the imam-caliph. It is not surprising that for them it was crucial to secure their pupil's accession to the throne, and we can only imagine what this meant in terms of loyalty to him and by extension to his mother.

If we stick to a dichotomy of slavery/freedom, we certainly fail to properly situate their relevance. However, it is clear that, regardless of their power, they were still in a dependent position in relation to their master. Here the concept of asymmetrical dependency, namely the 'ability of one actor to control the actions and the access to resources of another', as introduced by the Bonn Center for Dependency and Slavery Studies, seems particularly useful.<sup>21</sup> The relation of dependency between master and eunuch was especially strong and multifaceted. It also included a feeling of trust and loyalty that was stronger than in cases of non-castrated servants: probably this has much to do with the eunuchs' status as castrated slaves; not only had they been eradicated from their family of origin, as most slaves, but, because of castration, they could not even create a new family, as non-castrated slaves could.<sup>22</sup> The eradication, combined with their lack of opportunity to build a new family, probably partially explained why they were perceived as so loyal. That is, they had nothing but their master, and the advantages their proximity to him could guarantee them made the eunuchs, to use Kathryn Ringrose's expression for Byzantine eunuchs, 'perfect servants'.<sup>23</sup> This dependency was still asymmetrical. Indeed, no matter how powerful eunuchs may have become, if they lost favour with their master, they would lose all the privileges they had obtained or, in the worst cases, even be killed, as the case of the eunuch Barjawān demonstrates: he was guardian and then regent of the Fatimid imam-caliph al-Ḥākim (d. 411/1021), who ascended to the throne when he was only

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20 See on that for example Nadia Maria El Cheikh, "Guarding the Harem, Protecting the State: Eunuchs in a Fourth/Tenth-century Abbasid Court," in *Celibate and Childless Men in Power: Ruling Eunuchs and Bishops in the Pre-Modern World*, ed. Almut Höfert, Matthew M. Mesley and Serena Tolino (London: Routledge, 2018): 65–78.

21 Julia Winnebeck, Ove Sutter, Adrian Hermann, Christoph Antweiler and Stephan Conermann, "On Asymmetrical Dependency," *Concept Paper 1*, Bonn Center for Dependency and Slavery Studies (2021): 2, [https://www.dependency.uni-bonn.de/images/pdf-files/concept-papers/bcdss\\_cp\\_1\\_on-asymmetrical-dependency.pdf](https://www.dependency.uni-bonn.de/images/pdf-files/concept-papers/bcdss_cp_1_on-asymmetrical-dependency.pdf) [accessed 31.10.2022].

22 This is different from eunuchs in China, for example, as the latter had the possibility to adopt, something that was prohibited by *shari'a*. On eunuchs in China adopting, see, for example, Michael Hoeckelmann, "Celibate, But Not Childless. Eunuch Military Dynasticism in Medieval China," in *Celibate and Childless Men in Power: Ruling Eunuchs and Bishops in the Pre-Modern World*, ed. Almut Höfert, Matthew M. Mesley and Serena Tolino (London: Routledge, 2018): 118.

23 Kathryn M. Ringrose, *The Perfect Servant: Eunuchs and the Social Construction of Gender in Byzantium* (Chicago: University of Chicago Press, 2003).

eleven. For four years Barjawān practically controlled him and the reign's affairs, till al-Ḥākim decided he was becoming too powerful and had him killed.<sup>24</sup>

### 3 Defining Eunuchs in Lexicographic Sources

I focus here on three lexica, namely the tenth-century lexicon *Tāj al-Lughā wa-Ṣiḥāḥ al-'Arabīyya* by al-Jawharī<sup>25</sup> (d. c. 393–400/1002–1003 to 1009–1010); the thirteenth-century lexicon *Lisān al-'Arab*<sup>26</sup> (the tongue of the Arabs), by Ibn Manẓūr (d. 711/1312), the most well-known and comprehensive dictionary of classical Arabic language; and the fourteenth-century lexicon *Qāmūs al-Muḥīṭ*, by al-Firūzābādī (d. 817/1415).<sup>27</sup> Moreover, I also look at the legal lexicon of the mālikī jurist Ibn 'Arafa (d. 803/1401).

What makes Arabic lexicographic sources so interesting is that they work by accumulation: therefore, these works do not only show us how a given lexicographer understood a given concept in a specific historical moment but also what former lexicographers said on that concept up to the moment the lexicon was compiled. For example, the *Lisān al-'Arab*, a thirteenth-century source, is based on five earlier works ranging from the tenth to the late twelfth centuries.<sup>28</sup> This means that, even though the *Lisān al-'Arab* itself is a source from the thirteenth century, it allows us to obtain a glimpse of sources going back to the end of the tenth century. In this way, we get an overview of what a given concept meant in former periods but also in a larger number of sources than only those consulted, allowing us to obtain a much broader picture.

For the purpose of this article, I decided to look at the Arabic roots<sup>29</sup> *kh-ṣ-ī*, *j-b-b* and *m-s-h*, which I knew from legal sources as being the most frequently used ones to

<sup>24</sup> This happened with the support of another eunuch, the bringer of his parasol, Raydān. On his killing, see in particular Halm, *Die Kalifen von Kairo*: 178–80. See also Michael Brett, *The Fatimid Empire*: 129.

<sup>25</sup> Abū Naṣr Ismā'īl b. Ḥamād al-Jawharī, *al-Ṣiḥāḥ. Tāj al-Lughā wa-Ṣiḥāḥ al-'Arabīyya*, ed. Muḥammad Muḥammad Tāmir, Anas Muḥammad Shāmī and Zakariyyā Jābir Aḥmad (Cairo: Dār al-Ḥadīth, 2009).

<sup>26</sup> Muḥammad b. Mukarram b. 'Alī b. Aḥmad b. Manẓūr, *Lisān al-'Arab* (Beirut: Dār al-Ṣādir, n.d.).

<sup>27</sup> Majd al-Dīn al-Firūzābādī, *al-Qāmūs al-Muḥīṭ*, ed. Muḥammad Na'im al-Arqūsi (Beirut: Mu'assasat al-Risāla, 2005).

<sup>28</sup> Namely, al-Azharī's (d. 370/980–981) *Tahdhīb al-Lughā*, Ibn Sida's (d. 458/1066) *al-Muḥkam*, al-Jawharī's (d. c. 400/1010) *al-Ṣiḥāḥ*, Ibn Barrī's (d. 582/1186–1187) *al-Ḥawāshī* and Majd al-Dīn ibn al-Athīr's (d. 606/1210) *al-Nihāya fī Gharīb al-Ḥadīth wa-l-Athar*. See Ramzi Baalbaki, "Ibn Manẓūr," in *Encyclopaedia of Islam*, 3rd ed. (Leiden: Brill, 2016).

<sup>29</sup> Words in Arabic are mostly derived by a sequence of consonantal letters called 'roots'. In Semitic languages these roots usually consist of three consonants, but they can also consist of two or four. Nouns, adjectives and verbs are formed from these consonantal skeletons with different strategies, such as inserting vowels, inserting long vowels, doubling consonants or adding prefixes, infixes or suffixes.

refer to castrated men. In particular in *fiqh*-works there are two terms that are mentioned when referring to eunuchs, namely *khaṣī* and *majbūb*. The first term refers to the man whose testicles have been cut, while the second refers to the man whose penis has also been cut. This second category of castrated men probably represented the majority of eunuchs in Islamicate societies. In lexicographic sources the difference is less clear. For example, al-Jawharī defines the term *khaṣā*, the verb connected to *khaṣī*, as ‘to take out the two testicles’, and says that ‘a *majbūb* is a *khaṣī* if the cut is clear’ (which could also mean total).<sup>30</sup> Ibn Manẓūr, however, clearly distinguishes between the two terms, stating that *khaṣī* refers to a man whose testicles have been cut. The term comes from the same root as the Arabic term for testicle (*khuṣya*).

When looking at the root *j-b-b*, Ibn Manẓūr gives the meaning ‘to cut’, but also ‘to uproot’.<sup>31</sup> He defines the *majbūb* as ‘the *khaṣī* to which both his penis and his testicles have been eradicated’. Al-Firūzābādī, writing almost a century later, defines the *khaṣī* as the one that suffered from castration, or whose testicles have been removed.<sup>32</sup> He states also the same regarding the term *majbūb*, defining the verb ‘*jabba*’ as the ‘cut’, or the extraction of the testicles.<sup>33</sup> So, it seems that al-Firūzābādī is less clear in distinguishing between a *khaṣī* and a *majbūb*.

More specific works, like the book of legal definitions of Ibn ‘Arafa, distinguish more clearly between the two terms, defining *khaṣī* as the one whose testicles have been cut and *majbūb* as the one to whom ‘everything has been cut’.<sup>34</sup> This shows how the intended audience of the work clearly impacted how the terms were understood and explained: focusing on legal definitions, the distinction between *khaṣī* and *majbūb* was much more central for Ibn ‘Arafa than it was for other lexicographers.

A rarer term, which I mostly identified in legal sources, but that Ibn Manẓūr also mentions, is *mamsūh*, literally ‘cancelled’, which is used as a synonym of *majbūb* (‘a *khaṣī* is a *mamsūh* if his penis is also cut’, which indeed seems to be the same as *majbūb*).<sup>35</sup>

30 al-Jawharī, *al-Ṣiḥāh*: s.v. “*kh-ṣ-r*”.

31 Ibn Manẓūr, *Lisān al-‘Arab*: s.v. “*kh-ṣ-r*”.

32 al-Firūzābādī, *al-Qāmūs al-Muḥīt*: s.v. “*kh-ṣ-r*”.

33 Ibid.: s.v. “*j-b-b*”.

34 Abū ‘Abd Allāh Muḥammad al-Anṣārī al-Raṣṣā’, *Sharḥ Ḥudūd Ibn ‘Arafah al-Mawsūm al-Hidāya al-Kāfiyya al-Shāfi‘iyya*, ed. Muḥammad Abū al-Ajfan and Ṭāhir al-Ma‘mūrī (Beirut: Dār al-Gharb al-Islāmī, 1993): 253.

35 Ibid.: s.v. “*j-b-b*”.



## 4 Defining Eunuchs in *fiqh*-Sources

When looking at *fiqh* manuals, it is much clearer that jurists use *khaṣī* to refer to a man whose testicles only were cut off, and *majbūb* or *mamsūh* for a man whose penis was also cut off. This is not too surprising; indeed, for jurists, it was very important to be absolutely precise on this difference, as it set a series of legal consequences in motion. For example, the great majority of jurists agreed that if a woman was informed about the castration of her husband (either a *khaṣī* or a *majbūb*) and if she accepted it, then the marriage was valid.<sup>36</sup> However, if the wife complained that the husband was not able to sexually satisfy her, then, as in the case of an impotent man, the eunuch had the right to one more year (*ajal*) to sexually penetrate her; otherwise, the marriage was considered void. What is interesting is that according to jurists, this *ajal* could be given only to a *khaṣī*, not to a *majbūb*, because in that case the jurists thought that there was no possibility for the husband to penetrate his wife.<sup>37</sup>

This difference is also important for a wife who applies to a judge for the annulment of the marriage: in case she was not informed that he had been castrated, and she declared that she has not been penetrated by him and he was a *majbūb*, then the marriage could have been immediately annulled without any delay.<sup>38</sup> The difference is also central in a specific kind of divorce initiated by the man, the so-called *ilā'*. In this kind of divorce, the husband takes an oath that he will not have any sexual intercourse with his wife. If sexual intercourse did not resume after four months, then the marriage was automatically dissolved. However, while for the *khaṣī* it was necessary to wait four months before the marriage was dissolved, most jurists believed there was no need for that for the *majbūb*, as they did not consider him able to have intercourse anyway.<sup>39</sup>

<sup>36</sup> See for example Muḥammad b. Idris al-Shāfi'ī, *Kitāb al-Umm*, vol. 5, ed. Rifat Fawzy 'Abd al-Muṭṭalib al-Mansūr (Cairo: Dār al-Wafā' li-l-ṭibā' wa-l-nashr wa-l-tawzī', 2001): 557.

<sup>37</sup> For example, in the ḥanafī *mukhtaṣar* of al-Qudūrī (d. 428/1037) it is mentioned that 'if the husband is impotent, then the judge grants him an *ajal*, and if after that he manages to penetrate her, she does not have the possibility to choose the dissolution of the marriage, otherwise they are separated (if she wants so), and she is entitled to the full *mahr* if he was alone with her. And if he is a *majbūb*, then the judge separates them immediately and there is no need for *ajal*. If he is a *khaṣī* then he has the *ajal* like the impotent man'. Abū al-Ḥasan Aḥmad Muḥammad b. Aḥmad b. Ğafar al-Qudūrī, *Mukhtaṣar al-Qudūrī fi al-Fiqh al-Ḥanafī* (Beirut: Dār al-Kutub al-'Ilmiyya, 1997): 150. Al-Sarakhsī is even more explicit and says that 'if she (the wife) finds that her husband is *majbūb*, then the judge gives her the opportunity to choose, because in the case of the impotent the *ajal* is in the hope that he can penetrate her, which is missing in the case of the *majbūb*, in which the "instrument" has been cut'. al-Sarakhsī, *Kitāb al-Mabsūṭ*, vol. 5 (Beirut: Dār al-Ma'ārif, 1999): 103. For an overview of these legal debates see Serena Tolino, "Eunuchs in the Sunni Legal Discourse: Reflections on the Gender of Castrated Men," *Studi Magrebini* 20, no. 2 (2022): 117–36.

<sup>38</sup> See for example al-Muzanī, *Mukhtaṣar al-Muzanī fi Furū' al-Shāfi'iyya*, ed. Muḥammad 'Abd al-Qādir Shāhīn (Beirut: Dār al-Kutub al-'Ilmiyya, 1998): 238.

<sup>39</sup> See for example *ibid.*: 267; al-Ghāzālī, *al-Wasīṭ fi al-Madhhab*, vol. 6, ed. Muḥammad Muḥammad Tāmīr (Cairo: Dār al-Salām li-l-ṭibā'a wa-l-Nashr wa-al-Tawzī', 1997): 29; al-Kāsānī, *Badā'i' al-Ṣanā'i' fi Tartīb al-Sharā'i'*, vol. 4, ed. Muḥammad 'Alī Bayḍūn (Beirut: Dār al-Kutub al-'Ilmiyya, 1997): 275.

These examples make clear that for Muslim jurists the difference between a *khaṣī* and a *majbūb* was not only a terminological one, but also a legal one, with a number of clear consequences.

## 5 ‘Real’ Eunuchs: What About Chronicles?

The terms *khaṣī* or *majbūb* are often understood almost as antonyms of the two terms *rajul* and *fahl*, which refer instead to an uncastrated man.<sup>40</sup> These terms, as Hans-Peter Pökel pointed out, refer only to the physical state of castration and do not offer any indication regarding the social status of the castrated person. While these terms are very specific and are often used as such in legal sources, as noted already by the historian David Ayalon, chronicles are less consistent, and the term *khaṣī* is used even when the context would bring us to believe that the author refers to a completely castrated man.<sup>41</sup> Moreover, a number of other terms are used as well. Referring in particular to Mamluk sources, David Ayalon argued that we find three main terms used to identify eunuchs in chronicles, namely *khādīm* (servant), *khaṣī* and *ṭawāshī*.<sup>42</sup> In particular the term *khādīm* has been subject to a number of discussions. Indeed, literally meaning ‘servant’, it is, according to David Ayalon, used only to refer to eunuchs, though other scholars have objected to this opinion.<sup>43</sup> In any case, what is striking is that, when looking at chronicles, it is extremely difficult to be absolutely sure if a given person was castrated or not. Regarding the sources I looked at for the Fatimid period, the terms *khādīm* and *khaṣī* are the most widely used general terms that refer to castrated men, while *ṭawāshī* is not yet in use. Indeed, as the historiographer al-Maqrīzī noted, this is a term of Turkish origin introduced by the Mamluks and was not used during the Fatimid period.<sup>44</sup>

Other terms that Ayalon mentions, and that I also identified in sources on the Fatimid Empire much more often than *khaṣī*, are *ustādh*, *mu’allim* (lit. teacher), *shaykh* (an honorific title originally related to age, but also used simply as a form of respect), with the first being the most frequent. These three terms seem to refer mostly to the teaching function that eunuchs had. Also the term *hurāmī*, which is connected with

<sup>40</sup> Hans-Peter Pökel, *Der unmännliche Mann: Zur Figuration des Eunuchen im Werk von al-Ġāhiz (gest. 869)* (Würzburg: Ergon, 2014): 72.

<sup>41</sup> David Ayalon, *Eunuchs, Caliphs and Sultans*: 309, quoted in Pökel, *Der unmännliche Mann*: 105.

<sup>42</sup> David Ayalon, “On the Eunuchs in Islam,” in *Outsiders in the Lands of Islam: Mamluks, Mongols and Eunuchs* (London: Variorum Reprints, 1988): 91.

<sup>43</sup> David Ayalon, “On the Term ‘Khādīm’ in the Sense of ‘Eunuch’ in the Early Muslim Sources,” *Arabica* 32, no. 3 (1985): 289–308; Abdallah Cheikh Moussa, “De la synonymie dans les sources arabes anciennes. Le cas de ‘Hadim’ et de ‘Hasiyy’,” *Arabica* 32, no. 3 (1985): 309–22.

<sup>44</sup> See David Ayalon, “The Eunuchs in the Mamluk Sultanate,” in *The Mamlūk Military Society* (London: Variorum Reprints, 1979): 268. See also Ayalon, *Eunuchs, Caliphs and Sultans*: 265.

the harem, is used, albeit less often, while I could not yet find recurrences of the term *fatā*, even though these may well be possible, as the term was mostly used in the Muslim West, meaning al-Andalus but also the Maghreb. It seems that these terms were primarily used as honorific titles for eunuchs connected to the caliphal household or other important households. Still, I could not yet identify a specific rank between them, and more research would be needed to find conclusive results. A more specific term is described by al-Qalqashandī<sup>45</sup> (d. 821/1418) when he refers to eunuchs of the Fatimid Empire. Author of one of the most important works of Arabic administrative literature, he was a later author and cannot be defined as a ‘Fatimid author’. However, his main source for the Fatimid period was a lost chronicle of Ibn al-Ṭuwayr, a high-ranking official of the later Fatimids and early Ayyubids. Therefore, his main source for the period was a member of the Fatimid administration.

According to al-Qalqashandī, there was a special group of men who had a particular prominence within the dynasty, the so-called ‘*muḥannakūn*’ eunuchs. Al-Qalqashandī mentioned that the term refers to ‘those who wrap their head turban to cover their mouths as the Bedouins and the Maghrebines do now. They are the closest to the caliph and his favorite and they are more than one thousand’.<sup>46</sup> Al-Qalqashandī states also that there were nine functions which were strictly reserved to *muḥannakūn* eunuchs: the *shadd al-tāj*, the winder of the crown, who was responsible for wrapping the crown of the caliph in a specific way that no one except for him knew; the *ṣāhib al-majlis*, who had the function of a chamberlain; the *ṣāhib al-risāla*, who was responsible for delivering the caliph’s messages; the *zimām al-quṣūr*, the majordomo; the *ṣāhib bayt al-māl*, the director of the treasury; the *ṣāhib al-daftar*, who was in charge of writing down what happened during the audiences of the caliph; the *ṣāhib al-dawāh*, in charge of the inkwell, an imperial insignia; the *zamm al-aqārib*, in charge of the caliphal family, and the *zamm al-rijāl*, in charge of the caliphal food and banquets.<sup>47</sup> Chronicles do not tell us anything about what kind of castration the *muḥannakūn* had undergone and whether there was any relation between that and their function. What seems clear, however, is that, within the Fatimid Court, and especially in the late phase of the dynasty, the *muḥannakūn* were certainly eunuchs with a higher standing. At the same time, this higher position was strictly related to their closeness to the imam-caliph, which, we should mention, also meant in a wider sense a closeness with ‘sacredness’. Indeed, the imam-caliph had a special importance for the Fatimids, as he had not only a political function,

<sup>45</sup> He was a legal scholar and secretary in the Mamluk chancery. He composed several works, which can be classified as books of law, *adab* and *kitāba*, chancery. His work *Subḥ al-A’shā fī Ṣinā’at al-Inshā’* is considered the most important secretarial manual of the Mamluk period and the entire Arabic chancery. See C.E. Bosworth, “al-Qalqashandī,” in *Encyclopedia of Islam Online*, 2nd ed., [http://dx.doi.org/10.1163/1573-3912\\_islam\\_SIM\\_3832](http://dx.doi.org/10.1163/1573-3912_islam_SIM_3832).

<sup>46</sup> al-Qalqashandī, *Subḥ al-A’shā fī Ṣinā’at al-Inshā’*, vol. 3 (Cairo: Dār al-Kutub al-Miṣriyya, 1922): 481.

<sup>47</sup> *Ibid.*: 485–86. See also Heinz Halm, *Kalifen und Assassinen: 147–52*; Serena Tolino, “Eunuchs in the Fatimid Empire”: 259.

but also a strictly religious one as successor of the Prophet, and as possessor of the *baraka*, literally the ‘blessing’, or the charisma, as translated by historians Shaun Marmon and Heinz Halm,<sup>48</sup> a term referring to a force coming from God and directly transmitted to the Prophet Muḥammad, his family, the *ahl al-bayt*, and their successors, as the imam-caliphs were believed to be.

Notwithstanding these different terms and the fact that most eunuchs in Islamicate societies were slaves, it is remarkable that none of the terms found in chronicles on the Fatimid Empire directly refer to them as being slaves, with the exception of *khādim*, which is connected more to the function of ‘service’ than to the notion of being ‘possessed’ by someone else. More technical legal terms for slaves, for example the terms *‘abd* or *milk al-yamīn* (literally what your right hand possesses, referring to slaves) are not mentioned explicitly: probably the eunuchs’ status as slaves was less relevant to those eunuchs who made it into an imperial chronicle and who, as such, must have had power that helped them rise in comparison to ‘common’ slaves.

## 6 Conclusions

At this stage of the research, it is too early to draw conclusions on the basis of the terms that I looked at for this article. However, what is already clear is that while chroniclers usually use terms that specifically refer to the function a eunuch had in a given household as well as his rank, legal sources focus on the kind of castration the eunuch had undergone. This is due to the fact that different kinds of castration had different legal consequences, which were relevant for the jurists, but much less for the chroniclers, who were more interested in what kind of function a person had within the court. Further research is needed in order to understand what the different terms referring to eunuchs in Islamicate societies could tell us. It would be necessary for example to look systematically at more lexica, more legal sources and more chronicles in a diachronic perspective to see whether any pattern could be identified on how the specific meaning of each term may have evolved over time. At the same time, it would be interesting to see if there is any geographical aspect that should be considered; for example, maybe different meanings in terms like *khaṣī* and *majbūb* could be explained by the different geographical provenance of the authors. All in all, looking at the specific terms used in Arabic to identify, in this case, eunuchs, but in general also other kinds of slaves, can help us to reconstruct a more nuanced picture of how slavery was constructed in Islamicate societies and contribute to the discussion of how different forms of dependency took shape in different historical and geographical contexts.

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48 Shaun Marmon, *Eunuchs and Sacred Boundaries in Islamic Societies* (New York/Oxford: Oxford University Press, 1995): 13; Heinz Halm, *The Empire of the Mahdi. The Rise of the Fatimids*, trans. Michael Bonner (Leiden: Brill, 1996): 156.

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Chris L. de Wet

# Searching for the Captive Monk: Late Antique Slavery and Syrian Ascetical Theology and Practice

## 1 Introduction

An area that has been particularly neglected in studies of slavery is that of late ancient Syrian Christianity. One of the lacunae in Kyle Harper's otherwise fundamental work on late Roman slavery is that the contexts of Christian Syria and Mesopotamia, and the Syriac literature in general, receive much less attention compared to Greek and Latin sources.<sup>1</sup> In two seminal articles on the activities of the so-called "Saracens"<sup>2</sup> in late antiquity, Christian Robin and Noel Lenski have shown that the threat of enslavement, especially by Saracens and other raider groups, was constant for the inhabitants of the Syrian and Mesopotamian landscape of the time.<sup>3</sup> Rather than attempting to curb the kidnapping and enslavement of their respective citizens, the warring Roman and Persian Empires harnessed captive taking to their own benefit.<sup>4</sup> Moreover, in rural Syria, the distinction between the slave and the free person may not have been so clear in the first place, and the oppression of enslavement may have been more widespread than one would imagine. Here the basic unit of labor was the dependent laborer who came from the outlying villages (*qrīte*) – these villagers were

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1 Harper does give ample attention to the Greek sources of Roman Syria (like John Chrysostom), and Ephrem the Syrian receives some attention in the analysis; Kyle Harper, *Slavery in the Late Roman World, AD 275–425* (Cambridge: Cambridge University Press, 2011); see also Ramsay MacMullen, "Late Roman Slavery," *Historia* 36 (1987): 359–82.

2 I recognize here that the term "Saracen" is quite ambiguous and rather problematic and I use it with this caution in mind; see Michael C.A. Macdonald's essay, "On Saracens, the Rawwāfah Inscription and the Roman Army," in his *Literacy and Identity in Pre-Islamic Arabia*, *Variorum Collected Studies* (Farnham: Ashgate, 2009): 1–26.

3 Christian J. Robin, "Les Arabes de Ḥimyar, des 'Romaines' et des Perses," *Semitica et Classica* 1 (2008): 167–202; Noel Lenski, "Captivity and Slavery among the Saracens in Late Antiquity," *Antiquité Tardive* 19 (2011): 237–66; see also, more generally, Walter D. Ward, *Mirage of the Saracen: Christians and Nomads in the Sinai Peninsula in Late Antiquity*, *Transformation of the Classical Heritage* 54 (Oakland: University of California Press, 2014); Murray Gordon, *L'Esclavage dans le monde arabe: VIIIe–XXe siècle* (Paris: Tallandier, 1987).

4 Lenski, "Slavery and Captivity": 248; see also Beate Dignas and Engelbert Winter, *Rome and Persia in Late Antiquity: Neighbours and Rivals* (Cambridge: Cambridge University Press, 2007): 123–32, 260–62; more generally Kyle Smith, *Constantine and the Captive Christians of Persia: Martyrdom and Religious Identity in Late Antiquity*, *Transformation of the Classical Heritage* 57 (Oakland, CA: University of California Press, 2016).



often violently and forcefully exploited, perhaps like *coloni*, by the landholders.<sup>5</sup> Such a villager, in the Syriac sources, is often called an *‘abdā* or *‘bed*, which is also the Syriac word for slave. If slavery was such a real threat, especially for those lonely monks wandering in the very deserts that the Saracens raided, or such an ephemeral feature of the political geography of the region, how did Syrian ascetical theology and practice respond to and develop in relation to slavery? Rather than avoiding enslavement, it seems that slavery had a far more pervasive and complex effect on the ascetics of Syria and Mesopotamia. I will argue in this article that the realities of captivity and enslavement, prevalent in the region from at least the middle of the third century,<sup>6</sup> gave rise to an expression of ascetic practice *as* enslavement.<sup>7</sup> In the literary sources of this period,<sup>8</sup> a curious figure emerges, namely that of the captive and enslaved monk. The *topos* of the captive monk is a consequence of the combination of a potent doulology<sup>9</sup> (or discourse of slavery) in scripture and in the early theological thought of the region, along with the threat of real bondage and the general nature of labor exploitation.

## 2 Bardaisan and Tatian: Slavery, *Revenance* and the Soul

Our search for such captive monks begins with the works by Tatian and Bardaisan concerning, curiously enough, the movements of the pre-existent soul before embodiment. In this theological scheme, slavery is negotiated in the context of three forces, namely God, free will, and Fate. Tatian (c. 120–180 CE) is an important figure because he is representative of some of the crucial theological developments that took place at the end of the second century related to Syrian Christianity. In his *Oration to the Greeks*, Tatian states that the soul “tends downward towards matter, and dies with

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5 Richard E. Payne, *A State of Mixture: Christians, Zoroastrians, and Iranian Political Culture in Late Antiquity*, Transformation of the Classical Heritage 56 (Oakland, CA: University of California Press, 2015): 137–38.

6 Lenski, “Slavery and Captivity”: 243–45.

7 Andrew Crislip has made similar observations with regards to illness. Illness often functions *as* an ascetic practice in Christian monastic thought; Andrew Crislip, *Thorns in the Flesh: Illness and Sanctity in Late Ancient Christianity*, Divinations: Rereading Late Ancient Religion (Philadelphia: University of Pennsylvania Press, 2012): 81–108.

8 There is a plethora of ancient literary *topoi* related to slavery. For an excellent survey of such *topoi* in earliest Christianity, see J. Albert Harrill, *Slaves in the New Testament: Literary, Social, and Moral Dimensions* (Minneapolis: Fortress, 2005).

9 See my discussion of doulology in Chris L. de Wet, *Preaching Bondage: John Chrysostom and the Discourse of Slavery in Early Christianity* (Oakland: University of California Press, 2015): 1–44, 283.

the flesh.”<sup>10</sup> He explains the downward gravitation of the soul explicitly in terms of slavery: “We were not created to die, but we die by our own fault. Our free will [*autexousion*] has destroyed us; we who were free [*eleutheroi*] have become slaves [*douloi*]; we have been sold [*prathēmen*] through sin [cf. Rom. 7:14].”<sup>11</sup> Ironically, our own freedom, our authority over ourselves, has enslaved us. Tatian then hints that slavery is the result of humanity’s free but depraved will, and although he does not state it explicitly, one’s status as an institutional slave might be directly related to the degree to which one’s soul has gravitated away from God. Origen, who read Tatian’s work,<sup>12</sup> believed that all rational beings (or souls) were created equal, but all of them (except Jesus) started to move away from God to some degree and began to ‘cool down,’ so drawing closer to corporeality. The soul ‘chooses’ slavery by moving away from God – the colder the soul, the better the chance of it being embodied as a slave.

Bardaisan of Edessa (c. 154–222 CE) conceptualized slavery in terms that are similar to Tatian but does give some merit to the power of Fate.<sup>13</sup> In Bardaisan, nature (*kyānā*) and Fate (*helqā*) fall under the category of necessity. The Syriac equivalent of Tatian’s *autexousion*, in Bardaisan, is *hīʿrūta dnapšā*, which means ‘freedom of self’ or ‘freedom of soul.’ Nature imposes boundaries on the body, such as determining when a boy can become a father, or a girl a mother, or the limits old age poses to the body.<sup>14</sup> Fate, which Bardaisan links to astral bodies, can have an effect on one’s social status, but human freedom and moral choice have the ability to override the consequences of Fate.<sup>15</sup> By Fate, then, it is possible to end up enslaved, but the *hīʿrūta dnapšā* plays a more decisive role in this regard, especially in the founding and operation of human moral codes. To demonstrate this, Bardaisan refers to the customs of the Geli and the Bactrians. Both of these nationalities, according to Bardaisan, have promiscuous women who engage in sexual relations with their slaves. The reason for this social behavior, which would seem unacceptable to many, especially conservative Romans, is not because of astrological constellations related to Fate, but because of social customs and laws.<sup>16</sup>

<sup>10</sup> *Or.* 13.1–3.

<sup>11</sup> *Or.* 11.2.

<sup>12</sup> See *Cels.* 1.16; on Origen’s reading of Tatian, see Emily J. Hunt, “Tatian’s Use of Speech and Fire Metaphors: The Development of a Judeo-Christian Philosophical Tradition,” *Studia Patristica* 40 (2006): 432–33.

<sup>13</sup> *Lib. leg.* 571–72.

<sup>14</sup> For a more detailed discussion, see Han J.W. Drijvers, *Bardaisan of Edessa*, *Studia Semitica Neerlandica* (Assen: Van Gorcum, 1966): 60–126; for a different assessment, see Taeke Jansma, *Natuur, Lot en Vrijheid: Bardesanes, de Filosoof der Arameeërs en Zijn Images*, *Cahiers bij het Nederlands Theologisch Tijdschrift* 6 (Wageningen: H. Veenman & Zonen, 1969).

<sup>15</sup> Dirk Bakker, “Bardaisan’s *Book of the Laws of the Countries*: A Computer-Assisted Linguistic Analysis” (PhD diss., Leiden University, 2011): 12–15.

<sup>16</sup> Not all Gelian women have Venus in the decan of Capricorn or Aquarius, which would result in lechery, Bardaisan says. Bactrian women have sex with slaves because, according to their social

Thus, despite these subtle yet important cosmological and metaphysical differences, the descent and ascent of the soul, and its *autexousion* or *ḥiʿrūta dnapšā*, are directly related to slavery in both Tatian and Bardaisan (and later in Origen). Furthermore, situating slavery in the realm of human volition and responsibility (and only partly attributed to Fate, in the case of Bardaisan), ‘freed’ slavery up for numerous applications, especially in terms of divine pedagogy and purification in service of the soul’s ascent back to God – which, as I will show in analyses of the *Acts of Thomas* and Jerome’s *Life of Malchus*, is a central theme in narratives deploying the figure of the captive monk. What is then interesting for this study is how slavery, specifically the image of the captive monk, functioned in the appropriation of the myth of the soul’s descent and ascent in Syrian ascetical theology.<sup>17</sup>

Theoretically, the Derridean concept of *revenance*, or ‘returning,’ may prove helpful in accounting for the discursive dynamic of the parallelism between the myth of the soul’s descent and ascent and the figure of the captive and enslaved monk. The figure of the captive monk is, after all, one that is limited in our case to the realm of the literary.<sup>18</sup> *Revenance* presupposes, first, a fall, a collapse into death – a descent of the subject. This fall represents the soul’s willful rupture from the divine and its descent into the material realm and, as Tatian has noted,<sup>19</sup> becoming enslaved to matter and subject to death and dissolution. This movement is mirrored in the monk’s one defining act of disobedience, whether it is, as we shall see, refusing a direct command from God (as in the case of Judas Thomas in the *Acts of Thomas*) or leaving the monastic life for the sake of worldly cares (like Malchus in the *Life of Malchus*). This initiating act of disobedience, this *culpa*, sets the downward gravitation of the subject, the soul or the monk, in motion. There must be a moment of declivity, a second when the monk willfully decides to deviate from the calling and command of God. The subject then experiences a moment of corporealization – of becoming ‘body’ – and along with it, inevitably, an experience of dying. This moment of corporealization is at the same

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customs, the men view them simply as mistresses, and not wives in the strict sense; see also Tim Hege-  
 dus, *Early Christianity and Ancient Astrology*, *Patristic Studies* 6 (New York: Peter Lang, 2007): 92–93.

17 This observation, I believe, may also be the starting point for further analyses of slavery in so-called ‘Gnostic’ movements, Marcionism, and Manichaeism.

18 Derrida found the notion of the *revenant*, the specter, helpful in his analysis of Marx and Marxism and even more so in his reading of the poetry of Paul Celan; see Jacques Derrida, *Specters of Marx: The State of the Debt, the Work of Mourning, and the New International*, trans. Peggy Kamuf (New York: Routledge, 1994); Jacques Derrida, *Sovereignties in Question: The Poetics of Paul Celan*, ed. Thomas Dutoit and Outi Pasanen (New York: Fordham University Press, 2005); see also several essays in Michael Sprinker, ed., *Ghostly Demarcations: A Symposium on Jacques Derrida’s Specters of Marx* (London: Verso, 1999). For a brief but similar application to my own, see Richard Kearney, “Deconstruction, God, and the Possible,” in *Derrida and Religion: Other Testaments*, ed. Yvonne Sherwood and Kevin Hart (New York: Routledge, 2005): 297–308.

19 *Or.* 15.4.

time an experience of corporeal carcerality.<sup>20</sup> Enslavement, perhaps more than anything, marks the event of the subject becoming *body*.

But this dying, this mortification, is never fully accomplished; it is a dying that never truly results in total death. It is a *mourant*. Death as a final and totalizing discourse is here relegated to the eschatological; the *mourant* of the soul or monk is always in the shadow of final death, but in its discursive schema is never fully consumed by death. In the case of the soul, it implies the attachment to the body and also its dissolution within the body (and possible divine punishment and/or annealment as a result). For the monk, the moment of physical enslavement mirrors the onset of *mourant*. Both embodiment and dying/death have been identified as the discursive pillars of slavery by Jennifer Glancy<sup>21</sup> and Orlando Patterson<sup>22</sup> respectively. Slavery is embodiment; slavery implies a dying without death, which could be seen as a release. At the end of the descent, embodiment, mortification, and slavery eclipse the subject. As a purificatory technology in the hands of the divine, the institutional enslavement of the monk has a pedagogical and mnemonic function. By becoming a real slave, the monk attains an awareness of the enslavement of sin and the bodily passions, and is also reminded of the fact that he is a slave of God.<sup>23</sup> Institutional slavery then serves as a type of narrative foil, contrasting the slave of sin with the slave of God, having the divine pedagogical and lustrative aim of transposing the monk from the bondage of the former to the free slavery, *libera servitus* as Augustine would later call it,<sup>24</sup> of the latter.

It is at this point, and onwards, that the monk must cultivate knowledge of God and practice asceticism so that the ascent may commence. There is always an act of confession and repentance. The aim of *mourant* then shifts from pedagogy, purification, and memory to revivification or rebirth, leading to *revenge* and eventually (or eschatologically), immortality. The moment of revivification is foundational – as Derrida says: “*it begins by coming back*”<sup>25</sup> – and it is also, by the standards of the slave of God tradition, paradoxical – mortification now brings life, slavery introduces freedom.

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20 On slavery and carcerality, see De Wet, *Preaching Bondage*: 12–18.

21 Jennifer A. Glancy, *Slavery in Early Christianity* (Minneapolis: Fortress, 2006): 9–38.

22 Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge, MA: Harvard University Press, 1982).

23 We should not forget that memory and recollection played a key role in Platonic and Gnostic thought systems – in the *Acts of Thomas*, for instance, slavery seems to activate Thomas’ memory, reminding him that he is a slave of God, just like the slumbering prince of the *Hymn of the Pearl* is awakened and admonished to “remember the pearl” and to see the true slavery of the world; *Hymn of the Pearl*, lines 44–46; *Ac. Th.* 110.

24 Augustine developed the notion of free slavery (*libera servitus*) rather extensively (see esp. *Civ.* 14.15). He describes the slavery to sin as hard slavery (*dura servitus*; *Conf.* 8.5.10). He writes: “Slavery to the Lord is freedom: where we serve in charity, not under coercion, there is free servitude” (*Enarr. Ps.* 99.7). For Augustine, freedom did not imply liberty from moral constraints overall, but a type of freedom to submit, willingly, to divine order – this was what *libera servitus* entailed.

25 Derrida, *Specters of Marx*: 11 (his italics).

Through acts of corporeal mortification, *mourant* is rerouted towards *revenge*. But we should not, here, neglect the spectrality of *revenge* and the newly emerged *revenant* that Derrida so aptly points out.<sup>26</sup> The practice of dying alters the subject, and the specter or the *revenant* is both transcendent and Other. This transformation of the subject corresponds to the transcendence that Peter Brown<sup>27</sup> and Virginia Burrus<sup>28</sup> have noted about the figure of the holy man and holy masculinity, respectively, in late antiquity. But finally, as with any ghost, the spectral and transcendent monk appears as one seeking a past passion that is now lost. By mortifying the passions of the flesh, the monk strives toward the passion for and of Christ, and the release and return of the soul to God.

### 3 *Acts of Thomas*: Enslavement as a Theological and Ascetical Strategy

Next, we need to investigate where the psychic life of the soul coincides with actual institutional enslavement. I am convinced that this moment is realized, quite spectacularly, in the *Acts of Thomas*. It is widely recognized that the apocryphal *Acts of Thomas* – a narrative in which Jesus sells one of his apostles and “twin brother,” Judas Thomas,<sup>29</sup> as a slave to an Indian merchant – serves as one of the most important documents giving us insight into early Syrian ascetical theology and practice.<sup>30</sup> Simultaneously, the *Acts of Thomas* also presents us with one of the earliest portrayals of the *topos* of the captive monk.<sup>31</sup> Originating most likely at the beginning of the third century in East Syria, the work was first written in Syriac and shortly thereafter translated into Greek.<sup>32</sup> Unfortunately, the oldest surviving manuscripts are

<sup>26</sup> Derrida, *Specters of Marx*: 161–71, 205–9.

<sup>27</sup> Peter R.L. Brown, “The Rise and Function of the Holy Man in Late Antiquity,” *Journal of Roman Studies* 61 (1971): 80–101.

<sup>28</sup> Virginia Burrus, *‘Begotten, Not Made’: Conceiving Manhood in Late Antiquity*, *Figurae: Reading Medieval Culture* (Stanford, CA: Stanford University Press, 2000).

<sup>29</sup> On the identity of Thomas, see Han J.W. Drijvers, “The Acts of Thomas,” in *New Testament Apocrypha Volume Two: Writings Related to the Apostles; Apocalypses and Related Subjects*, ed. Wilhelm Schneemelcher (Louisville, KY: Westminster John Knox, 2003): 324–25.

<sup>30</sup> Arthur Vööbus, *History of Asceticism in the Syrian Orient*, vol. 1, *Corpus Scriptorum Christianorum Orientalium* 184 (Louvain: Secrétariat du Corpus SCO, 1958): 66–67; Sebastian P. Brock, “Early Syrian Asceticism,” *Numen* 20, no. 1 (1973): 8–9; Drijvers, “Acts of Thomas”: 323–29.

<sup>31</sup> Daniel Caner notes that *Acts of Thomas* have all the characteristics of what he calls wandering, begging monks; Daniel Caner, *Wandering, Begging Monks: Spiritual Authority and the Promotion of Monasticism in Late Antiquity*, *Transformation of the Classical Heritage* 33 (Berkeley: University of California Press, 2002): 57–64.

<sup>32</sup> Drijvers, “Acts of Thomas”: 323. On the bilingual nature of the Syrian world, see David G.K. Taylor, “Bilingualism and Diglossia in Late Antique Syria and Mesopotamia,” in *Bilingualism in Ancient*

Greek, and the extant Syriac recensions show clear evidence of tampering to make the text seem more orthodox<sup>33</sup> and exhibit some ‘debris’ from early Christian–Muslim theological exchanges. The history of its development evident in the manuscripts makes the *Acts of Thomas*, as a material artifact, extremely important since it stands as a testament to the evolution of doulogical debates in early Christianity and Islam from late antiquity to the medieval period.<sup>34</sup> The *Acts of Thomas* is therefore a double-edged sword, so to speak, giving us information about slavery discourse both from the earliest Syrian Christian communities, and the development of the discourse in communities from late antiquity and the early medieval period.

The theme of slavery chiastically rounds off the story, which begins with Judas Thomas’ confession that he is a slave (*doulos*) of his Lord (*kyrios*) Jesus when he is sold to the merchant Abban of King Gundaphorus<sup>35</sup> and ends with the same confession before he is martyred by King Misdaeus.<sup>36</sup> In the Syriac manuscripts, Thomas is explicitly called a slave of God (*‘abdeh da’lāhā*).<sup>37</sup> The doulogy of the *Acts of Thomas* may be one of the most complex within early Christian literature. In the *Acts*, the discourses of slavery and carcerality operate simultaneously and interchangeably on so many levels that it is practically impossible to discern where Thomas’ institutional slavery ends or where his spiritual or metaphorical slavery to God begins.<sup>38</sup> Slavery and captivity color most of the characters in the *Acts*, not only Thomas; there are even enslaved demons<sup>39</sup> and animals in the tale.<sup>40</sup>

The scheme of *revenge* associated with the figure of the captive monk is clearly visible in the *Acts of Thomas*. Thomas starts out in a privileged position – he is in the holy city of Jerusalem within the circle of Jesus’ apostles.<sup>41</sup> The apostles then cast lots to see which region of the world each apostle must evangelize. Thomas is allotted India, upon which he refuses to act due to the “weakness of the flesh” (*dia tēn astheneian tēs sarkos*) and the fact that he is a Hebrew, who wants nothing to do with

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*Society: Language Contact and the Written Text*, ed. J.N. Adams, Mark Janse and Simon Swain (Oxford: Oxford University Press, 2002): 298–331.

<sup>33</sup> Albertus F.J. Klijn, *The Acts of Thomas: Introduction, Text, and Commentary*, Supplements to Novum Testamentum 108 (Leiden: Brill, 2003): 8–16.

<sup>34</sup> Klijn, *Acts of Thomas*: 1–2; William Wright, *Apocryphal Acts of the Apostles* (Amsterdam: Philo Press, 1968).

<sup>35</sup> *Acts of Thomas*: 2.

<sup>36</sup> *Acts of Thomas*: 163.

<sup>37</sup> *Acts of Thomas*: 62.

<sup>38</sup> An observation shared by Jennifer A. Glancy, “Slavery in *Acts of Thomas*,” *Journal of Early Christian History* 2, no. 2 (2012): 4. On the metaphor of slavery in early Syrian Christianity, see Chris L. de Wet, *The Unbound God: Slavery and the Formation of Early Christian Thought*, Routledge Studies in the Early Christian World (London: Routledge, 2018): 22–29.

<sup>39</sup> *Acts of Thomas*: 44–46.

<sup>40</sup> *Acts of Thomas*: 40.

<sup>41</sup> *Acts of Thomas*: 1.

Indians. After this, Christ appears to him and tells him not to fear and that God's grace is with him. But Thomas still refuses to obey Christ's command and asks to be sent anywhere else. In this refusal, which is also his moment of descent, Thomas acts like a disobedient slave, and his act of disobedience, at the same time, enslaves him physically. His fall and enslavement are immediate and happen all in the very first few lines of the *Acts*. Thomas is also taken from the holy city of Jerusalem to Andrapolis, the "city of men."<sup>42</sup> True to Derrida's words, the *Acts of Thomas* also begins by coming back. Like the awakening and recollection of the prince of the *Hymn of the Pearl*, which is repeated in the *Acts*, once Thomas becomes institutionally enslaved to Abban, he also remembers his true status as a slave of God – we see here again then both the pedagogical, purificatory and mnemonic functions of enslavement.<sup>43</sup>

The subjection of Thomas' will is especially illustrated in the fact that Christ gives Thomas the price of his freedom before going to India. Addressing the context of Bardaisan's cosmology, I argue that Thomas' price of his freedom symbolizes his *ḥī'rūta dnapšā*. But Thomas does not 'buy' his freedom, however that might be imagined (it was not so simple for slaves to purchase their own freedom). Here we see traces of Tatian,<sup>44</sup> whose caveat is heeded – our free will enslaves us. Should Thomas buy his freedom – that is, if he exercises his *autexousion* or *ḥī'rūta dnapšā* – he would no longer be Christ's slave, and would thereby return to the slavery of sin. Jesus gives Thomas the chance – the freedom – to betray him; it is a test of loyalty. In agreement with Tatian and especially Bardaisan, Thomas' prize – his freedom – has more power than the lot, his Fate, or his nature, the "weakness of his flesh."<sup>45</sup> The fact that Thomas has his prize shows that he is actually free, not enslaved by Fate (after casting *lots* with the other apostles), and his enslavement to Christ is by his own volition.

Interestingly enough, in the tenth-century redaction of the *Acts of Thomas* we have in Wright's edition, the editor found it necessary to expand on the issue of divine (and satanic) enslavement and free will.<sup>46</sup> In chapter 34 of the *Acts*, we find a lengthy Syriac section that was probably not in the original, and also not in the late antique Sinai manuscript of the *Acts*. In this section, the later redactors of the text elaborate on the dynamics of free will and the slavery to God, which may give us some idea of how this tradition developed and how important it was not only in the making (and breaking) of Christian doctrines (especially Manichaeism), a point constantly noted to account for such additions and modifications, but also in the interactions between

<sup>42</sup> Geography plays a significant yet complex role in the *Acts*, as noted by George Huxley, "Geography in the *Acts of Thomas*," *Greek, Roman and Byzantine Studies* 24 (1983): 71–80.

<sup>43</sup> *Acts of Thomas*: 2.

<sup>44</sup> Drijvers, "Acts of Thomas": 334–35.

<sup>45</sup> *Acts of Thomas*: 1.

<sup>46</sup> *Acts of Thomas*: 34; see Klijn, *Acts of Thomas*: 100 (translation slightly modified), and page 14 of the 1962 edition of Klijn's commentary. See also Susan E. Myers, *Spirit Epicleses in the Acts of Thomas*, *Wissenschaftliche Untersuchungen zum Neuen Testament* 281 (Tübingen: Mohr Siebeck, 2010): 86–87.

Eastern Christian theologians and those from early Islam<sup>47</sup> – debates in which doulology was certainly not absent. From the seventh century onward, particularly with the development of the Islamic *kalām*, debates on free will were particularly common.<sup>48</sup> There was a group of Muslim theologians, known as Qadariyyah (and later, *Muʿtazilah*), who very firmly asserted the centrality of free will.<sup>49</sup> Others like Al Ghazālī struggled with the relationship between God’s omnipotence, Fate, and human weakness.<sup>50</sup> Concepts like *autexousion*, *ḥīrūta dnapšā*, and the Arabic equivalent, *kādir bir-nafsihi*, were hotly debated topics.<sup>51</sup> The work of the Christian writer Theodore Abū Qurrah (c. 750–c. 823), for example, attests well to this debate, in which he needs to engage with some Muslim perspectives on freedom, especially that humans do not have free will, along with the loss of free will as promoted in some Manichaeic doctrines.<sup>52</sup> It could be argued that this addition on free will and divine slavery in the epiclesis of chapter 34 of the *Acts* is but a small annotation that also functions within the broader late antique and medieval debates between Christians and Muslims on the nature of free will and divine enslavement.

## 4 Jerome’s *Life of Malchus* and the Syriac Book of Steps: Punitive and Pedagogical Dimensions of Enslavement

By the end of the fourth century, the *topos* of the captive monk was so well established that Jerome penned down a tale of one such monk whom he apparently met while he was staying in Syria with bishop Evagrius. Jerome’s title of the work was, indeed, *De captiuo monacho*, “The Captive Monk.” Jerome, however, structures the scheme of *revenge* somewhat differently. In order to capture the attention of the readers, the spectrality and transcendence of Malchus and his nameless female

47 For an overview of some of the main issues, see Michael P. Penn, *Envisioning Islam: Syriac Christians and the Early Muslim World* (Philadelphia: University of Pennsylvania Press, 2015).

48 See esp. Maria De Cillis, *Free Will and Predestination in Islamic Thought: Theoretical Compromises in the Works of Avicenna, al-Ghazālī and Ibn ‘Arabī*, Culture and Civilization in the Middle East (London: Routledge, 2014).

49 S.H. Griffith, “Free Will in Christian Kalām: The Doctrine of Theodore Abū Qurrah,” *Parole de l’Orient* 14 (1987): 79–82.

50 De Cillis, *Free Will and Predestination*: 96–166.

51 Griffith, “Free Will”: 80–81.

52 For instance Theodore Abū Qurrah’s treatise *On Free Will*; see also Griffith, “Free Will”; John C. Lamoreaux, “Theodore Abū Qurrah,” in *Christian-Muslim Relations: A Bibliographical History (600–900)*, ed. David R. Thomas and Barbara Roggema, History of Christian Muslim Relations 11 (Leiden: Brill, 2009): 451–52. See also ‘Īsā ibn Ṣubayḥ al-Murdār’s refutation of Theodore (his *Kitāb ‘alā Abī Qurrah l-Naṣrānī*).



companion are introduced at the outset; it is this transcendence that captivates Jerome and draws, by implication, his readers to the couple. There is a double *revenge* with Malchus. The first is represented in his flight from his home to the monastery. He fled because he did not want to get married, which is then what ironically happens to him later in the tale. The second and more central instance is seen when he leaves the monastery in search of his inheritance, very similar to the parable of the prodigal son (Luk. 15:11–32). Malchus' act of disobedience is clear. Like all souls, Malchus is drawn to that which is material, the wealth of his inheritance. But it is also in this descent to what is earthly that Malchus becomes enslaved. Malchus goes first from a slave of God to a slave of the devil, and then ends up a slave of a Saracen. His descent is also described in terms of death, since the abbot escorted Malchus from the monastery “as if he was carrying out a corpse” – most explicitly, with his departure Malchus is “marked with Satan’s branding iron [*Satanae notatum cauterio*].”<sup>53</sup> Like the infamous slave tattoo, this corporeal marking – the brand – not only affirms Malchus as a marked slave of Satan, but, as C.P. Jones has pointed out, in Egypt and Persia branding was also applied in the penal sense, making Malchus specifically a captive of Satan.<sup>54</sup> Shortly after this, Malchus is also taken captive physically by the Saracens, and enslaved. His physical enslavement acts as a corollary for his enslavement to Satan through his desire for his earthly inheritance. Ironically, in his desire to leave the monastery and claim his earthly goods, Malchus himself is seized and becomes someone else’s goods.

In the *Life of Malchus*, slavery too functions punitively and pedagogically, and by being captured, enslaved, and forced to work as a shepherd, Malchus begins his return to God and the life of a monk.<sup>55</sup> Enslavement, as God’s judgment, brought him to repentance.<sup>56</sup> Like Thomas, Malchus thanks God for the chastisement of slavery; like Thomas, Malchus finds himself in the foreign lands of the Saracens, with only one convert, a woman. In addition, as seen in the *Acts of Thomas*, it is their chastity that protects them, leads them to the monastery, and liberates them. Jerome concludes the tale: “Chastity is never taken captive.”<sup>57</sup> Thus, slavery is no impediment to chastity.

The figure of the captive monk is therefore, in the end, one who is on a path of ascent to the divine. But this ascension was in itself highly paradoxical, since it was through humiliation and shame that the ascetic is elevated; a “lowering up” towards

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<sup>53</sup> *Vit. Mal.* 3.8.

<sup>54</sup> C.P. Jones, “Stigma: Tattooing and Branding in Graeco-Roman Antiquity,” *Journal of Roman Studies* 77 (1987): 155. Despite the Christian uneasiness of such markings (who may have preferred to use collars for identifying slaves), particularly tattooing, corporeal marking of captives and slaves continued for some time in the regions of Egypt, Syria, and Mesopotamia; see also David L. Thurmond, “Some Roman Slave Collars in CIL,” *Athenaeum* 82, no. 2 (1994): 459–78; Harper, *Slavery in the Late Roman World*: 258.

<sup>55</sup> *Vit. Mal.* 5.5.

<sup>56</sup> *Vit. Mal.* 4.3.

<sup>57</sup> *Vit. Mal.* 11.

God, within but beyond the humiliation of the flesh.<sup>58</sup> The ascetical theology associated with the *topos* of the captive monk wrote itself in a very physical and controversial manner on the body.

The practical theology of the Syriac *Book of Steps*, for instance, clearly dictated the body be disciplined like a slave.<sup>59</sup> This late fourth- or early fifth-century work is a collection of thirty homilies or *mēmre*, originating most likely from the region of Upper Mesopotamia, the very battleground between the Roman and Persian kingdoms.<sup>60</sup> Captivity and slavery would have been familiar concepts and real threats to the communities associated with the *Book of Steps*. In the *Book of Steps* we have a sterling example of the paradox of ascension and perfection through the humiliation of the self. The twenty-ninth *mēmra* is solely devoted to the discipline of the body, and reads:

‘I will subdue my body and subordinate [it],’ says Paul, ‘lest while I preach to others, I myself will be rejected’ [1 Cor. 9:27]. I will make my body a slave and discipline it and I will not allow it to clothe, put on shoes, feed, and refresh itself according to its own will. And I will not allow it to be honored whenever it wishes, not even to sleep with honor, but I will subdue it with hunger, thirst, and nakedness, vigil, weariness, asceticism, and emaciation, and with much fasting and prayer, with supplication and loud crying, with many bitter tears, and with lowliness, endurance, and patience. I will subdue myself in order to honor everyone as a slave and in order to stand before and greet everyone before me, bowing [my] head before everyone. I will make my body run on foot like a slave in order to reconcile with its enemies [ . . . ] I will make my body wash the feet of its enemies and greet its murderers [ . . . ] I will lead [my body] wherever it does not wish: to its despisers and those who are angry against it. Just as our Lord went to teach his crucifiers and despisers, I will make it visit as the slave of everyone, the slave of slaves, just as our Lord visited the evil and insolent ones who held him in contempt.<sup>61</sup>

While the image of the athletic contest, the *agōn*, was very common in conceptualizing the nature of ascetic discipline (and martyrdom, of course), here we find the notion of asceticism as corporeal enslavement. Paul’s words in 1 Cor. 9:27 envision the enslavement of the body, as he uses the term *doulagōgō* (“I subdue” or, literally, “I treat [it] as

58 Virginia Burrus, *Saving Shame: Martyrs, Saints, and Other Abject Subjects*, Divinations: Rereading Late Ancient Religion (Philadelphia: University of Pennsylvania Press, 2008): 81–82.

59 For a fuller discussion of this issue, see Chris L. de Wet, “Modelling Msarrqūtā: Humiliation, Christian Monasticism, and the Ascetic Life of Slavery in Late Antique Syria and Mesopotamia,” in *Social Control in Late Antiquity: The Violence of Small Worlds*, ed. Jamie Wood and Kate Cooper (Cambridge: Cambridge University Press, 2020): 105–30. On asceticism as (self-)violence and acts of domination, see Chris L. de Wet, “The Discipline of Domination: Asceticism, Violence, and Monastic Curses in Theodoret’s *Historia Religiosa*,” in *Religious Violence in the Ancient World: From Classical Athens to Late Antiquity*, ed. Jitse H.F. Dijkstra and Christian Raschle (Cambridge: Cambridge University Press, 2020): 323–44.

60 Geoffrey Greatrex, “The Romano-Persian Frontier and the Context of the *Book of Steps*,” in *Breaking the Mind: New Studies in the Syriac ‘Book of Steps’*, ed. Kristian S. Heal and Robert A. Kitchen, CUA Studies in Early Christianity (Washington, D.C.: Catholic University of America Press, 2014): 9–31.

61 *Lib. grad.* 29.1. I use the translation of Kitchen and Parmentier, but have modified it slightly. I have consistently translated ‘*abdā*’ as ‘slave’ (not ‘servant’ as in the translation of Kitchen and Parmentier), since the context, in my opinion, specifically suggests enslavement.

a slave”). The Syriac equivalent is *mša<sup>c</sup>bed*. The majority of ascetic practices can certainly be read in this light, since strategies like food and sleep deprivation (fasting and vigils) and inadequate clothing and shelter are all well-attested technologies of domination in ancient slaveholding. The body is forced to run on foot like a slave, bow its head, and greet all like the slave at the entrance of a house. Moreover, Christ set the example of humiliation. A task like foot washing, a typical chore of the lowliest slave, is here specifically highlighted. In short, the habitus of the ascetic as idealized by the *Book of Steps* practically mirrors the habitus of the slave.

The *Book of Steps*, in fact, stands out in this particular conceptualization of asceticism. It is the first Syriac work in which ascetic renunciation is conceptualized as *msarrqūtā*, which is particularly linked to the idea of “emptying”<sup>62</sup> – derived from the Syriac translation of Phil. 2:7 in which Christ emptied himself (*napšeh sarreq*, the equivalent of *heauton ekenōsen*). The *Book of Steps* represents the earliest attestation of this nominal derivation from the pa<sup>c</sup>el of the root *s-r-q*.<sup>63</sup> *Msarrqūtā* therefore entails a kenosis of the self by enslaving the body through *askēsis*; it is the correlate of Paul’s *doulagōgō* (or *mša<sup>c</sup>bed*). Christ’s voluntary assumption of a slave’s subjectivity is the defining principle of ascetic practice in the *Book of Steps*. The direct influence of the *Acts of Thomas* on the *Book of Steps* further supports the connection between slavery and asceticism in the work.<sup>64</sup> Ascetic practice in the *Book of Steps* is explicitly and fundamentally doulological – and also paradoxically, of course, since it is *msarrqūtā* that ushers in true freedom from unclean spirits and evil thoughts.<sup>65</sup> Without *msarrqūtā*, perfection is unattainable.<sup>66</sup> Affirming a similar scheme of *revenge* in the *Book of Steps*, corporeal humiliation (as a reaction against human sinfulness) makes the ascetic dead to the world and, like Thomas the Apostle, a stranger.<sup>67</sup>

We find numerous other interesting manifestations of what we might term doulological asceticism. Some monks wore collars around their necks and heavy chains around their bodies; a most performative, almost masochistic, attire. The symbolism here points again to the enslavement of the body by the soul. The chains may also allude to the chains that Paul had to endure (and may have even had an apotropaic

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<sup>62</sup> *Lib. grad.* 1.2, 12.1, 21.9, 29.12; the decisive work on *msarrqūtā* in the *Book of Steps* has been done by Sebastian P. Brock, “Radical Renunciation: The Ideal of *Msarrqūtā*,” in *To Train His Soul in Books: Syrian Asceticism in Early Christianity*, ed. Robin Darling Young and Monica J. Blanchard, CUA Studies in Early Christianity (Washington, D.C.: Catholic University of America Press, 2011): 122–33; Robert A. Kitchen, “Disturbed Sinners: In Pursuit of Sanctity in the *Book of Steps*,” in *Breaking the Mind: New Studies in the Syriac ‘Book of Steps’*, ed. Kristian S. Heal and Robert A. Kitchen, CUA Studies in Early Christianity (Washington, D.C.: Catholic University of America Press, 2014): 205–20.

<sup>63</sup> Brock, “Radical Renunciation”: 123–25.

<sup>64</sup> Klijn, *Acts of Thomas*: 33, 66, 89, 114, 152, 157, 165, 177.

<sup>65</sup> *Lib. grad.* 6.2, 7.8–9.

<sup>66</sup> *Lib. grad.* 13.5, 15.11.

<sup>67</sup> *Lib. grad.* 13.5; see also Robert A. Kitchen and Martien F.G. Parmentier, trans., *The Book of Steps: The Syriac Liber Graduum*, Cistercian Studies 196 (Kalamazoo, MI: Cistercian Publications, 2004): xliii.

function). Collaring and chaining were common ways of subjugating and punishing slaves and prisoners in antiquity.<sup>68</sup> Monks in chains and other restraints are a regular motif in Theodoret's *History of the Syrian Monks* and in John of Ephesus' *Lives of the Eastern Saints*, and by the time of the latter the expression "slave of Christ" (*ʿabdā dam-šihā*) had practically become a technical term that referred to a revered monk.<sup>69</sup> John refers to the monk Harfat, who tied such heavy chains around his neck, hands, and feet that they almost cost him his life.<sup>70</sup> According to Theodoret, James of Cyrrhestica had a

great load of iron that bound his waist and his neck; and other chains, two in front and two behind, extending obliquely from the circle round his neck to the circle below, and forming the shape of the letter X, connected the two circles to each other, both in front and behind; and beneath his clothing his arms bore other bonds of this kind round his elbows.<sup>71</sup>

Furthermore, practices of doulological asceticism also had a self-punitive and deterrent dimension. They served as reminders that sin is true slavery and captivity, and acted as aids to guard the monk from sinning. When Harfat is asked, for instance, why he wore such heavy chains, he confesses that it is because of sin.<sup>72</sup> Theodoret says that Eusebius of Teleda, after looking at ploughmen on a farm and delighting in the sight of earthly labor, "made a rule that his eyes were never to look at that plain nor feast upon the beauty of the heavens or the choir of the stars" – he remained confined and

in addition to this resolve, [that] some duress should compel him to this, he bound his waist with an iron belt and attached a very heavy collar to his neck and then used a further chain to connect the belt to the collar, so that bent down in this way he would be forced uninterruptedly to stoop to the ground. Such was the penalty he imposed on himself for looking at those farm-workers.<sup>73</sup>

In an extreme act of *msarrqūtā*, Eusebius punishes his flesh like a disobedient slave. Through ascetic discipline and punishment, we find here the refashioning of the monastic body with the aim of resembling the habitus of a slave. The figure of the captive monk is therefore, in itself, destabilizing and paradoxical. As with slaves, monks should have no claim to kinship ties. They are confined, wearing simple clothing and collars just like slaves. Hunger was a constant part of their daily experience. They are wanderers, often beggars, and strangers; they are natally and socially alienated, as Orlando Patterson insists.

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<sup>68</sup> Thurmond, "Roman Slave Collars"; Jennifer Trimble, "The Zoninus Collar and the Archaeology of Roman Slavery," *American Journal of Archaeology* 120, no. 3 (2016): 447–72. See, more generally, Julia Hillner, *Prison, Punishment and Penance in Late Antiquity* (Cambridge: Cambridge University Press, 2015): 163–72.

<sup>69</sup> See, for instance, *Vit.* 27 (PO 18.555–58).

<sup>70</sup> *Vit.* 11.

<sup>71</sup> *Hist. rel.* 21.8.

<sup>72</sup> *Vit.* 11.

<sup>73</sup> *Hist. rel.* 4.6.

## 5 Conclusion: Seeking Enslavement?

In conclusion, an epic passion written around the late sixth or early seventh century, the Syriac *Life of Febronia*, recounts the legend of a Christian woman who was martyred in Nisibis during the persecution of Diocletian.<sup>74</sup> In the narrative, Febronia is described as a holy virgin par excellence, who was so “beautiful that the eye could never be sated by gazing upon her” and who “did not know what a man’s face looked like.”<sup>75</sup> When the Romans threatened her convent, Febronia refused to flee, but met her persecutors head-on.<sup>76</sup> Her appearance before her persecutors is described thus:

When Selenos and Lysimachos had taken their seat on the tribunal, they gave orders that Febronia be fetched. They brought her in, with her hands tied and the heavy iron collar around her neck [ . . . ] Lysimachos addressed her, ‘Tell me, young girl, what are you, slave or freeborn?’ Febronia replied, ‘Slave.’ ‘Whose slave are you, then?’ asked Lysimachos. ‘Christ’s,’ said Febronia.<sup>77</sup>

In the author’s narration above, the captive Febronia is sketched vividly as a slave of Christ. She looks like a captive slave, bound and having a heavy collar around her neck. When her persecutors ask her whether she is freeborn or a slave, her answer is clear – she is a slave of Christ, which at the time of writing was practically synonymous with being a monk of the highest caliber. Any lines between ‘spiritual’ and social status disappear. Her enslavement to God is boldly written on her body as she is displayed to the readers. Although the story takes place at the dawn of the fourth century under the Diocletianic persecution, the reinvented Febronia, with her collar and chains, mirrors the chained and collared monks of late antique Syria, for whom the line between being Christ’s slave and a real institutional slave was often very faint. It is evidence of the *topos* of the captive monk being written back into history. In this sense, martyrs like Febronia become archetypes of monastic carcerality, the first captive monks, just like Judas Thomas.

In other literature of the region, we find similar instances of narrative fashioning that relies on the image of the captive monk. In Pseudo-Nilus’ *Narrations*, a fifth-century text, we encounter a fictional tale of a certain Theodoulus, whose name in Greek actually means ‘God’s slave’ (not an uncommon name). Theodoulus and his father were on their way to Mount Sinai to follow an ascetic life when Saracens attacked them. The father escaped but Theodoulus was captured by Saracens and almost sacrificed to their goddess al-<sup>c</sup>Uzzā, the Morning Star. This does not happen and Theodoulus is eventually sold to a bishop in Elousa. In the narrative, Theodoulus’ transformation

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<sup>74</sup> Sebastian P. Brock and Susan Ashbrook Harvey, trans., *Holy Women of the Syrian Orient*, Transformation of the Classical Heritage 13 (Berkeley: University of California Press, 1998): 150–52.

<sup>75</sup> *Feb.* 5.

<sup>76</sup> *Feb.* 11.

<sup>77</sup> Brock and Ashbrook Harvey, *Holy Women*: 164.

into a monk is inextricably linked to his enslavement.<sup>78</sup> Slavery becomes a test and validation of Theodoulos' devotion and disdain for sin. Enslavement, whether to God by asceticism or to human masters, was one of the primary challenges of the desert and perhaps even for some a rite of passage. Slavery was the arena in which the ascetic contest took place. And while the conventional wisdom of the time excluded real institutional slaves from exhibiting sexual honor and chastity, the captive monk *topos* resists this notion in line with broader Christian thinking.<sup>79</sup> John of Ephesus speaks of numerous slaves following the chaste ascetic life, assuming the "gentle yoke of monasticism."<sup>80</sup> Slavery was indeed, as Jerome believed, no hindrance to chastity.

Following in the footsteps of Thomas, it is even possible that some ascetics sought out enslavement as a missionary strategy.<sup>81</sup> In later literature accounting for the spread of Christianity into Arabia, there is firm evidence for such a captive missionary tradition. Explaining the origins of Christianity in the Najrān, Ibn Ishāq's *Life of the Messenger of God* relates the journeys of two fifth-century Christians, Faymiyūn and Šāliḥ, who were also captured and sold as slaves – yet they continued to perform miracles and do missionary work. Faymiyūn's master was converted, and a sacred palm-tree that was venerated in the area was cursed by Faymiyūn and uprooted by a wind sent by God.<sup>82</sup> A similar and related tradition is found with the journeys of Paul of Qenṭos and John of Edessa, who were kidnapped and enslaved during a pilgrimage journey and taken to Yemen, where they also confront a tree-god.<sup>83</sup>

The figure of the captive monk was shaped and transformed throughout the centuries in Syrian Christianity. Theologies like those of Tatian and Bardaisan, with their emphasis on *revenge* and negotiations with Fate, nature, and free will, served as theological foundations on which the image would be developed. And so it did develop, becoming exceedingly popular, as seen in the legend of the *Acts of Thomas*, and transformations of the image in narratives like the *Life of Malchus*. There, at the frontiers of the Roman and Persian Empires, monks, among many others, were captured and enslaved, and it is quite possible that the *topos* of the captive monk served to aid such

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78 *Narr.* 4–5; see also Daniel F. Caner, *History and Hagiography from the Late Antique Sinai*, Translated Texts for Historians (Liverpool: Liverpool University Press, 2010): 73–135; Lenski, "Slavery and Captivity": 256–57.

79 De Wet, *Preaching Bondage*: 220–70.

80 *Vit.* 21; see also *Vit.* 30, 56. In *Vit.* 44, John also speaks of the lay monk, Tribunus, who owned two slaves that assisted him in his labors. Owning only two slaves could easily be regarded as a state of poverty in this context.

81 Jeanne-Nicole Mellon Saint-Laurent, *Missionary Stories and the Formation of the Syriac Churches*, Transformation of the Classical Heritage 55 (Oakland, CA: University of California Press, 2015): 22–24.

82 *Sir. ras. All.* 20–22; A. Guillaume, trans., *The Life of Muhammad: A Translation of Ibn Ishaq's Sirat Rasul Allah* (Oxford: Oxford University Press, 2002): 14–16.

83 Their deeds are recorded in the late antique *History of the Great Deeds of Bishop Paul of Qenṭos and Priest John of Edessa*, trans. Hans Arneson, Emanuel Fiano, Christine Luckritz Marquis and Kyle Smith, Texts from Christian Late Antiquity 29 (Piscataway, NJ: Gorgias, 2010).

captives in making some existential sense of their terrible predicament. Christ took, after all, also the habit of a slave. Some monks, who were used to the extreme practices of doulological asceticism – models of *msarrqūtā* – may have even felt prepared for their enslavement because of these practices. Slavery only became a problem when it threatened their chastity, in which case they would be given the grace of dying as martyrs for chastity, as Malchus nearly did.

Ascetical theology was the meditation of doulology, and ascetic practice was the practice of enslavement. Rather than excluding humans from enslavement, slaves were included in ascetical discourses from which they had traditionally been disqualified, notably that of athletics (the ascetic contest) and the military (the soldiers of Christ). But it needs to be said that this inclusion of enslaved subjects strengthened the oppressive grip of slavery on early Christianity and expanded and intensified domains of domination into the ascetic realm.<sup>84</sup>

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<sup>84</sup> A more extensive discussion of the *topos* of the captive and enslaved monk in late ancient Syrian Christianity will appear in Chris L. de Wet, *The Captive Monk: Slavery and Asceticism in Early Syrian Christianity*, Routledge Studies in the Early Christian World (London: Routledge, forthcoming).

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Ruth Ennis

## Narrating ‘White Slavery’ in and out of Fiction, 1854–1880

Since the late 1970s, historians of nineteenth-century sexuality, prostitution and intimate colonial relations have been confronted with the matter of ‘white slavery’ in the archives.<sup>1</sup> Today, the body of scholarly literature that addresses or touches upon this subject matter is both huge and scattered to say the least. ‘White slavery’ appears across various disciplines, subject areas and institutionalised geographies. The vast majority of works have been written by historians, though often from different specialisations and (national) academic traditions.<sup>2</sup> A comprehensive overview of this

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1 Kenneth Ballhatchet, *Race, Sex and Class under the Raj: Imperial Attitudes and Policies and their Critics, 1793–1905* (New Delhi: Vikas Publishing House, 1979); Edward J. Bristow, *Vice and Vigilance: Purity Movements in Britain since 1700* (Dublin: Gill and Macmillan, 1977); Alain Corbin, *Les filles de noce: misère sexuelle et prostitution au XIXe siècle* (Paris: Aubier Montaigne, 1978); Deborah Gorham, “The ‘Maiden Tribute of Modern Babylon’ Re-Examined: Child Prostitution and the Idea of Childhood in Late-Victorian England,” *Victorian Studies* 21, no. 3 (1978): 353–79; Ronald Pearsall, *Night’s Black Angels: The Forms and Faces of Victorian Cruelty* (London: Hodder and Stoughton, 1975).

2 Aside from historians, scholars from other disciplines, mainly sociology, have also contributed to the historicisation of ‘white slavery’. With one exception, all have been published in the era post the UN Protocol against transnational trafficking. For works in ethnology and sociology, see: Jean-Michel Chaumont, *Le mythe de la traite des blanches; Enquête sur la fabrication d’un fléau* (Paris: La Découverte, 2002); Jean-Michel Chaumont and Anne-Laure Wibrin, “Traite des noirs, traite des blanches: même combat,” *Cahiers de Recherche Sociologique* 43 (2007): 121–32, <https://doi.org/10.7202/1002483ar>; Jean-Michel Chaumont, “The White Slave Trade Affair (1880–1881): A Scandal Specific to Brussels?” trans. Jane Corrigan, *Brussels Studies* 46 (2011), <https://doi.org/10.4000/brussels.838>; Jean-Michel Chaumont, Magaly Rodríguez García and Paul Sevais, eds., *Trafficking in Women 1924–1926: The Paul Kinsie Reports for the League of Nations*, vol. 1, Historical Series 2 (Geneva: United Nations Publications, 2017); Jo Doezema, *Sex Slaves and Discourse Masters: The Construction of Trafficking* (London/New York: Zen Books, 2010); Brian Donovan, *White Slave Crusades: Race, Gender, and Anti-Vice Activism, 1887–1917* (Urbana, IL/Chicago: University of Illinois Press, 2006); Paul Knepper, *The Invention of International Crime: A Global Issue in the Making, 1881–1914* (London: Palgrave Macmillan, 2010); Paul Knepper, *International Crime in the 20th Century: The League of Nations Era, 1919–1939* (Basingstoke: Palgrave Macmillan, 2011); Dietmar Jazbinsek, “Der internationale Mädchenhandel: Biographie eines sozialen Problems,” Wissenschaftszentrum Berlin, 2002, <http://hdl.handle.net/10419/49624>; Stephanie A. Limoncelli, *The Politics of Trafficking: The First International Movement to Combat the Sexual Exploitation of Women* (Stanford: Stanford University Press, 2010). For political science, see: Petra de Vries, “An Image of Sexual Danger: Prostitution, The White Slave and The Political Campaign against Women Trafficking in Historical Perspective,” in *Women and Trafficking*, ed. Simona Zavratinik Zimic (Ljubljana: Peace Institute, 2004): 21–28; Petra de Vries, “‘White Slaves’ in a Colonial Nation: The Dutch Campaign Against the Traffic in Women in the Early Twentieth Century,” *Social & Legal Studies* 14, no. 1 (2005): 39–60; Petra de Vries, “From Slave to Sex Worker. Feminist Debates and Prostitution Politics in the Netherlands 1880–2000,” *L’Homme* 21, no. 1 (2010): 29–49. For art and literary studies, see: Luis Álvarez-Castro, “Transatlantic Sex Trafficking

historiography cannot be provided here, but it can be said that the knowledge production on ‘white slavery’ has on the one hand resulted in the reinforcement of national or international organisational constructions, while on the other these parallel discourses have perpetuated an ongoing debate as to whether ‘white slavery’ should be understood as a historical myth or reality.<sup>3</sup> Arguably, these problems are largely due to the fact that the histories which have been told are ones narrated along the organisational logic of the archives of nation states and international organisations.

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and Imperial Anxiety in Nineteenth-Century Spanish Fiction: *Trata de Blancas* (1889) and *Carne Importada* (1891),” *Hispanic Review* 86, no. 1 (2018): 25–44; Rachel Schreiber, “Before Their Makers and Their Judges: Prostitutes and White Slaves in the Political Cartoons of the ‘Masses’ (New York, 1911–1917),” *Feminist Studies* 35, no. 1 (2009): 161–93; Claire Solomon, “Reconsidering Anti-Semitism and White Slavery in Contemporary Historical Fiction in Argentina,” *Comparative Literature* 63, no. 3 (2011): 307–27. For researchers without an academic affiliation, see: Christiana Weidel, “Internationales Abkommen gegen Frauenhandel – Eine Zeitreise,” *SLAK-Journal – Zeitschrift für Polizeiwissenschaft und polizeiliche Praxis* (2016): 85–93; Marjan Wijers and Lin Lap-Chew, *Trafficking in Women, Forced Labour and Slavery-like Practices in Marriage, Domestic Labour and Prostitution* (Utrecht: Foundation Against Trafficking in Women, 1999); Marjan Wijers, “Purity, Victimhood and Agency: Fifteen Years of the UN Trafficking Protocol,” *Anti-Trafficking Review* 4 (2015): 56–79. For legal studies, see: Marlene D. Beckman, “The White Slave Traffic Act: The Historical Impact of a Criminal Law Policy on Women,” *Georgetown Law Journal* 72 (1984): 1111–42; Stefanie Lauben, *Weißer Markt: Frauenhandel und Völkerrecht vom Ausgang des 19. bis zur Mitte des 20. Jahrhunderts* (Marburg: Tectum Verlag, 2014).

3 Tensions over whether ‘white slavery’ should be understood as a myth or social reality continue to inform historical debates today, having arisen when historians first began to deal with the archives. As a starting point for explanations in terms of myth or cultural hysteria, even if some elements of coerced migration/prostitution were present, see for example: Corbin, *Les filles de nocce: misère sexuelle et prostitution au XIXe siècle*; Frederick K. Grittner, *White Slavery: Myth, Ideology, and American Law* (New York: Garland, 1990); Mary Ann Irwin, “‘White Slavery’ as Metaphor: Anatomy of a Moral Panic,” *Ex Post Facto: The History Journal* 5 (1996), <https://www.walnet.org/csis/papers/irwin-wslavery.html> [accessed on 06.08.2022]; Jens Jäger, “International Police Co-Operation and the Associations for the Fight Against White Slavery,” *Paedagogica Historica* 38, no. 2–3 (2002): 565–79; Judith R. Walkowitz, *Prostitution and Victorian Society: Women, Class, and the State* (Cambridge: University of Cambridge Press, 1980). For interpretations that treat the ‘white slave trade’ as real and part of modernity, even if the name was metaphorical, see for example: Rachael Attwood, “Lock Up Your Daughters! Male Activists, ‘Patriotic Domesticity’ and the Fight against Sex Trafficking in England, 1880–1912,” *Gender & History* 27, no. 2 (2015): 611–27; Edward J. Bristow, *Prostitution and Prejudice: The Jewish Fight against White Slavery 1870–1939* (Oxford: Clarendon Press, 1982); Harald Fischer-Tiné, *Low and Licentious Europeans: Race, Class and ‘White Subalternity’ in Colonial India* (New Delhi: Orient Blackswan, 2009): 196–204; Lloyd P. Gartner, “Anglo-Jewry and the Jewish International Traffic in Prostitution, 1885–1914,” *Cambridge University Press on Behalf of the Association for Jewish Studies* 7–8 (1982–83): 129–78; Judith Große, “Der Kampf gegen Prostitution: Zwischen Sittlichkeitsreform, Feminismus und Medizin, 1864–1914,” in *Biopolitik und Sittlichkeitsreform: Kampagnen gegen Alkohol, Drogen und Prostitution 1880–1950*, ed. Judith Große, Francesco Spöring and Jana Tschurenev (Frankfurt am Main/New York: Campus Verlag, 2014): 185; Lara Marks, “Jewish Women and Jewish Prostitution in the East End of London,” *Jewish Quarterly* 34, no. 2 (1987): 6–10; Ruth Rosen, *The Lost Sisterhood: Prostitution in America, 1900–1918* (Baltimore/London: Johns Hopkins University Press, 1982).

In recent years, however, a number of scholars have begun the task of unpacking this established knowledge. Their works focus on the life-worlds and perspectives of minority historical actors who have been constructed in historical discourses on 'white slavery', but who themselves have been silenced within the archives.<sup>4</sup> Furthermore, they offer a more nuanced picture of what life was like for those who sold sex, who facilitated the selling of sex or who provided services to vulnerable and marginalised migrants. This article contributes to these by complicating the historical picture of nineteenth-century discourses and practices regarding sex work. It does so by adopting a novel perspective that highlights the transnational cultural paths along which discourses on 'white slavery' were produced in the first place.

Within the historiography the established knowledge available to us would have it that in Britain, in the late 1860s, agitation against the Contagious Diseases Acts (CDAs) of 1864, 1866 and 1869 began under the leadership of Josephine Butler and other members of the Ladies Protest. These efforts received international recognition from several renowned European figures, but Victor Hugo and his letter of support from 1870 is given particular credit for having provided the British movement with the racialised and gendered vocabulary of slavery. It was not until the 1880s, however, when the British journalists Alfred Stace Dyer and W.T. Stead created a media storm, that a popular movement against 'white slavery' emerged, following their revelations in 1880 and 1885 of a system of continental trafficking.<sup>5</sup>

Victor Hugo had spoken of 'l'esclavage des femmes blanches' metaphorically in support of the agitation against the recent introduction of laws in Britain which forcibly

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4 Francesca Biancani, *Sex Work in Colonial Egypt: Women, Modernity and the Global Economy* (London/New York: I.B. Tauris, 2018); Aleksandra Jakubczak, "The Issue of Jews' Participation in White Slavery and Prostitution as Reflected in Hebrew Press at the Turn of the 19th and the 20th Centuries," *Kwartalnik Historii Żydów* 262, no. 2 (2017): 183–99; Keely Stauter-Halsted, *The Devil's Chain: Prostitution and Social Control in Partitioned Poland* (Ithaca, NY/London: Cornell University Press, 2015); Nancy M. Wingfield, *The World of Prostitution in Late Imperial Austria* (Oxford: Oxford University Press, 2017); Mir Yarfitz, *Impure Migration: Jews and Sex Work in Golden Age Argentina* (New Brunswick, NJ/Camden, NJ/Newark, NJ/London: Rutgers University Press, 2019). These of course can be seen as building on a tradition previously established by Timothy Gilfoyle. Timothy J. Gilfoyle, *City of Eros: New York City, Prostitution, and the Commercialization of Sex, 1790–1920* (New York/London: W.W. Norton & Company, 1992). In chapter 4 of his novel and inspiring monologue, Harald Fischer-Tiné had already made a first attempt in 2009 at reconstructing the life worlds of women who sold sex in colonial India. Fischer-Tiné, *Low and Licentious Europeans: Race, Class and 'White Subalternity' in Colonial India*: 226–30. Likewise, while not having been a geography of concern with discourses on 'white slavery', we can nonetheless use Luise White's work on colonial Nairobi as an excellent example of how oral history, combined with a labour critique, can shed a very different light on historical women who sold sex. Luise White, *The Comforts of Home: Prostitution in Colonial Nairobi* (Chicago/London: University of Chicago Press, 1990).

5 Alfred Stace Dyer, *The European Slave Trade in English Girls: A Narrative of Facts* (London: Dyer Brothers, 1880); William T. Stead, "The Maiden Tribute of Modern Babylon," *Pall Mall Gazette*, 6 July 1885.

subjected women who sold sex to register and undergo regular medical checks. The historiography then leaves a ten-year gap in knowledge, up until the point that Alfred Stace Dyer is credited with having uncovered the ‘white slave traffic’ in English girls.<sup>6</sup> We are thus lacking an explanation for how ‘white slavery’ moved from being an abstract metaphor in 1870 to being a clear concept of illicit migration and transnational trafficking for prostitution in 1880.

The primary cause behind this problem is that scholars have for the most part relied on either secondary literature or historical sources produced after the period they designate as the *origin* and from which their own narratives depart. Needless to say, this has led to confusion in the chronology. A further contributing issue is the tendency to write histories within national or international-organisational containers. Discourses, knowledge and ideas related to ‘white slavery’ were however neither geographically nor institutionally isolated. Instead, they circulated through different geographies, played out upon a chronology that is not necessarily that which the archives of nation states and organisations recall. In an effort to resolve this issue, this article will retrace the circulating discourses on ‘white slavery’, starting in 1854 rather than 1870.<sup>7</sup> This date will be justified by first mapping the historical uses of the ‘white slavery’ metaphor since the beginning of the nineteenth century and then isolating the uses of the term from the 1850s on, when it began to be increasingly gendered in its reference to matters concerning women.

Very different kinds of sources are involved in this analysis, which maps out the contours and tensions between works of fiction and non-fiction. An approach inspired by feminist narratology thus enabled me to develop an acute awareness of the actors who produced these texts as well as the categories and social markers they constructed therein.<sup>8</sup> Maintaining awareness of the categories of difference which appear in the descriptions of characters within the texts has at the same time been complemented and complicated by socially embedding and ‘situating’ those transnational

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<sup>6</sup> These *origin* narratives can be found in a number of historical works from the 1970s and 1980s which continue to be used as a basis for the historiography today. See: Bristow, *Prostitution and Prejudice: The Jewish Fight Against White Slavery 1870–1939*; Corbin, *Les filles de nocce: misère sexuelle et prostitution au XIXe siècle*; Irwin, “‘White Slavery’ as Metaphor: Anatomy of a Moral Panic”; Walkowitz, *Prostitution and Victorian Society: Women, Class, and the State*.

<sup>7</sup> A caveat is needed here, that in this article, I primarily focus on the circulating discourses in English- and French-speaking Europe. For discourse and knowledge production in German for the same period, which were also entangled in the transnational development of the concept of ‘white slavery’, see Ruth Ennis, “Subject Production through the ‘Migrant’ and her Jewish ‘Trafficker’ (1868–1880),” *Journal of the History of Sexuality* (forthcoming) [Special Issue: *Sexuality and Antisemitism Reconsidered*, ed. Sebastian Bischoff and Christoph Kerl].

<sup>8</sup> The main inspiration was Marion Gymnich, “Gender and Narratology,” *Literature Compass* 10, no. 9 (2013): 705–15.

actors who produced knowledge on 'white slavery'.<sup>9</sup> An intersectional approach has likewise helped me maintain critical distance from the range of historical actors I came across both within and behind the texts.<sup>10</sup> Finally, given the transnational circulation of ideas and texts, a history of cultural transfers has served as a conceptual framework for reconstructing how knowledge of 'white slavery' was produced, transported and appropriated by specific actors in specific contexts.<sup>11</sup>

As a result of these combined approaches, this article first and foremost produces new knowledge along the lines of conceptual history which shows how the concept of 'white slavery' emerged in Europe at the end of the nineteenth century.<sup>12</sup> Secondly, it offers food for thought on how we might further complement ongoing efforts which are looking at life-worlds, to simultaneously help resolve the myth/reality conundrum from another global historical level of circulating knowledge. Finally, it decentralises the dominating narrative within the historiography which claims that British historical actors were at the centre of *uncovering* the traffic. Rather, it shows that the late nineteenth-century concept of trafficking emerged in a transnational context, revealing to

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9 The main inspiration was Antje Dietze and Katja Naumann, "Situating Transnational Actors," *European Review of History* 25, no. 3–4 (2018): 415–552 [Special Issue: *Situating Transnational Actors*, ed. Antje Dietze and Katja Naumann].

10 The concept of intersectionality is based on Kimberlé Crenshaw's work, which pointed out how the experiences of gendered discrimination are not the same for all women, but rather intersect with other social constructs such as race. While an intersectional approach is typically used to examine multiple dimensions of disadvantage, I have used it to maintain awareness of socially constructed categories of difference (class, gender, ethnicity, nationality . . .), which for the most part provided my historical actors with privilege and a particular set of social perspectives. For the foundational text on intersectionality, see: Kimberlé Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," *University of Chicago Legal Forum* 1 (1989): 139–67.

11 Literature consulted includes: Michel Espagne, "Comparison and Transfer: A Question of Method," in *Transnational Challenges to National History Writing*, ed. Matthias Middell and Lluís Roura (London: Palgrave Macmillan, 2013): 36–53; Matthias Middell, "Kulturtransfer, Transfers Culturels," 28 January 2016, <https://docupedia.de/zg/Kulturtransfer> [accessed 07.09.2022]; Wolfgang Schmale, "Kulturtransfer," *Europäische Geschichte Online* (EGO), Leibniz-Institute für Europäische Geschichte (IEG), Mainz, 31 October 2012, <http://ieg-ego.eu/schmalew-2012-de> [accessed 19.08.2022].

12 Conceptual history originated in West Germany when Otto Brunner and Werner Conze co-founded the *Arbeitskreis für Sozialgeschichte* in 1957. Reinhart Koselleck, Conze's former student, soon joined the working group, after which he led their development of the lexicon *Geschichtliche Grundbegriffe*. Otto Brunner, Werner Conze and Reinhart Koselleck, eds., *Geschichtliche Grundbegriffe. Historisches Lexikon zur politisch-sozialen Sprache in Deutschland* (Stuttgart: Klett-Cotta, 1972). Published between 1972 and 1990, this eight-volume encyclopaedia diachronically traced semantic changes underlying individual words in a narrow corpus of dictionaries and political theory texts. Since the late 1990s, the field has been further developed through international collaboration led predominantly by Melvin Richter, Kari Palonen, Martin J. Burke and Margrit Pernau among others. See "The History of Concepts Group," <https://www.historyofconcepts.net/> [accessed 07.09.2022].

us far more about the fears of upper-class actors who were struggling to come to terms with the global condition than about the lives and experiences of women who sold sex.

## 1 The Language of White Slavery as Metaphor and Analogy

The birth and development of abolitionist ideas in the late-eighteenth century marked a moment in history when for the first time the justifiable existence of slavery was called into question on a globally connected stage.<sup>13</sup> These discourses produced oppositional concepts of ‘slavery’ versus ‘freedom’ – a binary which the BCDSS is now trying to move beyond. In the nineteenth-century context, however, the stronghold of this dualism resulted in ‘slavery’ becoming effectively a metaphor for almost all that was seen as unjust or evil.<sup>14</sup>

At the same time, and forming the backdrop of anti-slavery abolitionism, biology as a discipline had emerged in the eighteenth century, producing knowledge which constructed humans into binary opposites or rigid categories along the lines of gender/sex and race.<sup>15</sup> While throughout human history there have always been *othering* practices of dividing people into groups based on physical difference, what changed from the eighteenth century on in global terms was the definition of categories of difference within a newly emerging knowledge order of European science. Born out of the context of European colonial expansion and nation-state consolidation, these new bio-medicalisation processes constructed hierarchies of humans that not only legitimised the subordination of women and non-Europeans but also deemed this to be part of the natural order of things.<sup>16</sup>

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13 Robin Blackburn, *The Overthrow of Colonial Slavery, 1776–1848*, World History Series (London/New York: Verso, 1988).

14 Susan Buck-Morss, *Hegel, Haiti, and Universal History* (Pittsburgh, PA: University of Pittsburgh Press, 2009): 21.

15 Thomas Laqueur, *Making Sex: Body and Gender from the Greeks to Freud* (Cambridge, MA: Harvard University Press, 1990); Tayyab Mahmud, “Colonialism and Modern Constructions of Race: A Preliminary Inquiry,” *University of Miami Law Review* 53 (1998–99): 1219–46; Michael Omi and Howard Winant, *Racial Formation in the United States*, 3rd ed. (New York/London: Routledge, 2015). While these ‘scientific’ conceptualisations continue to be used as a departure point for asking questions and conceptualizing research, the binaries or distinctive categories assumed therein fail to be confirmed and continue to be defied by results that show fluidity beyond spectrum or groupings. See for example: Veronica Sanz, “No Way Out of the Binary: A Critical History of the Scientific Production of Sex,” *Signs* 43, no. 1 (2017): 1–27.

16 Maria Bühner and Maren Möhring, “Einleitung,” in *Europäische Geschlechtergeschichten*, ed. Maria Bühner and Maren Möhring, *Europäische Geschichte in Quellen und Essays* (Stuttgart: Franz Steiner Verlag, 2018): 13–48.

## 1.1 A Metaphor of Multiple Meanings

Upon this backdrop, the term 'white slavery' became associated with concepts of race and European colonial slavery but was used to express a wide range of social concerns in nineteenth-century Europe and America. Initially and for the most part, there was no explicit gendered association in the term.<sup>17</sup> By the turn of the twentieth century, however, 'white slavery' had come to, more or less unambiguously, denote gendered ideas about prostitution, migration and Whiteness. Prior to this, there was much conceptual shifting and flexibility in the notion, for which multiple examples can be offered.

In 1815, the Catholic priest Henri Grégoire, an ardent abolitionist and advocate of racial and religious equality, spoke about the enslavement of 'des noirs' and 'des blancs' to formulate an almost secular argument for humanitarianism.<sup>18</sup> While writing from prison in 1829, the lawyer T.B.P. Brunel called on philanthropists to have a law newly passed by the July Monarchy abolished, which had made all commercial debts above 200 francs punishable, making Brunel, in his view, a victim of the 'traite des blancs'.<sup>19</sup> In Yorkshire in the 1830s, Richard Oastler, a radical Tory and opponent of the new Poor Law of 1834, employed the term 'white slavery' to describe the conditions of ('little female') children working in factories.<sup>20</sup> Also in the 1830s, Richard Hildreth wrote his anti-slavery novel *The White Slave*, which tells a first-person story of a young slave, Archy, son of his master.<sup>21</sup> In a brief section of his 1836 book on reproduction and sexuality, the British physician Michael Ryan quoted an unnamed author in an unnamed journal which included reference to an 'infernal traffic', said to have been carried out in the east end of London, for the most part 'by the Jews', whom the author described as 'white slave dealers'.<sup>22</sup>

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17 Uses of 'white slavery' were necessarily gendered in so far as there was a normative, unreflected gendering which gave complete precedence to the masculine in terms of meaning and subject. In this sense, there was no gendered *othering* of the feminine.

18 Henri Grégoire, *De la traite et de l'esclavage des noirs et des blancs* (Paris: Adrien Égron, 1815).

19 J.B.P. Brunel, *La traite des blancs, ou le cri de désespoir d'un détenu pour dettes, contre la contrainte par corps* (Paris: Astier, Libraire-Éditeur, 1830).

20 Richard Oastler, "Slavery in Yorkshire! April 17th, 1832" (University of London, 1903); Edward Baines and Richard Oastler, "Yorkshire Slavery" (Leeds: J. Hobson, 1835).

21 Richard Hildreth, *The White Slave; or, Memoirs of Archy Moore* (Boston: John H. Eastburn, 1836).

22 Michael Ryan, *The Philosophy of Marriage, in its Social, Moral, and Physical Relations: With the Physiology of Generation in the Vegetable and Animal Kingdoms* (1836) (Philadelphia: Caxton Press of Sherman & Co, 1839): 28. Edward Bristow's claim that Michael Ryan was the first to coin the term 'white slave' in relation to prostitution has been widely reproduced by historians since. Michael Ryan did not himself utter these words, but they were embedded in a quote which was actually beside the point which Ryan was trying to make. This requires detailed contextualisation which I do not have space to do here. In any case it seems most unlikely that this one sentence, let alone the entire book, was ever read by any of the late-nineteenth century abolitionists against state regulation. Even if this were the case, this article casts uncertainty on any assumption that a discursive relation existed. It is thus unclear if we can really speak of 'white slavery' as having been coined by the author in Ryan.



In 1842, an anonymous author claimed America to be far more civilised than England, asserting that people in England lacked equal access to food, housing, clothing and education, and were thus living in conditions of ‘white slavery’.<sup>23</sup> Throughout the mid-nineteenth century, ‘la traite des blancs’ was also used to express grievances in relation to the railway industry, specifically the recruitment strategies and lack of rights for railway workers.<sup>24</sup> In 1857, the American statesman Charles Sumner invoked ‘white slavery’ as a strategic means of gaining sympathy for his abolitionist cause, by recounting a history of the enslavement of Christians throughout the seventeenth and eighteenth century Barbary States.<sup>25</sup> In the 1850s, however, we begin to see a shift taking place in the Francophone world, in which the language of white slavery became increasingly used in its feminised form ‘la traite des blanches’, oscillating as a metaphor for the conditions of marriage, of prostitution or even of a combination of both between 1854 and 1870.

## 1.2 The Trade of the Petites Bourgeois and Kept Women

In French-language literature, the use of slavery as an analogy for marriage reaches back to the seventeenth century. As Karen Offen has pointed out in her work on the subject matter however, this comparison did not contain a racial component.<sup>26</sup> This is of course a matter of historical development and chronology. The racialised indicator in the term ‘la traite des noirs’ stemmed from late-eighteenth-century abolitionism, which only thereafter provided a very broad French-speaking populous with a cognitive reference to the European slave trade in people (descendant) from the African continent. Thus, it was not until the nineteenth century that the terms ‘la traite des blancs’ and ‘white slavery’ accumulated sufficient cultural power of meaning to conjure up particular imagery and to be used as a semantic strategy to speak about a

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Rather, this use of the term in reference to prostitution was likely coincidental and part of a contemporary culture that equated all evils with slavery. Similarly, this singling out of Jews was typical of a long Christian tradition of placing the blame for social ills upon them as a minority group.

<sup>23</sup> Anonymous, “White Slavery,” *The United States Democratic Review* 11, no. 51 (1842): 271.

<sup>24</sup> Raoul de la Angle-Beaumanoir, *La traite des blancs au XIXe siècle: situation des employés de chemins de fer en 1883* (Paris: Chez tous les Libraires, n.d.); Adrien Chenot, *L’entente cordiale et cie, société humanitaire pour la traite des blancs par les marrons sous prétexte d’émancipation des noirs* (Paris: Imprimerie de Fain et Thunot, 1845).

<sup>25</sup> Charles Sumner, *White Slavery in the Barbary States* (Boston: John P. Jewett & Co., 1853). Note: ‘Barbary States’ was the term typically used in the nineteenth-century to refer to the region in North Africa.

<sup>26</sup> Karen Offen, “How (and Why) the Analogy of Marriage with Slavery Provided the Springboard for Women’s Rights Demands in France, 1640–1848,” in *Women’s Rights and Transatlantic Antislavery in the Era of Emancipation*, ed. Kathryn Kish Sklar and James Brewer Stewart (New Haven, CT/London: Yale University Press, 2007): 62.

wide range of moral or social problems. In the 1850s in France, however, the metaphor of 'white slavery' moved away from the overtly political, becoming a word play of social and artistic commentary.

Around 1843, the renowned French novelist and playwright Honoré de Balzac (1799–1850) began the manuscript of *Les Petits Bourgeois*, whose title was the very phrase that the author used to refer to the new middle class of white-collar men. Illustrated through the character of a fraudulent young lawyer, Théodose de La Peyrade, a central theme of the work appears to formulate a critique of the deceitful efforts of 'les petits bourgeois' to secure themselves a marriage with a good dowry. Balzac apparently lost interest in the work, as it remained incomplete, only to be published posthumously, in 1854, as a feuilleton, and thereafter, in 1855 in book form.

One scene, it would seem, went on to have a large cultural impact as a result of Balzac having employed the term 'la traite des blanches' to refer to the marriage trickery of the 'les petits bourgeois'; Théodose sits over a glass of wine with his friend Cérizet, who makes a proposal to him. Arrangements are to be made for Théodose to pay for the fraudulent paperwork that will give him the title of a lawyer and the air of an honest man. His debts will be repaid with funds obtained by marrying an old but incredibly rich woman.

We're equipping you as a Corsican privateer eh! To trade in white women. If we don't capture this dowry, then we are only passing it on to someone else [. . .].<sup>27</sup>

For now, it can be left open for further discussion if Balzac's dressing Théodose up as a Corsican pirate is not a reference to Lord Byron's tale from 1815, *The Corsair*.<sup>28</sup> More poignant here is how the playwright and novelist Hippolyte Jules Demolière (1802–1877) took up Balzac's idea of the exploitation of women through marriage, by developing it into a novel which he published in 1862 under his pseudonym Moléri.<sup>29</sup> Entitled *La Traite des Blanches*, Demolière's work invites the reader into the lives of three young women, Charlotte, Octavie and Angèle.<sup>30</sup>

Although from very different class backgrounds, Moléri's three protagonists become friends through their attendance at the same boarding school. Upon entering

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27 H. de Balzac, *Les petits bourgeois: scènes de la vie parisienne* (Brussels/Leipzig: Kiessling, Schnée et Cie, 1855): 73. My translation; any infelicities therein are mine alone. 'Nous t'équiperons en corsaire, quoi ! pour faire la traite des blanches. Si nous ne capturons pas cette dot-là, nous passerons à d'autres exercices [. . .] Entre nous, nous, nous n'avons pas besoin de prendre les choses avec les pincette, c'est clair [. . .]' I am deeply grateful to Prof. Dr. Frédéric Barbier for pointing out to me that Balzac was the first known to have used the feminine form 'la traite des blanches'.

28 Lord Byron, *The Corsair* (London: John Murray, 1814). In Byron's story, while ransacking Pacha Seyd's ship, a Corsican pirate discovered women being brought to a harem.

29 Born in Nantes, but having spent his adult life in and around Paris, Demolière had both a lifelong commitment to literary work, as well as having been politically affiliated in France, serving as secretary to the Provisional Government in 1848 following the overthrow of the July Monarchy.

30 Moléri, *La Traite de Blanches* (Paris: Pagnerre, 1862).

their late teens, their school days came to the end, separating the girls and propelling the reader to follow them on their varying journeys into young womanhood; each getting married, which ultimately resulted in their legal entrapment and exploitation, rather than security and happiness. In showing us how men drank away their wives' hard-earned income or squandered their dowry on failed business attempts and expensive women, Moléri engaged in a stark critique of the Napoleonic Code and its discriminatory laws, which stripped women of rights and equality through the institution of marriage.<sup>31</sup> Despite speaking metaphorically of women's enslavement, its female characters were far from one-dimensional victims. Rather, they were complex and critical, working in solidarity with one another and knowing their own minds.

Aside from this sober political critique of Napoleonic marriage laws, two Belgian artists, Félicien Victor Joseph Rops (1833–1898) and Draner<sup>32</sup> (1833–1926), also alluded to Balzac's work in their 1857 satirical drawing entitled 'la traite des blanches' (see Figure 1).<sup>33</sup>

Published in the Brussels-based artistic and literary periodical *Uylenspiegel* (1856–1863), the image of 'la traite des blanches' depicts two high-class prostitutes who bumped into each other on the street.<sup>34</sup> The one is surprised by the seriousness of the other's attire: 'Pristi Maria quelle toilette sévère!' We understand that one of the women, like her friend, has recently become a baroness, implying that she managed to enter a good marriage. Both women don gold-encrusted coats of arms that depict ten exhausted lions ('lions éreintés'), suggesting that they have worked hard to get where they are, each having worn out ten wealthy young men of the demi-monde.<sup>35</sup>

In this humorous stunt, Rops and Draner made a cultural play on ideas by reversing the gender of the subjects who achieve social and financial gain through marriage. In contrast to Demolière's serious tone, we see the cultural flexibility of Balzac's 'la traite des blanches'. In comparison to the first half of the nineteenth century, it becomes

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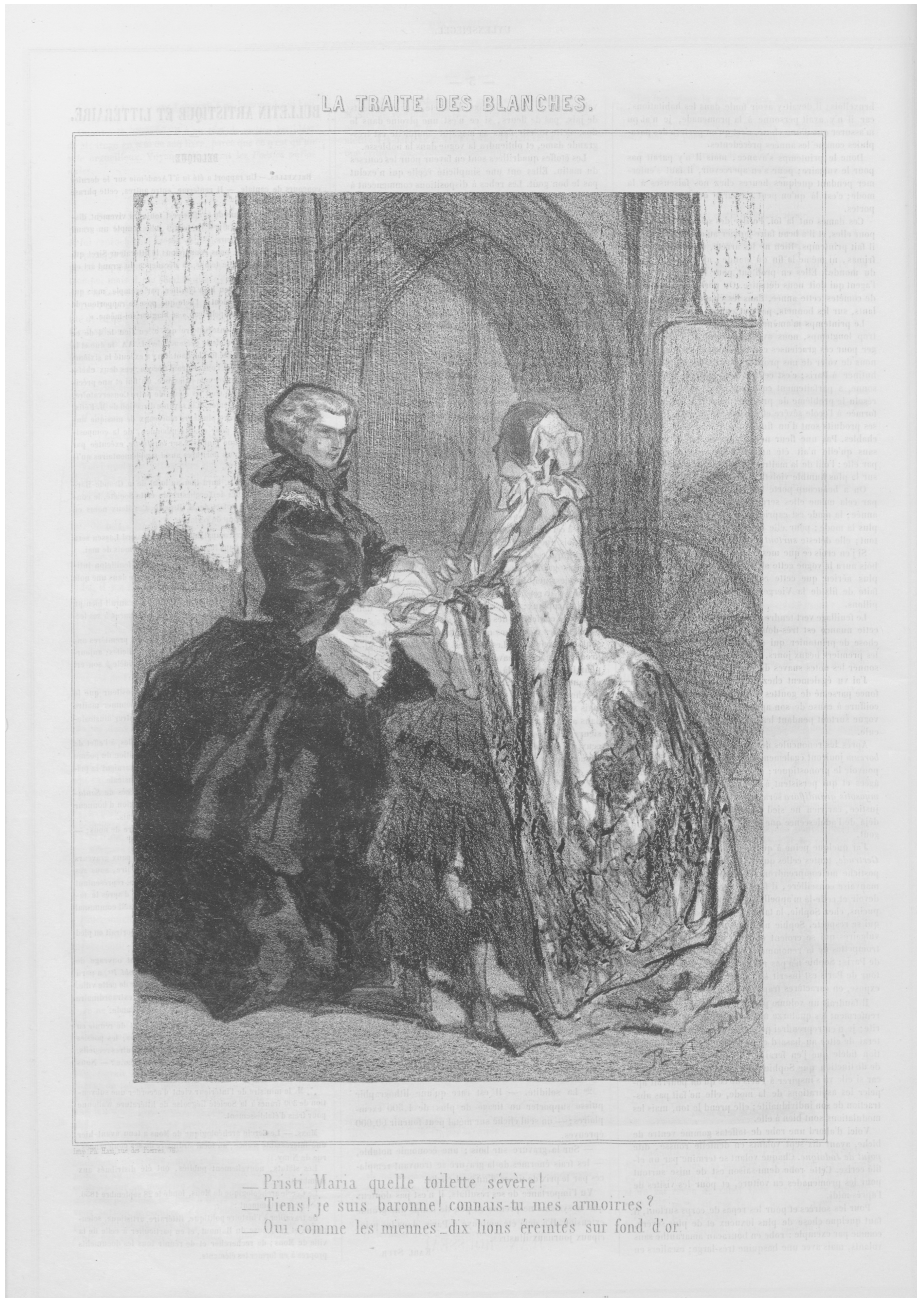
31 For a contemporary review and examination of this critique of the Napoleon Code, see: Anot de Maizière, "Revue de La Traite Des Blanches, par M. Moléri – 1 Volume in-12 de 304 Pages (1862), Chez Pagnerre; – Prix: 2 Fr. 50. c.," *Bibliographie Catholique* 30 (1863): 236–38.

32 Draner was the artist name of Jules Joseph Georges Renard.

33 For a contemporary impression of the work carried out by the creators behind *Uylenspiegel*, including specific references to the issue in which the drawing was published with Draner see: Alfred Delvau, "Félicien Rops," *Rabelais* 65 (17 October 1857): 5–6. I have Prof. Dr. Michel Espagne to thank for pointing to the work of Delvau.

34 Félicien Rops and Draner, *La Traités Des Blanches*, 19 April 1857, Satirical Cartoon in *Uylenspiegel* Periodical, 19 April 1857, Université Libre de Bruxelles.

35 The term 'lions éreinte' refers to the young men of high society who were often very rich, hanging around with actresses and other members of the demi-monde. Thus, we can imagine why these young lions are exhausted. The expression is first to be found in Balzac's *Le Foyer de l'Opéra. Mœurs fashionables*. H. de Balzac, *Le Foyer de l'Opéra. Mœurs Fashionables* (Paris: Hippolyte Souverain, 1841): 101. Credit however needs to be given where it is due. This is not my finding. I would not have been able to make sense of the text accompanying the work of Rops and Draner had it not been for Prof. Dr. Frédéric Barbier, who carefully explained all these nuances to me.



**Figure 1:** Félicien Rops and Draner, *La Traites Des Blanches*, Satirical Cartoon in *Uylenspiegel* Periodical, 19 April 1857. Université Libre de Bruxelles – Archives, patrimoine et réserve précieuse.

apparent how the meaning of the phrase has begun its journey of reduction to a gendered notion relatable to social questions about women. Nonetheless, it had not yet come to explicitly refer to women of the poor and working classes.

## 2 A Continental Agenda Against the *French System*

In 1870, both Victor Hugo and Giuseppe Mazzini, among many other internationally renowned figures, sent letters of support to Josephine Butler and ‘the Ladies’ Appeal and Protest’ in Britain.<sup>36</sup> That same year, Valérie de Gasparin (1813–1894) also published an open letter in which she employed the term ‘la traite des blanches’ to call for political action against the Napoleonic system of state-regulated prostitution.<sup>37</sup> Madame de Gasparin was not only closely involved in Parisian literary circles but also possessed a talent for writing that earned her great respect, even among otherwise misogynistic critics.<sup>38</sup> Thus, while we cannot know, we can with a degree of confidence assume that she borrowed or unconsciously inherited the term ‘la traite des blanches’ from a literary tradition beginning with Honoré de Balzac and subsequently expanded by Demolière.

The reason that Hugo has long been credited with the *origin* of the ‘white slavery’ metaphor is the result of historians’ reliance on Josephine Butler’s memoir as a chronology of facts.<sup>39</sup> Although Butler may have adopted the metaphor of slavery after

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36 “The Ladies Appeal and Protest” in Britain was a manifesto signed by 124 women declaring the formation of the Ladies National Association in 1870 with the aim of repealing the CDAs. Harriet Martineau had initially triggered the protest with her letters published in newspapers since 1863. As Martineau was unable to lead the cause in her later years, Josephine Butler took up this position. For the collection of letters sent in support of their manifesto, see: Association pour l’émancipation progressive de la femme, *La tolérance légale du vice. Lettres de MM. Victor Hugo, Cte A. de Gasparin, Père Hyacinthe, Mazzini, Marie Goegg, Mozzoni, M.J. Stuart Mill, etc* (Paris: 5 Rue de la Pommpe, Passey, 1872). For full details of the Ladies Protest, see: Jane Jordan and Ingrid Sharp, eds., *Josephine Butler and the Prostitution Campaigns: Diseases of the Body Politic*, vol. 2, *The Ladies Appeal and Protest* (London/New York: Routledge, 2003).

37 Valérie de Gasparin, “La Lèpre sociale, tract contre la prostitution (‘traite des blanches’) et les maisons de tolérance,” 1870.

38 Annette Smith, “De Frederick Douglass à Madame de Gasparin: métamorphoses du récit de l’esclave,” in *Carrefour de cultures; mélanges offerts à Jacqueline Leiner: Etudes réunies par Régis Antoine, Études Littéraires Françaises 55* (Tübingen: Gunter Narr, 1993): 79.

39 Although the Ladies National Association received many international letters of support, Butler’s memoir gives particular emphasis to the letters of Hugo and Mazzini by reproducing them in full. Although Mazzini’s letter dates earlier than Hugo’s, the Italian revolutionary only went as far as to suggest that the British Ladies’ Protest was as legitimate a cause as that against slavery in the American south. “Votre but est-il moins sacré que l’abolition de l’esclavage en Amérique, ou, ailleurs,” see: Giuseppe Mazzini, “Mazzini to Butler, Italie, Février 1870,” 1870. Given the chronology established in the memoir, however, Hugo’s letter appears as the first instance of an explicitly racialised comparison being made

receiving Hugo's letter on the 20th of March 1870, it can be shown that both Hugo and Gasparin used the metaphor of slavery around the same time to form a critique of state-regulated prostitution.<sup>40</sup> While the exact date of Gasparin's publication in 1870 is unclear, the question of who used the analogy first is not of historical relevance. After all, both of these actors moved in the same circles and regularly exchanged ideas through letters and their published works.<sup>41</sup> It is thus perhaps more helpful to speak of conceptual development and the circulation of ideas and conversation rather than of origins. With this frame of mind, it becomes interesting to consider how knowledge of 'white slavery' was produced, transferred and transformed in transnational contexts. For this we begin by taking a closer look at the terms used as well as the audiences reached.

Hugo's metaphorical usage of slavery was phrased as 'l'esclavage des femmes blanches' in which he sought to encourage and support a then small group of British feminists. Gasparin, however, used the term 'la traite des blanches' which was published in several French-language newspapers as a call for Protestants to organise

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between the then present status of White women selling sex with the conditions of Black slaves in the past. Victor Hugo, "Hugo to the British 'Ladies National Association', Paris, Le 20 Mars 1870," 1870. For the reproduction of these letters in both English and French, see: Josephine Butler, *Personal Reminiscences of a Great Crusade* (London: Marshall, 1986); Josephine Butler, *Souvenirs personnels d'une grande croisade* (Paris: Fischbacher, 1900).

**40** If we follow a strict chronology of events, Victor Hugo sent his letter to Josephine Butler on 20 March 1870. On 28 March, a report of Butler's speech delivered on 10 March in Birmingham was published in *The Shield*, a weekly circular established to publish materials in support of the Ladies National Association. In the article of 28 March, it was reported that 'Mrs. Butler said – "it is generally said that prostitutes are lost to shame. Many years' experience has shown me that every variety of character exists among them. There are those of fourteen or fifteen years of age, comparatively innocent, sold into slavery – poor children, who know but little evil [ . . . ] a slave trade is carried out in London!"' Unknown, "Meeting of Ladies; Speech Given by Josephine E. Butler to the Women's Meeting, Lecture Theatre of the Midland Institute, Birmingham, Thursday 10 March 1870," in *Josephine Butler and the Prostitution Campaigns: Diseases of the Body Politic*, vol. 2: 77–79. Perhaps Butler really used the metaphor of slavery before in her speech, perhaps she edited the report before publication having taken inspiration from Hugo. In either case, her metaphor in 1870 did not take up the racialised indicator of Whiteness.

**41** In the 1860s, for example, the Comtesse de Gasparin was in personal correspondence with Victor Hugo. Following the publication of her latest novel, she sent him a copy in 1866, to which he responded. The full content of their letters is unknown as they were sold to a private bidder; see: Victor Hugo, "Hugo (Victor) Lettres Adressées à Valérie de Gasparin. Guernesey, Hauteville House, 6 Janvier [1866] & 5 Avril [1869] (Sold to Private Bidder in 2017 Auction)," Private Antiques Auctioneers, Pierre Berge & Associés, <https://www.pba-auctions.com/lot/81188/7121744?npp=50&> [accessed 14.09.2020]. We also know that the Comtesse herself sent a letter of support to the British Ladies' protest. It, along with Hugo's and Mazzini's letters, was published as a collective by the "Association pour emancipation progressive de la femme" in 1872. The Association had been established in Paris the previous year with the dual goal of combatting prostitution and demanding women's right to vote. Association pour l'émancipation progressive de la femme, *La tolérance légale du vice. Lettres de MM. Victor Hugo, Cte A. de Gasparin, Père Hyacinthe, Mazzini, Marie Goegg, Mozzoni, M.J. Stuart Mill, etc.*

politically and to retaliate against a specific set of laws which had been in place since the First French Empire. The discrepancy in metaphorical terms has significance in how 'la traite des blanches' later served as the French linguistic equivalent to the English 'white slavery' since both terms came to share a predominant meaning related to (fraudulent) transnational migration for commercial sex. Tracing back these paths of translation not only helps us to understand how meaning was infused in this emerging transnational concept. Moreover, it helps to fill the ten-year gap in knowledge between 1870, when the metaphorical use of slavery in reference to lower-class prostitution began, and 1880, when Alfred Stace Dyer triggered populist concern with the publication of his 'narrative of facts' on the 'European slave trade in English girls'.<sup>42</sup>

Madame de Gasparin never employed the term 'la traite des blanches' for narrative purposes (be it fictional or non-fictional); her intent with 'La lèpre sociale' was unquestionably political, aimed at invigorating members of the French Réveil movement. No details of how this alleged slave trade worked were provided; the power of her words lay purely in a metaphor, which rested upon the historical backdrop of Protestant anti-slavery abolitionism. In the mid-1870s, however, two associates of her politics and her family, Pastor Théodore Borel and Donat Sautter de Blonay, combined their two-part work into a single publication. Their work on the one hand further developed the Comtesse de Gasparin's metaphorical language into a more substantiated narrative of 'la traite des blanches' (Borel), while on the other outlining the legal and social *facts* about state regulation, building an argument for the outright repression of prostitution (Sautter).<sup>43</sup>

Published in 1876 within the organs of the newly established 'British, Continental and General Federation for the Abolition of Prostitution',<sup>44</sup> Borel's narrative proved so popular among British abolitionist feminists that Josephine Butler commissioned

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42 Dyer, *The European Slave Trade in English Girls: A Narrative of Facts*.

43 Donat Sautter himself was from a non-aristocratic family but entered one in 1856 through his marriage to Emma Sophie Céline de Blonay. Their son, Ernest Sautter, married Valérie de Gasparin's grand-niece Sophie Pauline Boissier in 1904. Théodore Borel did not have family connections to the Gasparins but through his work at the Geneva Refuge a collaborative relationship developed on a number of social issues. The Comtesse also recounted her husband's biography to Borel after his death. Borel's biography of the Comte was published in French in 1879 and translated into English for distribution in America that same year. Gabriel Mützenber, "Portrait et Destinée," in *Valérie de Gasparin: une conservatrice révolutionnaire*, ed. Denise Francillon (Le Mont-sur-Lausanne: Ecole La Source, 1994): 28. Théodore Borel, *Le Comte Agénor de Gasparin* (Paris: Bonhour, 1879) [Unknown, trans., *The Count Agénor de Gasparin translated from the French of Th. Borel* (New York: Anson D.F. Randolph & Company, 1879)].

44 The organisation had various official names at different times, e.g., 'the British and Continental and General Federation for the Abolition of Government Regulation of Prostitution'/'the British and Continental and General Federation for the Abolition of Government Regulation of Prostitution for the Abolition of State Regulation of Vice', 'the Association of Social and Moral Hygiene', 'the International Abolitionist Federation', 'Fédération Abolitionniste Internationale', etc. Thus I will take Anne Summers' lead in simply referring to it as The Federation. See: Anne Summers, "Liberty, Equality,

its immediate translation. The English version was then published at an affordable price for the broader British public by Dyer Brothers, Alfred Stace Dyer's publishing company. Here we can begin to imagine the series of transfers and transformations which contributed to the reconfiguration of the meanings imbued in the language of 'white slavery' in the 1870s.

Leading up to this, however, it should not be assumed that Madame de Gasparin used an empty concept that was later filled with meaning. Even if only metaphorical and lacking a substantive narrative, her presumed borrowing of 'la traite des blanches' from a French literary tradition was nonetheless infused with her own gendered ideas of enslavement, developed while imagining or observing the women of the harem as she travelled with her husband to the 'Orient' in 1848 and 1866. Exploring how the Comtesse arrived at the idea of gendered enslavement calls for a certain degree of caution, as she was a highly complex person for whom easy categorisation would not serve well. A few brief bibliographical notes risk reducing her to the stereotype of *one of those* privileged nineteenth-century European feminist writers. Her person and work deserve more attention, while scholarly work is only beginning to recognise the historical impact of this relatively unknown woman.<sup>45</sup>

Born into the Bossier family, Valérie de Gasparin was a well-connected, wealthy and highly educated woman who left her mark on the world as a prolific translator and writer. She published over 80 literary works, which she used to express her views on politics, society and religion. Having spent her formative years as a young woman within the artistic and literary circles of Paris in the 1830s, she entered into

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Morality: The Attempt to Sustain an International Campaign against the Double Sexual Standard, 1875–1906," in *Globalizing Feminisms 1789–1945*, ed. Karen Offen (Oxon: Routledge, 2010): 26.

<sup>45</sup> For a multi-perspective examination of the Comtesse and her work, see: Denise Francillon, ed., *Valérie de Gasparin: une conservatrice révolutionnaire* (Le Mont-sur-Lausanne: Ecole La Source, 1994). For an analysis of her translation of Frederick Douglass into French, see Smith, "De Frederick Douglass à Madame de Gasparin: métamorphoses du récit de l'esclave." See also Annette Smith for an examination of the Gasparins' anti-colonial efforts and of the Comtesse's literary contributions: Annette Smith, "Madame Agénor de Gasparin ou les délices de la chaire," *Romantisme* 77 (1992): 47–54; Annette Smith, "Le soleil et le prisme: ambiguïtés de l'anticolonialisme au dix-neuvième siècle – le cas Gasparin," *Nineteenth-Century French Studies* 26, no. 1 (1997–98): 193–203. For conflicting perspectives and interpretations of the Comtesse's travelogues from the 'Orient' see: Sarga Moussa, "Tristes harems: l'exemple de La Comtesse de Gasparin (à Constantinople, 1867) au regard de la tradition des voyageuses en Orient," *Viatica HS* 2 (2020), <https://revues-msh.uca.fr/viatica/index.php?id=1011> [accessed 19.08.2022]; Natascha Ueckmann, *Frauen und Orientalismus: Reisetexte französischsprachiger Autorinnen des 19. und 20. Jahrhunderts*, Ergebnisse der Frauenforschung 56 (Stuttgart and Weimar: Metzler, 2001). For a comprehensive examination of the Comtesse's impact on Protestant feminism see: Michèle Bokobza, *Madame La Comtesse de Gasparin: protestatisme radical, genre et pèlerinage au XIXe siècle* (Paris: L'Harmattan, 2018). On the Comtesse's contribution to the professionalisation of nursing (and one of the only scholarly works about her which is available in English), see: Michel Nadot, "The World's First Secular Autonomous Nursing School against the Power of the Churches," *Nursing Inquiry* 17, no. 2 (2010): 118–27.



an arranged but very loving marriage with the French statesman and author Agéonor Comte de Gasparin in 1837. The couple shared a deep commitment to the Protestant faith, as well as to the abolition of slavery, which they both expressed through their mutual passion for writing. Although their works were typically written individually, the content was clearly a product of their shared passions, experiences and conversations. This renders it difficult to disentangle them from one another, a situation that in many ways might be understood as constituting what Anette Smith describes as the powerful unit of the Gasparin couple.<sup>46</sup>

At the time of their marriage in 1837, the Comte had been working for the French government, serving under his father, Adrien de Gasparin, who was Minister of the Interior between 1836–1839. In 1842, Agéonor himself was elected to the Chamber of Deputies, where he worked until he lost re-election in 1846. During the early 1840s the Protestant Réveil movement, which had begun in the Netherlands and Switzerland in 1818, was at its height in France.<sup>47</sup> Very much part of this transnational entanglement, the Gasparin couple used their writing as a platform for issues they saw as politically and socially important, including the abolition of slavery and the slave trade.

While the usual elements of European paternalism can at times be found in their writings, Anette Smith suggests that this should not ‘overshadow or obscure one of the bravest and most consistent anti-colonialist stances of the mid-nineteenth century’.<sup>48</sup> Given the couple’s political convictions against French colonial activities in the Pacific, along with the Comte’s refusal to commit to the new French constitution in the aftermath of the 1848 revolution, the couple decided to relocate to Valérie’s country of birth, Switzerland. These turbulent political times in France, as well as the compulsion for change opened opportunities for the couple to travel. They thus embarked on their first trip to the ‘Orient’ in 1848, visiting Greece, Egypt, Syria and Palestine. While almost two decades would pass before the pair returned to the East, visiting Constantinople in 1866, the travelogues which the Comtesse subsequently published offer some insight into how her gendered understanding of female enslavement began to form.<sup>49</sup>

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46 ‘il est difficile de séparer les Gasparin: leur couple constituait une unité de choc’, Smith, “Le soleil et le prisme: ambiguïtés de l’anticonialisme au dix-neuvième siècle – le cas Gasparin”: 194.

47 Émile G. Léonard, *Histoire générale du protestantisme, 3 déclin et renouveau (XVIII.–XX. siècle)* (Paris: Presses universitaires de France, 1964); Raoul Stéphan, *Histoire du protestantisme française* (Paris: Arthème Fayard, 1961).

48 Acknowledging the anachronism of using the term anti-colonial for this period, Smith argues ‘it is the most fitting we have for the political agenda that this couple got behind and led.’ Smith, “Le soleil et le prisme: ambiguïtés de l’anticonialisme au dix-neuvième siècle – le cas Gasparin”: 198.

49 The Comtesse published two travelogues, one after each trip: Valérie de Gasparin, *Journal d’un voyage au Levant*, vol. 1, *La Grèce* vol. 2, *L’Égypte et La Nubie*, vol. 3, *Le Desert et La Syrie* (Paris: Doudou et Cie, 1848); Valérie de Gasparin, *À Constantinople* (Paris: M. Uvy, 1867). The Comtesse is almost entirely unknown within English-language academia. For scholars who have begun to explore literary output on the ‘Orient’ within French and German-language Romance Studies, see: Moussa, “Tristes

## 2.1 Sowing the Seeds for a Narrative of 'la traite des blanches' in the 'Orient'

Up into the late twentieth century, knowledge production on the harem system in Ottoman life predominantly came from European observers who travelled in the region in the nineteenth century. Beginning the process of unravelling this established knowledge, Ehud Toledano, among others, started to look beyond these accounts and to engage directly with Ottoman sources.<sup>50</sup> While we now have access to more complicated understandings of life in and outside of the harem, Natascha Ueckmann has nonetheless highlighted the work left to be done in critically deconstructing the role of women's travel literature and its relationship to the formation of orientalist ideas.<sup>51</sup> Addressing this gap, Ueckmann examines the work of several nineteenth-century female-authored French-language travel texts, including the travelogues of Valérie de Gasparin.

Dissecting Gasparin's account, in which the women of the harem are portrayed as bored and immobile, Ueckmann shows how the Comtesse's very position as a travelling observer of the *Other* provided her with a sense of empowerment and the identity of an emancipated European woman.<sup>52</sup> More recently, Sarga Moussa has also taken a closer look at the representations of the harem in the Comtesse's travelogues, highlighting her description of the entire city of Constantinople as being one big prison for women.<sup>53</sup> In contrast to Ueckmann's critical stance toward Gasparin, Moussa is convinced that some sort of obtainable truth exists in her descriptions,

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harems: l'exemple de La Comtesse de Gasparin (à Constantinople, 1867) au regard de la tradition des voyageuses en Orient"; Smith, "Le soleil et le prisme: ambiguïtés de l'anticolonialisme au dix-neuvième siècle – le cas Gasparin"; Ueckmann, *Frauen und Orientalismus: Reisetexte französischsprachiger Autorinnen des 19. und 20. Jahrhunderts*.

<sup>50</sup> Toledano highlighted how the travel accounts of those European women permitted to enter the harem often romanticised it, while its unknowability to western male travellers typically led to the production of fantasy. Ehud R. Toledano, "Shemsigul: A Circassian Slave in Mid-Nineteenth-Century Cairo," in *Struggle and Survival in the Modern Middle East*, ed. Edmund Burke III, Society and Culture in the Modern Middle East (London/New York: I.B. Tauris & Co, 1993): 66. See also for example: Judith Tucker, *Women in Nineteenth-Century Egypt* (Cambridge: Cambridge University Press, 1984). For recent work on the role of lower status women in the harem and their post manumission relations with the Ottoman Imperial Court, see: Betül İpşirli Argit, *Life after the Harem: Female Palace Slaves, Patronage, and the Imperial Ottoman Court* (Cambridge: Cambridge University Press, 2020).

<sup>51</sup> Accounts of female travellers have been hugely overlooked or trivialized in historiography. As Ueckmann underlines, this also holds true for Edward Said, who presented Orientalism as an analogy for patriarchy yet mentioned only one woman writer, Gertrude Bell, and entirely ignored gender as an analytical category. Ueckmann, *Frauen und Orientalismus: Reisetexte französischsprachiger Autorinnen des 19. und 20. Jahrhunderts*: 19–20.

<sup>52</sup> Ueckmann, *Frauen und Orientalismus: Reisetexte französischsprachiger Autorinnen des 19. und 20. Jahrhunderts*: 94–95.

<sup>53</sup> Moussa, "Tristes harems: l'exemple de La Comtesse de Gasparin (à Constantinople, 1867) au regard de la tradition des voyageuses en Orient." This builds on his earlier work in which he dedicated an

arguing that her perception as a woman gave a more honest and less orientalist account than those of male observers who could only fantasise about the harem from the outside.<sup>54</sup>

Although Moussa acknowledges that we can never really know if the Comtesse's reports were true or (in part) fiction, his main argument is that her work can in itself be seen as an act of resistance as she used her position as narrator to give voice to the women of the 'Orient'.<sup>55</sup> Ueckmann, however, argues that travelling women who opened the doors to the harem through their descriptions may have indeed in one sense transgressed social boundaries, but they did so based on a sense of superiority as supposedly enlightened Christians as well as believing they had the appropriate gender to speak about 'women's issues'. Ueckmann points out that these women, blinded by privilege, neither questioned their right to explore other cultures nor reflected on the benefits colonialism had already offered them, particularly in terms of their ability to travel.<sup>56</sup>

As already stated, however, the Comtesse was a complex person who requires far more detailed reading than can be offered here.<sup>57</sup> While one can without doubt find the making of Orientalism in her work, one can also see her self-reflection and awareness of this Christian conception. Later, in 1870, she would cleverly hold this up as a mirror so that Europe might see its own reflection, revealing a more horrific image:

We cry *haro* on the Turk, because the Turk raids slaves to populate his harem; yet, we the civilised, we the Christian; we tolerate, we maintain, we protect the capturing of the daughters of the people, their sale and purchase, to garnish our legal harems, which are more vile, more abject, a thousand times more depraved than that of the gangrene which has attracted the contempt of the whole world, namely the Turkish harem!<sup>58</sup>

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entire chapter to the Comtesse. See: Sarga Moussa, *La relation orientale. Enquête sur la communication dans les récits de voyage en Orient 1811–1861* (Paris: Klincksieck, 1995).

54 Moussa, "Tristes harems: l'exemple de La Comtesse de Gasparin (à Constantinople, 1867) au regard de la tradition des voyageuses en Orient": 5–7.

55 Moussa, "Tristes harems: l'exemple de La Comtesse de Gasparin (à Constantinople, 1867) au regard de la tradition des voyageuses en Orient": 12.

56 Ueckmann, *Frauen und Orientalismus: Reisetexte französischsprachiger Autorinnen des 19. und 20. Jahrhunderts*: 228–29.

57 For a more comprehensive overview of her person and work, see: Bokobza, *Madame La Comtesse de Gasparin: protestatisme radical, genre et pèlerinage au XIXe siècle*; Francillon, *Valérie de Gasparin: une conservatrice révolutionnaire*.

58 My translation; any infelicities therein are mine alone. 'Nous crions *haro* sur le Turc, parce que le Turc fait des razzias d'esclaves pour peupler ses harems; or, nous les civilisés, nous les chrétiens, nous tolérons, nous maintenons, nous protégeons les razzias de filles de peuple, leur vente et leur achat, pour garnir nos harems légaux, plus infects, plus abjects, plus dépravant mille fois que cette gangrène signalée au mépris du monde entier: le harem turc.' Gasparin, "La Lèpre sociale, tract contre la prostitution ('traite des blanches') et les maisons de tolérance."

While one could possibly read a sense of self-irony in her words 'we the civilised, we the Christian', this is undoubtedly a clear criticism of Europe through a comparison drawn from within itself. At the same time, however, one could read her argument that European(s) (states) were not behaving in accordance with Christian ideals. That said, while the Gasparins were deeply committed to the Protestant faith, they likewise wholeheartedly supported secularism.<sup>59</sup> Through their moralism, they tried to embrace a certain worldview of tolerance and understanding, which indeed needs more critical examination. While the discrepancy in views and interpretations of Valérie de Gasparin signals the need for more exploration of her work, attention must be given to Moussa's comparison of her accounts as a travelling witness in the 'Orient' with those of the French journalist Albert Londres in the 1920s, which Moussa regards as complementary.<sup>60</sup> Not only is Londres problematic for having significantly contributed to the exaggeration of the role of Jews in an international trafficking, but connecting him with Gasparin would place her at the beginning of a 150-year pattern of non-fictional accounts of 'white/sex slavery' in which the author describes themselves as the lone investigator who braved entering the underworld in the name of uncovering the truth.<sup>61</sup>

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59 Despite their own committed religious devotion, the Gasparins developed their ideas on the separation of church and state as can be seen throughout their later works. For an introduction to how they moved between secularism and spirituality, see: Smith, "Madame Agénor de Gasparin ou les délices de la chaire": 49. In 1859, for example, Valérie, with the support of her husband, established the first ever secular school for nurses. This was founded on the idea of waged labour for women and intended as a direct alternative to the approach of service out of devotion and religious order advanced by Florence Nightingale. See: Nadot, "The World's First Secular Autonomous Nursing School against the Power of the Churches." Perhaps notably, Nightingale later featured as a signatory to the British Ladies Protest and was herself a friend of Josephine Butler.

60 In 1927, the same year that the League of Nations published results of its investigation into the traffic, the French investigative journalist Albert Londres travelled incognito to Buenos Aires to uncover the 'white slave trade'. His travelogues were first published in French as part of a newspaper series, then as a book that same year, with an English translation appearing in 1928. Purely anecdotal, Londres' adventures and investigations were to inspire the Belgium cartoonist Hergé (George Remi), who based his 'The Adventures of Tintin' on Albert Londres. Moussa seems to put Londres' contribution to *uncovering* a social ill in a positive light. This is highly problematic, however, as Londres played an important part in reinforcing anti-Semitic discourses in the 1920s, which a number of historians are now working to deconstruct. See: Albert Londres, *Le Chemin de Buenos-Aires: la traite des blanches* (Paris: A. Michel, 1927); Albert Londres, *The Road to Buenos Ayres [sic]* (London: Constable, 1928). On Tintin, see the translator's introduction: Albert Londres, *El Camino de Buenos Aires: La Trata de Blancas. Traducción Para Alejandrina Falcón (1927)* (Buenos Aires: Libros del Zorzal, 2018). On the myths surrounding Jewish 'white slave traffic' to Argentina in the first decades of the twentieth century, see: Chaumont, *Le mythe de la traite des blanches; Enquête sur la fabrication d'un fléau*; Yarfitz, *Impure Migration: Jews and Sex Work in Golden Age Argentina*. For Moussa's comparison of the Comtesse to Londres, see: Moussa, "Tristes harems: l'exemple de La Comtesse de Gasparin (à Constantinople, 1867) au regard de la tradition des voyageuses en Orient": 9.

61 Further critical examination of the Comtesse's historical impact is needed. It is unclear, however, that it is productive to draw comparisons between unrelated persons who worked in disparate times

## 2.2 Reviving a Deteriorating Movement with Metaphor

In *Gender Trouble*, Judith Butler compared how, through repetition, ‘subversive performances always run the risk of becoming deadening clichés’ in the same way that ‘metaphors lose their metaphoricity as they congeal through time into concepts’.<sup>62</sup> With the privilege of hindsight we can now look back to 1870 and see how Valérie de Gasparin drew upon the term ‘la traite des blanches’ for the power of its metaphor, having come from a tradition of European Protestant revivalism which had taught her the political function of committed Christians who collectively organise to keep state laws in check. With hindsight however, we can then also shift our focus to 1880, when ‘la traite des blanches’ was no longer a metaphor but rather in the process of transitioning into a concept about an underworld traffic in European girls.

Initially intended as a battle cry, the Comtesse had employed a sophisticated use of language, intertwined with her historical and social knowledge of anti-slavery abolition, so as to develop a set of arguments against the system of state-regulated prostitution in France. Her 1870 ‘La lèpre sociale, tract contre la prostitution (‘traite des blanches’) et les maisons de tolerance’ refers clearly to the Réveil movement’s growth in French-speaking Europe starting around 1820, which she then discursively tied to the abolitionist outcomes of the First Great Awakening in Britain and the North American colonies in the eighteenth century. She argued that, while these movements had borne fruit in the form of the abolition of slavery, the French Réveil movement must now push on to achieve the abolition of ‘la traite des blanches’. She applied this phrase specifically to a legitimate and known trade in most continental European urban centres, in which brothel owners (almost exclusively women) participated in trade between their establishments, as well as hiring young new recruits.

These practices had developed throughout early modern Europe as prostitution had come to be seen as a ‘necessary evil’, leading to a system of church-state tolerance that lasted until around the French revolution.<sup>63</sup> By the 1790s, prostitution had been

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and contexts. Should such a trans-temporal comparison be done, it might reveal a trend in careers built on sensationalist lone-witness reports uncovering ‘white/sex slavery’. The Comtesse’s travelogues of the ‘Orient’ however, seem a poor fit to this category. For some careers built on non-fictional ‘white/sex slavery’ narratives, see: Dyer, *The European Slave Trade in English Girls: A Narrative of Facts*; Stead, “The Maiden Tribute of Modern Babylon”; Marcus Braun, *Immigration Abuses: Glimpses of Hungary and Hungarians; a Narrative of the Experiences of an American Immigrant Inspector, While on Duty in Hungary* (New York: Pearson Advertising Co, 1906); Londres, *The Road to Buenos Ayres* [sic]; Kathleen Barry, *Female Sexual Slavery* (New York/London: New York University Press, 1979).

<sup>62</sup> Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (New York: Routledge, 1999): xxii.

<sup>63</sup> Tolerance was driven by the belief that men could not control their sexual desires. Giving them access to women who sold sex, and turning a blind eye to a ‘necessary evil’, would thus be the best means to ensure the moral protection of ‘virtuous’ women. For histories of toleration, see: John K. Brackett, “The Florentine Onestà and the Control of Prostitution, 1403–1680,” *Sixteenth Century*

*de facto* decriminalised in Paris before becoming incrementally regulated between 1802 and 1810 in response to the spread of venereal disease. Often called the *French System*, this pattern was subsequently implemented throughout the Napoleonic Empire and even adopted by powers outside of it.<sup>64</sup>

Arguing that the slave trade may have been suppressed and slavery abolished in Britain and North America, Valérie de Gasparin metaphorically claimed that the legitimised brothel trade supported 'slave markets in human flesh and souls open in the great cities of Europe's civilized Christian countries'.<sup>65</sup> The Comtesse did not, however, elaborate further on how this trade worked, where these markets were to be found or what they may have looked like. Writing in 1870, her use of 'la traite des blanches' appears as a rhetorical technique to draw attention to a *problem* of prostitution in hopes of reinvigorating the by then deteriorating French Réveil movement.<sup>66</sup>

Questions about the Comtesse's motives in taking up this cause and the degree to which she was (dis)connected to the real-world experiences of women who sold sex

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*Journal* 24, no. 2 (1993): 273–300; James A. Brundage, "Prostitution in Medieval Canon Law," *Signs* 1, no. 4 (1976): 825–45; Susan P. Conner, "Public Virtue and Public Women: Prostitution in Revolutionary Paris, 1793–1794," *Eighteenth-Century Studies* 28, no. 2 (1994): 221–40; Diane Yvonne Ghirardo, "The Topography of Prostitution in Renaissance Ferrara," *Journal of the Society of Architectural Historians* 60, no. 4 (2001): 402–31; Ruth Mazo Karras, "The Regulation of Brothels in Later Medieval England," *Signs* 14, no. 2 (1989): 399–433.

**64** On the system's initial development, see: Jill Harsin, *Policing Prostitution in Nineteenth-Century Paris* (Princeton, NJ: Princeton University Press, 1985); Clyde Plumauzille, "Du 'scandale de la prostitution' à l'atteinte contre les bonnes mœurs': contrôle policier et administration des filles publiques sous la révolution française," *De Boeck Supérieur* 3, no. 107 (2014): 9–31. A mass of literature focuses on urban and national geographies, examining the system's implementation throughout the Napoleonic Empire and its adoption in other empires and urban settings. Needless to say, the so-called *French System* varied significantly depending on context and existing structures and practices. The literature is diverse, but for some useful examples, see: Laurie Bernstein, *Sonia's Daughters: Prostitutes and their Regulation in Imperial Russia* (Berkeley: University of California Press, 1995); Bruce W. Dunne, "French Regulation of Prostitution in Nineteenth-Century Colonial Algeria," *Arab Studies Journal* 2, no. 1 (1994): 24–30; Philip Howell, *Geographies of Regulation: Policing Prostitution in Nineteenth-Century Britain and the Empire* (Cambridge: Cambridge University Press, 2009); Müge Özbek, "The Regulation of Prostitution in Beyoglu (1875–1915)," *Middle Eastern Studies* 46, no. 4 (2010): 555–68; Elizabeth J. Remick, *Regulating Prostitution in China: Gender and Local Statebuilding, 1900–1937* (Stanford: Stanford University Press, 2014); Magaly Rodríguez García, Lex Heerma Van Voss and Elise Van Nederveen Meerkerk, eds., *Selling Sex in the City: A Global History of Prostitution, 1600s–2000s*, *Studies in Global Social History* 31 (Leiden/Boston: Brill, 2017); Isabelle Tracol-Huynh, "Between Stigmatisation and Regulation: Prostitution in Colonial Northern Vietnam," *Culture, Health & Sexuality* 12, no. 1 (2010): 74–87.

**65** My translation and paraphrase; any infelicities therein are mine alone. 'il y a des marchés d'âmes, il y a des marchés de chair humaine ouverts dans toutes les grandes villes de vos pays civilisés; je vous apprendis que, dans toutes les grandes villes de vos pays chrétiens.' Gasparin, "La Lèpre sociale, tract contre la prostitution ('traite des blanches') et les maisons de tolérance."

**66** The Réveil movement, of which the Gasparins were committed members, reached its height in Francophone Europe between the 1820s and 1850s.

are yet to be explored. Here, it suffices to begin a conversation in which we further investigate and include her work, as well as that of the Revéil movement more broadly, into research on nineteenth-century prostitution and the opposition to its regulation. What can for now, however, be said is that the Comtesse's metaphorical use of 'la traite des blanches' in 1870 initiated a linguistic journey, during which the phrase congealed into a more substantive concept of transnational prostitution. Along the way, it gathered and shifted meanings that reflected the contexts of its use.<sup>67</sup>

### 2.3 Producing and Publishing the Narrative

As is well known in historical literature, the British feminist Josephine Butler embarked on a continental tour in 1874/75 with the intention of building further international support for her cause against Britain's CDAs. Upon her return from trips to France, Italy and Switzerland, the British Ladies National Association issued an invitation to its continental allies, inviting them to the first International Congress for the Abolition of State Regulated Prostitution, held in Liverpool in 1875. The congress resulted in the establishment of the Federation, which set up its headquarters in Neuchâtel, Switzerland, and the launch of the *Bulletin Continental* as its main organ for communication at a subscription cost of 6–8 francs per year for a monthly edition.<sup>68</sup>

During her visits to Geneva, Butler met on several occasions with Pastor Théodore Borel, who was then running a refuge for prostitutes in the city.<sup>69</sup> Borel subsequently became one of Butler's close Swiss-based associates and helped to establish the Federation later that year.<sup>70</sup> In 1876, Borel used the *Bulletin Continental* to publish his 26-page

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<sup>67</sup> Arguably, this is still an ongoing process if we look for example at the efforts of the United Nations since the 2000s to reconceptualise 'human trafficking' as including other forms of exploitation beyond commercial sex. At the same time, the emergence of a global sex workers rights movement in the 1990s has pushed for a re-evaluation of discourses based on the structural re-organisation of those who can legitimately produce knowledge on the experiences of those who sell sex. See Ruth Ennis, "Recalibrating Moral Compasses: A Global Conceptual History of Human Trafficking, 1870–2020," in *Human Trafficking: Global History and Perspectives*, ed. Elisha Jasper Dung and Augustine Avwunudiogba (Lanham, MD/Boulder, CO/New York/London: Lexington Books, Rowman&Littlefield, 2021): 23–52.

<sup>68</sup> For more on the establishment of the Federation, see: Anne Summers, "Introduction: The International Abolitionist Federation," *Women's History Review* 17, no. 2 (2008): 149–52, <https://doi.org/10.1080/09612020701706961>.

<sup>69</sup> August Bouvier and Henri Heyer, *Catalogue de la bibliothèque appartenant à la compagnie des pasteurs* (Geneva: Imprimerie Rey & Malavallon, 1896): 168.

<sup>70</sup> Other Swiss associates included Marie Goegg, M. Hornung, Alfred de Meuron, Henri Minod and Aimé Humbert. Christine Machiels, *Les féminismes et la prostitution (1860–1960)* (Rennes: Presses universitaires de Rennes, 2016): 45.

animated first-hand description of 'la traite des blanches' as part one of a two-part book with Donat Sautter entitled *L'état et la moralité publique: Une question sociale*.<sup>71</sup> Despite not having properly cited Valérie de Gasparin, Borel built on the Comtesse's metaphor and ideas, going on to narrate an elaborate 'white slave trade' across *Christian* and *civilised* Europe.<sup>72</sup> Going further than her political call to action ever did, Borel's claims concerned a *real* 'white slave trade', which he declared was 'just as vast and even more odious than that which enslaved people from Africa and brought them across the Atlantic'.<sup>73</sup>

Maintaining that his account was based on his study of the regulation of prostitution in different countries,<sup>74</sup> Borel claimed that the 'white slave trade' involved young girls being lured abroad after seeking jobs through the *bureaux de placement*. These girls, he said, were procured by *entremetteuses* who lurked around working-class urban spaces and modern migratory transit points. Using telegraph networks for communication, as well as trains and steamships for transport, these procuresses of Borel's non-fictional narrative were said to have escorted girls abroad, making a quick profit from their sale to brothels before returning for new business. The entire system

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71 T. Borel and D.S., *L'état et la moralité publique: Une question sociale par T. Borel et D.S.* (Neuchâtel: Bureau du Bulletin Continental, 1876).

72 Although Borel refers only vaguely to a Swiss woman, it is clear that Valérie de Gasparin served as a central inspiration to him since her full name is given in the English version of his pamphlet, which was translated by Joseph Edmondson and published that same year. Joseph Edmondson, ed., *The White Slavery of Europe. From the French of Pastor Borel of Geneva* (London: Dyer Brothers, 1876). See footnote 42 for more on the relationship between Valérie de Gasparin and Théodore Borel and Donat Sautter.

73 My translation; any infelicities therein are mine alone. Théodore Borel, "Maisons de tolérance devant le droit et la moralité publique," in *L'état et la moralité publique: Une question sociale par T. Borel et D.S.* (Neuchâtel: Bureau du Bulletin Continental, 1876): 5. 'Si la traite des nègres a été enfin abolie, si toute tentative qu'une monstrueuse cupidité essaie encore de temps en temps pour renouveler ce crime contre l'homme, es surveillée et châtiée rigoureusement, la *traite des blanches* se fait en Europe sur une échelle non moins vaste, sans doute, que celle qui dépeuplait l'Afrique, mais avec un caractère plus odieux, puisqu'elle s'exerce au milieu de nations chrétiennes et civilisées. La traite des nègres, c'était l'esclavage produit du rapt ou de la guerre; elle arrachait l'individu à sa patrie, à sa famille, et le condamnait à un travail excessif et à de cruels traitements. La traite des blanches ne se fait que par la ruse et le mensonge, souille le corps, lui inocule de terribles maladies, et frappe l'âme mortellement dans tout ce qu'elle a de pur et de sacré.'

74 No reference is made to a published version of this study. Borel may be referring to the content of a report published by the Geneva Refuge in 1874, though I have been unable to locate a copy of this. That this report might be the source of Borel's information is supported by his co-author Donat Sautter's reference to it in the German translation of his section of the book when discussing the sale of girls to brothels by their parents. See: Donat Sautter, *Der Staat und die öffentliche Moralität: Eine soziale Frage* (Neuenburg: Buchbruderei von James Attinger, 1876): 4. To investigate the development of Borel's ideas on prostitution, one might also examine his 1862 brochure, in which he wrote an account of a girl from Vaud who had come into his care at the rescue home for prostitutes he was running in Geneva. Théodore Borel, *Dans l'abîme* (Geneva: E. Carey, 1862).



worked by first luring girls with luxury, then either obtaining their birth certificates from indifferent parents, faking the documentation or simply asking corrupt police to turn a blind eye. Once abroad, the girls were trapped in brothels, held by the fear of violence or public shame. Borel claimed that such cases inevitably went undiscovered during police or medical checks as the madams were sure to keep the girls hidden away, separating them from the majority of women, who willingly entered the brothel. These girls remained forever invisible because, should they ever become diseased (thus requiring medical attention) or their families come to look for them, the madams simply re-exported them in a 'horse trade of human livestock'.<sup>75</sup>

While nearly all the actors of Borel's brutal system of trafficking were female (the madame, her under-mistress, the procuress and the enslaved girls), one man was mentioned. He was said to have been hired to chase down two girls who had made a rare attempt to escape. In a heroic narrative reliant on erotic descriptions of breathlessness, sweat and dust, a good policeman then saved the girls, escorted them back to their (unnamed) homeland and simultaneously arrested the bully, condemning him for attempting 'in broad daylight on our republican soil, to renew the atrocities of slavery for too long the opprobrium of America'.<sup>76</sup>

From an analytical perspective, the status of Borel's account as a *factual* historical record can easily be questioned due to its endless inconsistencies, anecdotal style and heavy reliance on misogynistic gendering. Nevertheless, treated in its historical narrative form as a source which reflected sensational concerns of the day, Borel's tale of modern immorality turned out to be such a success with subscribers to the *Bulletin Continental* that it was immediately commissioned for translation into English. With 'not a single copy of the original left', Josephine Butler begged her close friend, the translator Joseph Edmondson, for one of the earliest versions 'even if they were but proofs'.<sup>77</sup>

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75 Borel, "Maisons de tolérance devant le droit et la moralité publique": 11. 'C'est le maquignonage du bétail humain.'

76 Borel, "Maisons de tolérance devant le droit et la moralité publique": 13. 'elles se jetaient halelantes, couvertes de poussière et baignées de sueur dans le poste de la gendarmerie [. . .] Celui-ci après les avoir entendus, fit reconduire dans leur patrie les deux étrangères, et à Genève, avec les menottes, le misérable dont l'impudence croyait pouvoir renouveler en plein lumière, sur notre sol républicain, les atrocités de l'esclavage trop longtemps l'opprobre de l'Amérique.'

77 Josephine Butler, "Josephine Butler to Mr Edmondson," 13 April 1876, 3JBL/15/04, LSE Women's Library.

### 3 Transfer and Translation into the British Context

Church-state interference in the lives of women who sold sex was of course nothing novel in the nineteenth century, but the newly emerging structures for registration and medical checks were.<sup>78</sup> Since the late eighteenth century, growing interest in public hygiene, sanitation and disease control had encouraged a general trend toward state-centric discourses and practice throughout Europe. The need to control the spread of venereal disease was invoked as a legitimising basis for state-run systems, and the regulation of prostitution thus followed a general trend.<sup>79</sup> When Josephine Butler and the Ladies Protest formed a movement against Britain's CDAs, their critique was targeted at forced medical checks and their infringement of civil liberties, as well as at the moral double standard which subjected women (those who sold sex) but not men (those who bought it) to these practices.<sup>80</sup> The CDAs in Britain did not, however, introduce a system of tolerated brothels (*maisons de tolérance*) as had existed on the continent since the Napoleonic period. Thus, discourses against state regulation in Britain were at first concerned with (women's) individual rights but then also came to include debates on the age of consent. Questions about a transnational brothel trade were not initially on the agenda of British feminists and moral reformists.

In 1978, Deborah Gorham published a brilliant article in which she outlined the fussiness of Victorian ideology around childhood and innocence and the havoc this created amid late-nineteenth century questions of extra-marital sex. Unfortunately, Gorham's work has received little attention, having only been given cursory acknowledgement or in most cases not being cited at all. Had it been more widely read, significant confusion and debate in recent decades over contentious issues related to 'white slavery' might have been avoided.

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<sup>78</sup> Napoleonic regulation meant that prostitution was allowed, but only in official brothels which operated in terms of registration and regular check-ups. All other practices, i.e. unofficial brothels or street soliciting, were considered clandestine and subject to punishment and forced registration. These new regulations made temporary sex work for the substitution of income very difficult and dangerous.

<sup>79</sup> This history of public hygiene is intimately entangled with the history of medicine. See W.F. Bynum and Roy Porter, eds., *Companion Encyclopedia of the History of Medicine*, 2 vols. (London/New York: Routledge, 1993); Mark Jackson, ed., *The Routledge History of Disease* (London/New York: Routledge, 2017); Katharina Kreuder-Sonnen and Andreas Renner, eds., *Themenschwerpunkt: Öffentliche Hygiene in Osteuropa* (Stuttgart: Franz Steiner Verlag, 2013) (= *Jahrbücher für Geschichte Osteuropas* 61, no. 4); Hans-Georg Hofer and Lutz Sauerteig, "Perspektiven einer Kulturgeschichte der Medizin," *Medizinhistorisches Journal* 42, no. 2 (2007): 105–41.

<sup>80</sup> For the full protest letter, published in the *Daily Mail* on 31 December 1869 and undersigned by Josephine Butler, Harriet Martineau, Florence Nightingale, Mary Carpenter, Mary Priestman, Agnes McLaren, Ursula Bright, Margaret Lucas among many others see: Josephine Elizabeth Grey Butler, Lucy A. Nutter Johnson and George William Johnson, eds., *Josephine E. Butler: An Autobiographical Memoir* (Bristol: J. W. Arrowsmith, 1909): 94–96.

Gorham's central argument pertained to how late-Victorians contributed to the emergence of a modern concept of adolescence, although their views on the subject differed significantly from those generally accepted today.<sup>81</sup> As Gorham pointed out, Victorians would have made little conceptual distinction between someone of 16 and someone of 21 because their notion of youth was related to older ideas of moral guardianship. By the 1880s, however, concepts of childhood had formed more clearly and were integrated into the British legal system via child labour laws, the idea of juvenile delinquency and the notion of compulsory schooling. Nonetheless, pre-existing laws related to young women, such as those on the age of consent, had not been invented in the name of protecting childhood innocence. Rather, they were intended to deny the female subject decision-making power over her own sexuality while protecting her as the property of fathers or husbands from 'abductors' who did not pay.<sup>82</sup>

When the age of consent in Britain was changed in 1875 from 12 to 13, amending a 1861 law which had its roots in the thirteenth century, one might imagine this to have caught the attention of certain groups amid the ongoing agitation in relation to the CDAs. Assuming this helped to motivate a new, discursively related cause, one could re-evaluate the collaboration between Josephine Butler and the fundamentalist Quaker and sensationalist journalist Alfred Stace Dyer, not in terms of a mutual concern about a trade between brothels on the continent but of a common desire to change the age of consent laws in Victorian Britain.

In 1879, having allegedly returned from their investigative trip to brothels in Brussels, Dyer and the Quaker banker George Gillet set up the London Committee (for the purpose of exposing and suppressing the existing traffic in English, Scotch and Irish Girls in favour of Foreign Prostitution).<sup>83</sup> One of the group's first collective actions was to send a petition to the British foreign secretary, the Earl of Grandville, claiming that 'there exists a systematic abduction, to Brussels and elsewhere on the Continent, of girls who are British subjects'. They argued that these girls had been tricked into migrating by 'men of respectable exterior', who promised marriage or good situations (jobs). As the girls were ignorant of both language and customs, they found themselves registered with the *police de mœurs* using false documentation. The Memorialists, as they called themselves, then pointed out to the Foreign Secretary

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<sup>81</sup> Gorham, "The Maiden Tribute of Modern Babylon' Re-Examined: Child Prostitution and the Idea of Childhood in Late-Victorian England": 369.

<sup>82</sup> Gorham, "The Maiden Tribute of Modern Babylon' Re-Examined: Child Prostitution and the Idea of Childhood in Late-Victorian England": 363.

<sup>83</sup> The members of the Committee who referred to themselves as the 'Memorialists' were Benjamin Scott, R. Cope Morgan, George Gillett, Alfred S. Dyer, Septimus R. Scott, Mary Steward, Mary H.L. Bunting, E. Philip Bastin, T.L. Boyd and W.M. Payne.

that, due to the discrepancy in age of consent laws between Britain and the Continent, traffickers were free to abuse them to their own advantage.<sup>84</sup> Subsequently, in his 1880 publication, Dyer provided the British public with the argument that the two-fold solution to this problem would be criminalising the taking of girls abroad for the purpose of prostitution and raising the age of consent in Britain from 13 to 21, in line with other countries. The latter, however, was a mistake or a false claim.

While Dyer referred to countries whose legal frameworks were based on the Napoleonic Code, the age of consent was, as in Britain, defined as 13.<sup>85</sup> Since they did not actually refer to any particular laws on the continent, the British abolitionists may (intentionally or unintentionally) have confused the age of consent with the age of majority, which had been set at 21 for both sexes in France since the law of 20 September 1792. The age of majority does not refer to sexual relations but rather to the legal definition of the beginning of adulthood. Article 448 of the Napoleonic Code maintained 21 as the age of majority, while a subsequent amendment delayed the age of majority to 25 in certain cases based on marital status.<sup>86</sup> Article 334 of the French Penal Code included provisions for the punishment of anyone who habitually incited female minors to debauchery, who traded in female minors, who traded in adults under conditions of fraud or violence, as well as anyone who held a woman in a brothel against her will. Thus, in the case of an unmarried minor, i.e., a female under 21, her consent to a sexual act in or outside of a brothel would not have been considered relevant before the law.<sup>87</sup>

In Britain, the age of consent prior to 1875 was 12 whether inside or outside of marriage. Alongside this, section 49 of the 1861 Offences Against the Person Act, which

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**84** London Committee (for the purpose of exposing and suppressing the existing traffic in English, Scotch, and Irish Girls for the purpose of Foreign Prostitution), "Memorial to the Foreign Secretary," in *The European Slave Trade in English Girls: A Narrative of Facts by Alfred S. Dyer* (London: Dyer Brothers, 1880): 35.

**85** Before the French Revolution there were no age of consent laws in France. Vaginal sex with immature girls was punished as rape. Moreover, laws against 'rapt de séduction' had been in place since the sixteenth century and were intended to protect young people of the higher classes from sexual seduction. The Code Pénal of 1810 did not specify an age of consent, but a minimum age of 11 for sexual relations was introduced in 1832 then raised to 13 in 1863. This was not amended again until 1945, when the age was raised to 15. For full details, see: Helmut Graupner, *Sexualität, Jugendschutz und Menschenrechte: Über das Recht von Kindern und Jugendlichen auf sexuelle Selbstbestimmung*, vol. 2 (Frankfurt am Main: Peter Lang, 1996): 434–35.

**86** Dyer, *The European Slave Trade in English Girls: A Narrative of Facts*: 33. See: A.S.G. Coffinieres, *Le Code Napoléon expliqué par les décisions suprêmes de la cour de cet du Conseil d'État* (Paris: Garney; Pollet; Mme. Vanraest, 1809): 407. In Britain in the 1870s, there was no official registration of prostitutes, but the age at which someone could prostitute themselves was 12. Chaumont, "The White Slave Trade Affair (1880–1881): A Scandal Specific to Brussels?": 4.

**87** The majority of cases related to the procuring of minors which were presented before the French courts in the last decades of the nineteenth century concerned girls aged 18 to 20. See: Paul Appleton, "La Traite des Blanches" (PhD diss., Université de Lyon – Faculté de Droit, 1903): 233–34.

supplemented the 1875 law, included provisions that protected girls under the age of 21 from procurement and grooming using ‘false pretences’ or ‘false representations’.<sup>88</sup> Following Dyer’s publication, in which he had claimed English girls were disproportionately represented among migrant groups in Brussels brothels, Butler constructed the argument that this was a consequence of Britain’s much lower age of consent. She further claimed that, even if it constituted an offence to have minors of any nationality in Belgium brothels, the keepers could at least rest assured that they ran no risk of prosecution under British law.<sup>89</sup> On several accounts, Butler’s claim was legally speaking untrue. Whether the law really protected vulnerable young women is another matter, but the legal age of consent in Britain was identical to that on the continent, and the laws in Britain, as under the Napoleonic code, already contained clear provisions to punish the procurement and grooming of minors.

Dyer’s *Narrative of Facts* provides details of two anecdotal cases.<sup>90</sup> The first involved an English prostitute whom Dyer claimed to have met in a brothel while visiting Brussels in 1879 on his undercover mission to expose the slave trade. The second case, which initially inspired his journey to Brussels, was the result of a tip off about a 19-year old working in a brothel there who claimed to have been abducted. While the age of the individual in the first case is unknown, she is interchangeably described as a ‘woman’ or a ‘girl’ throughout the text. This recalls Gorham’s observation that the modern conception of who might be considered a youth, a girl child or a woman is far more clearly defined today than was the case in 1870s and 1880s Britain. In the minds of Victorians, whether 13 or 19, a working-class female engaged in extra-marital sex could oscillate between being an innocent victim or in need of moral guidance, depending on context and conditions.

While Dyer proposed criminalising taking girls abroad for prostitution, as well as raising the age of consent; he did not mention force, trickery or lack of consent as

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<sup>88</sup> For a comprehensive overview of legal changes and the practice of British law around age of consent between 1875 and 1900, as well as how these shifts were informed by middle-class assumptions about working-class life, see: Laura Lammasniemi, “‘Precocious Girls’: Age of Consent, Class and Family in Late Nineteenth-Century England,” *Law and History Review* 38, no. 1 (2020): 241–66.

<sup>89</sup> Josephine Butler, “‘The Modern Slave Trade’, Letter to the Editor of the Shield, 1 May 1880, Pp. 63–5,” in *Josephine Butler and the Prostitution Campaigns: Diseases of the Body Politic*, vol. 4, *Child Prostitution and the Age of Consent*, ed. Jane Jordan and Ingrid Sharp (London/New York: Routledge, 2003): 20–24.

<sup>90</sup> There are a number of internal contradictions within Dyer’s *Narrative of Facts*. There are however several more issues with his claims in comparison to the responses given in the witness stand during the Select Committee which convened over the last two weeks July of 1881. These include conclusions that, despite claims, the girl had in fact not written the letter he published in full under her name. They also reveal that, contrary to what he reported, Dyer did not go to Brussels in 1879, but had made his first and only trip there after his initial publication. Select Committee of the House of Lords, “Report from the Select Committee of the House of Lords on the Law Relating to the Protection of Young Girls; Together with the Proceedings of the Committee, Minutes of Evidence, and Appendix” (London: HMSO, 1881).

relevant factors. As previously noted, legally speaking, these conditions were already covered under section 49 of the 1861 Offences Against the Person Act for girls up to the age of 21. In light of this, it would seem that several different moral problems were at play in the minds of British women's rights campaigners and moral reformists. Far from providing an economic critique of structural inequality and poverty, it appears their discomfort was rather with the idea of young working-class women selling sex, and that even more disturbing was the possibility that they might do so to service continental men.<sup>91</sup>

A closer look at Butler's earlier use of the language of slavery facilitates an understanding of its power when infused with nationalist sentiment. In 1868, a year before Josephine Butler became involved with campaigning on the issue of prostitution (having carried out refuge work for years previously), she published a booklet in which she drew an analogy between slaves and women to make a point about education. She compared how slaveholders had denied slaves education, out of fear that intellectual emancipation would result in them no longer providing service, in the same way that society feared to educate women lest they no longer fulfil their roles as wives and mothers. Rhetorically asking 'is labour demoralised because slaves are free?' she argued that those who feared that women might not do their duty were simply blind to the power of nature and of 'how deeply the maternal character is rooted in almost all women'.<sup>92</sup>

In 1870, Butler again drew upon the language of slavery in relation to prostitution, this time declaring: 'A slave trade is carried out in London! Girls of twelve years of age are bought and sold, and lodged in houses of ill-fame'.<sup>93</sup> Ten years later, when Dyer took his readers on the path of one girl in a Belgium brothel, he claimed that she had ended up 'as much a slave as ever was a N\*\*\*o upon Virginian soil'.<sup>94</sup> Here we can see different linguistic functions that slavery had in the nineteenth-century

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91 Critiques of structural inequality existed at the time, or at least appeared within the ensuing debates. Thus, the MP Henry Broadhurst argued during a Socialist League meeting in 1885 that neither vice nor the age of consent were the problem but that if child prostitution was to be addressed then it could only be done by tackling low wages. See: Lammasniemi, "'Precocious Girls': Age of Consent, Class and Family in Late Nineteenth-Century England": 251. Indeed, William Acton, an advocate of state regulation in Britain, had also asked the members of the Ladies Protest in the early 1870s why they did not start hiring single mothers as servants if they wished to prevent prostitution, a suggestion they dismissed with a joke. Jordan and Sharp, *Josephine Butler and the Prostitution Campaigns: Diseases of the Body Politic*, vol. 2: 53.

92 Josephine Butler, *The Education and Employment of Women* (London: MacMillan and Co., 1868): 16–17.

93 See footnote 40 for further analysis of this source. Unknown, "Meeting of Ladies; Speech Given by Josephine E. Butler to the Women's Meeting, Lecture Theatre of the Midland Institute, Birmingham, Thursday 10 March 1870": 78.

94 Dyer, *The European Slave Trade in English Girls: A Narrative of Facts*: 7.

narratives and arguments formation, either as analogy or as metaphor. When Butler compared the lack of education of slaves to women's lack of education, she did so through a comparative analogy to make her point. When she claimed that there is a slave trade in London, she employed a metaphor to make a more direct comparison. Before the late 1870s, however, the notion of a transnational traffic was not relevant to British reformists, at least not until the success of Pastor T. Borel's narrative showed them the discursive power not of general slavery as an analogy but of racially inverted transatlantic slavery as a metaphor for a modernity of migration and a crime in which innocent White slaves were trafficked in transnational networks.

### 3.1 Translating the 'White Slavery' Narrative for the English

By discursively entangling popular European knowledge of eighteenth-century slavery and abolitionism together with the British CDAs and the *French System*, Joseph Edmondson's 1876 translation of Pastor T. Borel's work marks the moment when the foundations for an international agenda against 'white slavery' were set. Acknowledging the absence of continental-style licensed brothels in England, Edmondson used his editorial note to assert the similarity of the two regulatory systems in terms of giving police special powers to register prostitutes. He added that, in memory of the 'abhorrence of n\*\*\*o slavery', abolitionists across Europe must once again revive 'old and noble [. . .] revolts against the traffic in human beings'.<sup>95</sup>

Edmondson's translation is generally faithful to Borel's words and intended meaning. He did, however, insert a number of changes to arguments and *facts*. These included adding the involvement of male clients in the traffic and describing the scale of the 'White Slave Trade' as having been undoubtedly smaller 'than that which depopulated Africa', but with 'a more odious character, since it is carried on in the midst of Christian and civilised nations.'<sup>96</sup> Anticipating future debates on women's ability to *really* choose this trade, Edmondson expressed doubts about Borel's assertion of majority volunteerism in prostitution:

on the Continent the so-called *voluntary* signature is enforced by threats and cajolery on the part of the brothel keepers. In England this coercive operation is performed by the special Police employed under the CD Acts [. . .]<sup>97</sup>

Published by Dyer Brothers of London in 1876 under the title 'THE WHITE SLAVERY OF EUROPE: from the French of Pastor T. Borel, *of the Geneva Refuge*' (original emphasis), this translation sowed the seeds for an impending international anti-trafficking

<sup>95</sup> Edmondson, *The White Slavery of Europe. From the French of Pastor Borel of Geneva*: 5.

<sup>96</sup> Edmondson, *The White Slavery of Europe. From the French of Pastor Borel of Geneva*: 6.

<sup>97</sup> Edmondson, *The White Slavery of Europe. From the French of Pastor Borel of Geneva*: 10–11.

campaign. This would transform previous meanings of 'white slavery' in British and American contexts and begin solidifying a new concept of (fraudulent) transnational migration for commercial sex.<sup>98</sup> The process of transfer through the act of translation produced linguistic equivalence between French and English for this newly emerging transnational concept. At the same time, the German 'Mädchenhandel' had also begun its linguistic attachment to this concept in formation as a result of Borel's original collaborative work with Donat Sautter de Blonay.<sup>99</sup>

Peter Becker has already shown how, at some point toward the end of the nineteenth century, the role and social meaning of the 'Kupplerin' (*female, intermediary, procuress*) in Germanic culture gradually came to be replaced by the 'Mädchenhändler' (*male, intermediary, trafficker/trader in girls*). Throughout most of the nineteenth century, Becker argues, the 'Kupplerin' had borne the burden of blame for the corruption of innocent girls, who were considered irredeemable once they had developed a taste for luxury and the satisfaction of their (customers') desires.<sup>100</sup> The 'Kupplerin' can very much be seen as akin to the stock figure of the *entremetteuse* that featured throughout Borel's non-fictional account of 'la traite des blanches'. Becker also pointed out how, in the first half of the nineteenth century, the meaning of 'Frauen- und Mädchenhandel' (*Trade in Girls and Women*) applied only to exchange between brothels, but by the latter half of the century encompassed recruitment and procurement. In this we can begin to understand the transition of meaning as having accrued on a transnational level through translation processes.

In contrast to Borel's first-person witness narrative, which sought to offer vivid descriptions of 'la traites des blanches', Sautter constructed a legal-political argument for the complete repression of prostitution. In doing so, he assessed the merits of this measure against the other options he claimed were available to states, namely ignoring it or

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98 Some historians or scholars of slavery have discursively argued for the continuity of patterns of female enslavement through different historical periods, even reaching as far back as ancient times, with those now typically understood or labelled as human trafficking. Caution is called for, along with a more nuanced conversation that takes into account the changing conditions of nineteenth-century Europe. These conditions relate particularly to new border practices of nation states, the increasing availability of affordable communication and transport technologies, shifting structural inequalities under capitalism, and changes in the lives and freedoms of women. The concept of human trafficking remains as fuzzy today as it was at the end of the nineteenth century. See Ennis, "Recalibrating Moral Compasses: A Global Conceptual History of Human Trafficking, 1870–2020": 23–52.

99 Sautter did not explicitly use the term 'Mädchenhandel' but translated it more directly from the French as 'weißen Slavenhandel'. His work contributed, however, to the transnational conceptual entanglement of the work of the Federation with the idea circulating in the Austrian press since 1868 of a Jewish trade in White girls out of the Double Monarchy toward the 'Orient'. This media campaign, it would seem, was coordinated by a number of Austrian diplomats based in Istanbul and Buenos Aires. See: Ennis, "Subject Production through the 'Migrant' and Her Jewish 'Trafficker' (1868–1880)."

100 Peter Becker, *Verderbnis und Entartung: Eine Geschichte der Kriminologie des 19. Jahrhunderts als Diskurs und Praxis* (Göttingen: Vandenhoeck & Ruprecht, 2002).



regulating it.<sup>101</sup> Although part of the same book, Sautter's section was never translated for the British public, presumably because a good narrative sells better than a sober argument. As Borel's writing had proved wildly successful with the British members of the Federation, it may be assumed that this newly transferred and translated knowledge of 'white slavery' rang bells of popularity in the ears and pockets of its publicist, Alfred Stace Dyer. Making it available for the general British public at the affordable price of 3p. Four years later, Dyer went on to publish his own version of the narrative, printing many thousands of copies.<sup>102</sup>

### 3.2 Investigating the 'European Slave Trade in English Girls'

A working-class man who had left school at the age of 12 to earn money for his widowed mother, Alfred Stace Dyer (1849–1926) entered publishing to take up his wife's family tradition in the business.<sup>103</sup> As a young man, he had become a committed Quaker in the 1870s and then used his publishing company to fund and facilitate reformist work against the opium trade. Commissioned to publish both the 'New Abolitionists' and the translation of Borel's work, Dyer Brothers began working with the Federation almost immediately after its foundation in Liverpool in late 1875.<sup>104</sup> While this professional relationship was not without its struggles,<sup>105</sup> Dyer's advocacy and 'repeated allegations in the press' of a traffic in English girls in the late 1870s, are alleged

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**101** Donat Sautter, "L'état et la moralité publique," in *L'état et la moralité publique: Une question sociale par T. Borel et D.S.* (Neuchâtel: Bureau du Bulletin Continental, 1876): 35; Sautter, *Der Staat und die öffentliche Moralität: Eine soziale Frage*: 7.

**102** Dyer, *The European Slave Trade in English Girls: A Narrative of Facts*. In September 1880, Dyer wrote and published his pamphlet, which sold nearly 5000 copies, an additional 8000 having been printed for distribution among repeal associations. However, 10,000 copies of a shorter version had already entered circulation the previous month, while a request from the Quaker Association for a revised version of Borel's pamphlet emerged at that time. By 1885, Dyer's pamphlet was already in its 9th edition. Rachael Claire Attwood, "Vice Beyond the Pale: Representing 'White Slavery' in Britain c. 1880–1912" (PhD diss., UCL, 2012): 53.

**103** Steffan Rimner, *Opium's Long Shadow: From Asian Revolt to Global Drug Control* (Cambridge, MA: Harvard University Press, 2018): 86. For a full biography of Dyer, see: Katherine Mullin, *Dyer, Alfred Stace (1849–1926), Moral Reformer* (Oxford: Oxford University Press, 2008), <https://doi.org/10.1093/ref:odnb/94647>.

**104** Josephine Butler, "JEB to Miss Priestman (Feb 17th)," 17 February 1876, 3JBL/15/01, LSE Women's Library; Edmondson, *The White Slavery of Europe. From the French of Pastor Borel of Geneva*.

**105** On tensions in the working relationship, see: Josephine Butler, "JEB to the Priestmans (Mar 3rd)," 3 March 1876, 3JBL/15/03, LSE Women's Library. On the appointment of Snagge, see: Select Committee of the House of Lords, "Report from the Select Committee of the House of Lords on the Law Relating to the Protection of Young Girls; Together with the Proceedings of the Committee, Minutes of Evidence, and Appendix" (London: HMSO, 1881): 116.

to have led to the state appointment of Judge Snagge in 1880 to investigate the claims.<sup>106</sup> Ever since, the historiography has tied the historical agenda against 'white slavery' to British actors.

Historical literature to date holds that Dyer was the first to *uncover* the international 'white slave traffic' after he had been tipped off about an English girl trapped in a Brussels brothel.<sup>107</sup> However, as this contribution has shown, the foundational ideas and arguments around 'white slavery' were transferred, translated and transformed into the English-speaking context from a longer tradition of discourses in the French-speaking world. Many aspects of Dyer's work reflected the narrative elements visible in Borel's, in which he used anecdotal cases to create a general understanding of the 'system of slavery' operating behind the façade of state regulation. As is typical of cultural transfers, however, the narrative of 'white slavery' underwent adaptations to fit in with the needs of the receiving context.

Borel explicitly blamed women, whether female traffickers who preyed in working-class areas or working-class girls who were too foolish, greedy and immoral to say no. By contrast, Dyer's traffickers were foreign fancy men from the continent who came to England to secure a supply of women on behalf of rich male clients willing to 'pay a poor man's annual wage' just to 'violate a terrified and helpless virgin'.<sup>108</sup> Apparent here is the dual critique which had already been present in the British context, which involved a moral double standard on the one hand, set against emerging Victorian notions of childhood innocence on the other.

In her PhD dissertation, Rachel Attwood compared the English translation of Borel's pamphlet with Dyer's version and observed likewise that Dyer focused exclusively on male traffickers, whereas Borel highlighted female culprits. Attwood framed this discrepancy as an oversight on Dyer's part, illustrating how Butler, in an 1881 publication, had once acknowledged the role of a nurse involved in a doping case.<sup>109</sup> Instead of trying to deduce *facts* about the gender of traffickers from isolated anecdotal cases, if we examine the 'white slavery' narrative as having been a transfer or conscious import into the British context, we see that the language of 'white slavery' had strong cultural resonance at the end of the nineteenth century, unlike the notion of local English women corrupting young girls. British Victorians, and in particular the middle-

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**106** Dyer's journalistic publications from 1879 created a media storm. Reprints appeared in the *Birmingham Daily Post* and the *Liverpool Post* on 3 January 1880 and in the *New York Times* on 18 January. Attwood, "Vice Beyond the Pale: Representing 'White Slavery' in Britain c. 1880–1912": 48.

**107** See for example: Jane Jordan, *Josephine Butler* (London: John Murray, 2001): 188–200; Jordan and Sharp, eds., *Josephine Butler and the Prostitution Campaigns: Diseases and the Body Politic*, vol. 4; Gretchen Soderlund, *Sex Trafficking, Scandal and the Transformation of Journalism, 1885–1917* (Chicago/London: University of Chicago Press, 2013).

**108** Dyer, *The European Slave Trade in English Girls: A Narrative of Facts*: 3–7.

**109** Josephine Butler, "A Letter to the Mothers of England: Commended Also to the Attention of Fathers, Ministers of Religion, and Legislators", April 1881," in *Josephine Butler and the Prostitution Campaigns: Diseases of the Body Politic*, vol. 4.

class feminist reformers among them, were far more preoccupied with the notion of stranger danger and the threat of unknown men.<sup>110</sup> Thus, in this context, the figure of a foreign and deceptive male would have had a far stronger cultural hold.

## 4 Old Semantic Roots and New Cultural Sprouts

Despite disagreements over who was behind ‘white slavery’ and how its markets may be described, the core argument for all authors from Gasparin to Dyer was that the *maisons tolérées* found on the continent were supplied through a brutal system of trading in young women. This notion began as a metaphor in which transatlantic slavery served from the beginning as a framework to describe a problem based on a moral rather than an economic critique. Specifically, the problem was the discomfort over state regulation of prostitution. Over time, this metaphor evolved into a more substantive narrative of an underworld of traffickers supplying brothels. In Borel’s account, the girls were not in their home country, though it would seem they could speak the local language. Their foreignness suggested a vulnerability based on being away from the home, the place where girls rightly belong. Dyer’s story features a more heightened paternalism, whereby *our* girls need to be brought home and prevented from leaving to protect them from *foreign* men.<sup>111</sup>

While the British context incorporates increased nationalist sentiment, both narratives share a set of common characteristics involving migration abroad, falsification of documents, police corruption and complacency, debt bondage and the fear of shame and violence. However, despite their lone-hero efforts, catching the culprits or providing proof turned out to be a difficult task for both Borel and Dyer. Their accounts of cunning traffickers and madams reflected late nineteenth-century fears of a changing world in Europe, in which modernity and urbanisation created opportunities for a networked underworld to take advantage of telegraph technology, steam ships and trains. In the crossovers and tensions between such investigative monologues and the literary world, we see many of Borel’s and Dyer’s themes concerning modern migratory criminal conspiracy appear in the early crime novels of Xavier de

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<sup>110</sup> Walkowitz examines the specific emergence of street harassment by ‘anonymous strange pests’ as part of new class conflicts and struggles over ownership of public spaces. Just as middle-class women were beginning to use the streets alone, London was emerging as a so-called pleasure capital on par with Paris around 1870. Meanwhile, a new media trend of reporting street harassment reinforced ‘good’ women’s fears of being mistaken for ‘bad’ ones. See: Judith R. Walkowitz, “Going Public: Shopping, Street Harassment, and Streetwalking in Late Victorian London,” *Representations* 62 (1998): 1–30.

<sup>111</sup> Rachael Attwood has also discussed the patriarchal nationalism in Dyer’s reports. Attwood, “Lock Up Your Daughters! Male Activists, ‘Patriotic Domesticity’ and the Fight Against Sex Trafficking in England, 1880–1912.”

Montépin. While the foreign man was to be feared in Britain, Borel's 1876 publication appeared in the Francophone context, where there was still cultural knowledge of the role of the *entremetteuse*. Thus, with the idea of a greedy mother selling her daughter to a procuress retaining enough cultural currency in France, in 1877 Montépin could publish his fictional tale of a crime that he too described as '*la traite des blanches*'.

#### 4.1 Re-Fictionalising 'La Traite des Blanches'

Xavier de Montépin (1823–1902) was a popular French *feuilletoniste* in the late-nineteenth century, whose work *La porteuse de pain*, published serially in *Le petit journal* between 1884 and 1889, was one of the century's most popular novels. A genre then popular across Europe and America, serial literature allowed an increasingly literate public to journey along with certain characters, whose adventures or relationships were developed incrementally by the author over a number of years. Using this method of building a narrative over time, Xavier de Montépin began what might be categorised as an early work in the developing genre of crime fiction in mid nineteenth-century Europe.

Published between 1849 and 1877, *Confession d'un Bohême* developed into a series of six crime novels, which narrated the adventures and struggles of two policemen, Raphaël and Carillion, who throughout the series attempted to chase down the shape-shifting vagabonds Maubert and Camisard. In the final novel of the series, which appeared in 1877, entitled *La Traite des Blanches*, we catch up for a final time with the two policemen, who ultimately succeed in their mission of catching the criminal vagabonds. Throughout the series, Maubert and Camisard had consistently escaped the grasp of the police by constantly changing accent and disguise.<sup>112</sup> Woven into this broader narrative however, *La Traite des Blanches* tells its own specific story, which, written in 1877, reflected the spirit of the times.

Closely resembling the works of Borel, Montépin's *La Traite des Blanches* is a highly gendered tale in which the mother of a young, innocent girl conspires with her sister to sell the beautiful virgin Norine into prostitution, allowing the older women to quit working and simply live off her earnings. Meanwhile, the orphaned and hard-working Jules tries everything to save Norine from 'la traite des blanches'. Filled with forged identities, anonymous criminal travellers, women's weaknesses for luxury and

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<sup>112</sup> In *La Traite des Blanches*, for example, Maubert disguised himself as a 'nègre' using theatre paint. Montépin was known to resort to this trope, which he also drew upon to set the scene for chapter 18 of *La Traite des Blanches*. His use of this stock character here had no function in the broader narrative other than to reinforce racist stereotypes and dehumanise people of African descent. The titles of the other novels in the series were; vol. 1. *Un Drame en famille, avec gravure*, vol. 2. *La Duchesse de la Tour-du-Pic*, vol. 3. *Mam'zelle Mélie*, vol. 4. *Un Amour de grande dame*, and vol. 5. *L'Agent de police*.

French men's heroism, Montépin paints a modern urban society in which bad women sell their daughters while good women work themselves to death to secure their sons' futures. At the same time Montépin's story suggests that, among children transitioning to adulthood, good girls awaiting marriage must resist the immorality and temptation presented to them by meddling foreign men until they are finally saved by their true love.

Even early in his career, Montépin was not shy of the topics of prostitution and adultery. In 1856, this resulted in his imprisonment for three months because of his work *Les Filles de plâtre*.<sup>113</sup> As a contemporary of Balzac we could assume that he read *Les Petits Bourgeois* in 1854 and then took up the term 'la traite des blanches', as Rops, Draner and Molière had. However, given the 23-year time gap and the evolving meaning of the term, this is unlikely. In addition to writing over 80 novels, in his youth Montépin had also been involved in the counter-revolutionary effort in 1848 France. To this end, he founded the journal *Canard* and collaborated with others on the publications *Pamphlet* and *Lampion*.<sup>114</sup> Thus, given his shared political circle with the Gasparins in Paris, one might suspect him to have taken inspiration from the Comtesse's call to the Réveil. Montépin's interests and perspectives, however, make it unlikely that he was at all concerned or aware of this movement's activities. The most plausible source of inspiration is that, given his long-standing interest in the subject matter of prostitution and his research for the final novel of *Confession d'un Bohême*, Montépin was led to the compelling narrative of Théodore Borel in his non-fictional description of 'la traite des blanches'.

## 4.2 The Sprouts of European Modernity

A tale filled with suspense and twists, Montépin's *La Traite des Blanches* shares many of the narrative elements found in both Dyer and Borel. This says far more about the concerns and fears of men of the period than it does, if at all, about the lives, choices, challenges, achievements and experiences of migrant women who sold sex in late nineteenth-century Europe. In this time and place, people living in Europe had been witnessing significant changes around them. Politically and socially, men saw women of different classes beginning to enter spaces beyond the home. Technologically, the

<sup>113</sup> William Olmsted, *The Censorship Effect: Baudelaire, Flaubert, and the Formation of French Modernism* (Oxford: Oxford University Press, 2016). Montépin's women of sexual service went on to inspire the next generation of authors, such as Maurice Barrès, in their characterisation of women who sold sex. Jessica Leigh Tanner, "Mapping Prostitution: Sex, Space, Taxonomy in the Fin-de-Siècle French Novel" (PhD diss., Harvard University, 2013): 126.

<sup>114</sup> "Les Echos de Paris," *Les Annales Politiques et Littéraires: Revue Populaire Paraissant Le Dimanche*, 11 May 1902, BnF Gallica, <https://gallica.bnf.fr/ark:/12148/bpt6k57098252/f6.image> [accessed 07.09.2022].

means and speed of communication were shifting, with the telegraph shrinking both time and space as well as the industrialised lithograph being able to satisfy the desires of an ever-growing reading public. In terms of transport, falling ticket prices and rising wages increasingly made travel by train or ship available to those outside the privileged classes. While at the beginning of the nineteenth it would have been impossible to conceive of a woman independently migrating to work, this was very much a reality by the century's end.

We could of course interpret Dyer as seeking to defend young working-class women through the construction of a streamlined victim narrative around naivety. However, at the same time he patronised them as incapable of decision-making and thus in need of laws (age of consent, ban on migration) that would keep them at *home*. Rather than perceiving them as victims, Borel and Montépin had blamed the downfall of poor girls on their superficial desires and temptation by the fruits of modernity. They argued that, in the context of changing fashions and modernisation, girls had been lured by procuresses with fancy clothing, and went on to condemn the aspirations of working-class women to participate in these processes.

## 5 Conclusion

Whether framed as victims of deception or of their own desires, the concept of 'white slavery' as it related to working-class migration for commercial sex took shape gradually through fictional and non-fictional narratives from 1876 to 1880. Even into the 1880s, novels continued to play an important part in constructing this particular idea of 'white slavery' on behalf of the Federation.<sup>115</sup> The year 1876 and the translation of Pastor Borel's work mark the moment when the idea of transnational trafficking was transferred into the British context. Nonetheless, a gendered and racialised idea of trading in White women had begun in Paris as early as 1854 with Balzac's work *Les Petits Bourgeoisies*.

The term 'la traite des blanches' clearly drew upon connotations of the Atlantic slave trade while inverting binary notions of race and gender. Balzac's use of the term was specifically intended to comment on how white-collar workers used deceptive strategies to ascend the social ladder. While concerns of criminal anonymity among the masses using trains and ships appear as a thematic thread running through the later

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<sup>115</sup> In 1881, Lord Monroe published his novel *La Clarisse du XIXe siècle ou La traite des blanches*, which he dedicated to Josephine Butler and in which he described a traffic in women from England to the Continent. Then, in 1886, Dr. Lutaud, under the pseudonym Dr. Minime, also tried to popularise the campaign against 'white slavery' by focusing on the rape of virgins in his novel *La prostitution et la traite des blanches de Londres et Paris*. Cf. Alain Corbin, *Women for Hire: Prostitution and Sexuality in France after 1850*, trans. Alan Sheridan (Cambridge, MA: Harvard University Press, 1990): 277.

(1876–1880) ‘white slavery’ narratives of Dyer, Borel and Montépin. Compared to references to ‘la traite des blanches’ in the 1850s and 1860s, here we see the production and reflection of anxieties about document forgery enabling illicit migration. That said, however, even in Balzac’s use of ‘la traite des blanches’ in 1854, we already see the concern that the falsification of documentation might be exploited by the lower classes to pass themselves off as better than they are and to swindle their way into better social and financial positions.

Cultural actors from the 1850s to the 1860s, such as Balzac, Draner and Rops, as well as Moléri, all used the term ‘la traite des blanches’ to make some sort of comment on the institution of marriage. It was Valérie de Gasparin, however, who, as part of a call within the Réveil movement in 1870, turned ‘la traite des blanches’ into a metaphor about a working-class brothel trade. Throughout these works of fiction and non-fiction from the 1850s–1880, it is never entirely clear what problem the authors seek to address.

When examined from a transnational perspective of circulating discourses, the tensions between varying historical actors (such as feminists, moral reformists, journalists, novelists, church-based organisations) reveal far more about the fears of these knowledge producers than about the real-life experiences and challenges of working-class women who sold sex. It is in this sense that this article contributes to recent developments in the historiography on the life-experience of those who sold or facilitated the selling of sex. This has been achieved not by repeating earlier approaches but rather by carefully examining the categories of difference of actors both within and behind the texts.

By adopting this perspective, this article has shown how discourses on ‘white slavery’ reveal attempts by members of the privileged classes to come to terms with shifting gender and class formations in response to global change. The discourses circulating transnationally between 1870 and 1880 did not, at any point, include an argument that the *problem* of prostitution needs to be addressed through equal wages. Rather what we see were concerns about criminality and how, despite a drastically changing world, society might keep people in the *right* place. From the beginning, the notion of repatriation and a return *home* appear as solutions; nothing is said of how these young women should protect or feed themselves upon return.

While all financially fortunate and socially privileged, the knowledge producers and cultural mediators behind ‘white slavery’ discourses were nevertheless from very diverse backgrounds. Strange alliances formed in support of this agenda, bringing writers of sexually infused literature on prostitution and crime together with authors of morally conservative religious prose. ‘White slavery’ at the same time facilitated collaboration between sensational journalists and religious refuge workers, while the sensational power of the metaphor stimulated the popularisation of feminist agendas. As different kinds of careers were made possible through this newly emerging transnational concept, one might go so far as to argue that the commonly featured lone

male-hero narrative aided the formation of both investigative journalism and the crime novel at the end of the nineteenth century.

By examining the process in which an 1870 metaphor congealed, through narratives and first-person witness reports, into a concept by 1880, this article has reappraised the *origin* story as provided in the existing historiography. Moreover, its findings with respect to cultural transfers and circulating knowledge not only reinforce ongoing scholarly efforts to unpack methodological nationalism but decentre the role of British historical actors.

Histories written from within the framework of a nation or organisation merely serve to reinforce these spatial constructions. The reconstruction of discourses along the organising logic and chronology presented in national and organisational archives does the same. If one reads discourses on 'white slavery' in national and organisational containers, the *problem* appears omnipresent. However, if we instead trace the circulation of the idea of 'white slavery' along a careful chronology and across spaces, we begin to see the particularities of how the concept formed and the discourses were constructed. This article has shown how cultural transfers on 'white slavery' travelled along different kinds of entangled spaces and how the importation, appropriation or transportation of the concept typically resulted in its adaptation to the national contexts. Thus, although circulation of knowledge occurs at a transnational level, the nation state itself is produced in the transfer processes.

As 'white slavery' was translated and transformed for the English context, the notion of a transnational trade in women was adapted to fit a national agenda regarding the age of consent and to address culturally relevant fears over strange men. At the same time, however, Borel's narrative of greedy old women corrupting young virgins still had cultural currency in French-speaking Europe, as is evident in Montépin's *La Traite des Blanches*. The formation of a concept on a transnational level demonstrates the power relations of states, not in terms of transferring knowledge but of how the idea of the nation itself becomes embedded in concepts. At the same time, the meaning of a concept is shaped through varying imaginaries as it moves across geographies. The idea of illicit migration and transnational trafficking for prostitution is one that found its basic formation between 1870 and 1880 in Europe. Forged between the tensions of fictional and non-fictional narratives, the problem of 'white slavery' was from its beginning transnational in its formation and emergence in thought-space and imagery. In this context, it was of secondary importance for this newly formed concept to reflect the experiences, if it did at all, of (vulnerable) migrant women who sold sex.



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Rachel Zelnick-Abramovitz

# The Slave Who Made It: Narratives of Manumitted Slaves in the Greek World

## 1 Introduction

How should stories about enslaved people who became rich and/or famous after their manumission be understood? Given that manumission did not make former slaves legally equal to citizens in the ancient Greek world, do these stories reflect realities in the places where these slaves lived and acted? Do they reflect concepts about and hopes among slaves for social mobility and a general belief that slaves had equal mental abilities? Or do they reflect the anxieties of slave-owners lest such scenarios materialize?

My aim here is to examine some of these stories in their social, cultural, and political contexts and offer some observations. Being written about 2,500 years ago by persons other than the slaves themselves, in various genres and for different purposes, these stories pose serious obstacles and present a complex and ambiguous picture. This very kaleidoscopic tableau, however, more than that portrayed in legal texts, may teach us about the concepts and attitudes to slaves and freed slaves in the communities and periods in which they were written or – if the extant evidence allows inference – in which the subjects of these stories lived.

It must be said at the outset that some successful former slaves, such as the Athenian bankers Pasiōn and Phormiōn, are attested by solid evidence. Forensic orations from fourth-century BCE Athens attest to the social success of these two former slaves who attained freedom and were even granted citizenship, apparently because of their generous contributions to the city.<sup>1</sup> The evidence about them also reflects prejudices and, since it is provided in forensic speeches, may distort the facts.<sup>2</sup> Yet these bankers, although probably well-known among their contemporaries and commemorated by the orations, neither became legendary nor affected posterity. The same may be said about Neaira, a former slave and prostitute, who managed to pose as the legal wife of an

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1 Cf. Jeremy Trevett, *Apollodoros, the Son of Pasion* (Oxford: Clarendon Press, 1992); Edward E. Cohen, *Athenian Economy and Society: A Banking Perspective* (Princeton, NJ: Princeton University Press, 1992): 61–110; Edward E. Cohen, *The Athenian Nation* (Princeton, NJ: Princeton University Press, 2000): 130–54.

2 Cf. Rob Tordoff, “Introduction: Slaves and Slavery in Ancient Greek Comedy,” in *Slaves and Slavery in Ancient Greek Comic Drama*, ed. Ben Akkrig and Rob Tordoff (Cambridge: Cambridge University Press, 2013): 7.

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**Note:** I am grateful to the participants of the BCDSS Annual Conference “Slavery and Other Forms of Strong Asymmetrical Dependencies: Semantics, Lexical Fields and Narratives” for their useful comments and suggestions.



Athenian citizen until taken to court.<sup>3</sup> Although her story may recall that of Rhodōpis, which I discuss below, it remained confined to its immediate context and did not accrue variants or legendary elements. My interest here is in narratives about slaves that may have had a historical kernel but accrued legendary elements. As argued by Keith Hopkins in his study of one such story, “the social history which can be squeezed from ‘real histories’ and from fiction may be broadly similar, and, for the interpretation of culture, there is little justification for privileging one above the other.”<sup>4</sup>

To highlight the difficulties that manumitted slaves usually encountered, I start with a story of a successful ex-slave, Epiktētos (ca. 50–135 CE), which, unlike the stories discussed below, is known from Epiktētos’ own writings. This home-born slave from Phrygia lived in Rome and obtained permission from his master – himself a freedman – to study philosophy. After his manumission, Epiktētos taught philosophy in Rome until the Emperor Domitian banished all philosophers from the city. He then moved to Nikopolis in western Greece, where he founded a school. He is the only former Greek slave whose writings, *The Discourses* (*Diatribai*), have come down to us, although not directly but transcribed by his pupil.<sup>5</sup> A Stoic philosopher, Epiktētos speaks in his fourth *Discourse* about the real meaning of freedom and about the dangers and difficulties facing manumitted slaves, who are thrown into the world to fend for themselves, often earning their living by prostitution:

‘If I shall be set free,’ the slave says, ‘it is instantly all happiness, I care for no man, I speak to all as an equal and like to them, I go where I choose, I come from any place I choose, and go where I choose.’ Then he is set free and forthwith, having no place where he can eat, he looks for some man to flatter, someone with whom he shall dine: then he works with his body [i.e., prostitutes himself] and endures the most dreadful things; and if he can obtain a manger, he falls into a slavery much worse than his former slavery.<sup>6</sup>

Epiktētos – a name that means “acquired” or “purchased,” hence most likely given him by his master – was a famous philosopher, although he lived a simple life. Not only is he the only famous ex-slave whose life is (at least partly) known from his own writings, his story is also one of the few about slaves that are known to be historically true. Different are the narratives discussed farther on. They were written by others long after the slaves’ presumed lifetime, and at least some of these slaves may have been fictional characters.

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3 Cf. Konstantinos A. Kapparis, *Apollodoros ‘Against Neaira’ [D 59]* (Berlin/Boston: De Gruyter, 2012); Deborah Kamen, “Sale for the Purpose of Freedom: Slave Manumission in Ancient Greece,” *Classical Journal* 109 (2014): 291–98.

4 Keith Hopkins, “Novel Evidence for Roman Slavery,” *Past & Present* 138 (1993): 4.

5 His pupil was the Greek historian Arrian of Nikomedia (ca. 89–160 CE).

6 Epiktētos, *Discourses* 4: 34–36 (my translation).

## 2 Salmoxis

The first story I discuss is that of Salmoxis, whose name is also given as Zalmoxis or Zamolxis. Describing the expedition of the Persian king Darius against the Skythians (a group of ancient nomadic people on the Pontic steppe), the Greek historian Herodotos recounts how Darius overpowered the Thracian people of the Getai, who considered themselves immortal.<sup>7</sup>

[94] As to their [the Getai] claim to be immortal, this is how they show it: they believe that they do not die, but that he who perishes goes to the god Salmoxis, or Gebeleizis, as some of them call him. Once in every five years they choose by lot one of their people and send him as a messenger to Salmoxis, charged to tell of their needs [ . . . ] [95] For myself, I have been told by the Greeks who dwell beside the Hellespont and Pontus that this Salmoxis was a man who was once a slave in Samos, his master being Pythagoras son of Mnesarchos; presently, after being freed and gaining great wealth, he returned to his own country. Now the Thracians were a meanly-living and simple-witted folk, but this Salmoxis knew Ionian usages and a fuller way of life than the Thracian; for he had consorted with Greeks, and moreover with one of the greatest Greek teachers, Pythagoras; wherefore he made himself a hall, where he entertained and feasted the chief among his countrymen, and taught them that neither he nor his guests nor any of their descendants should ever die, but that they should go to a place where they would live forever and have all good things. [ . . . ] [96] For myself, [ . . . ] I think that he lived many years before Pythagoras; and whether there was a man called Salmoxis, or this be a name among the Getai for a god of their country, let the question be dismissed.<sup>8</sup>

Herodotos presents two narratives here. The first is that told by the Getai themselves, who believed that Salmoxis is their god and that he had taught their ancestors that they do not die but go to him. Additional sources retell the cult of Salmoxis. Plato, for instance,<sup>9</sup> attributes to the Thracians the belief that Zalmoxis is their god and that they possess charms that make them immortal. The same is known from other texts, some of which also mention the Greek tale of Salmoxis' servile status.<sup>10</sup> Scholars who have

<sup>7</sup> The Getai inhabited the regions of the Lower Danube, in what was then Dacia and is today southern Romania.

<sup>8</sup> Herodotos (4.94–96); trans. Alfred D. Godley (*The Histories of Herodotus* [Cambridge, MA: Harvard University Press, 1920]).

<sup>9</sup> *Chrm.* 156d.

<sup>10</sup> According to Diodoros Siculus (1.94.2), Zalmoxis was the lawgiver of the Getai. Strabo (7.3.5 and 16.2.39) writes that Zalmolxis was Pythagoras' slave, who then became a prophet and rose to the position of a high priest and the king's councilor. According to Diogenes Laërtios (1.1.1, 8.1.2), Zamolxis was Pythagoras' slave and was worshipped by the Getai as Kronos. Iamblichus (Augustus Nauck, ed., *Iamblichi de vita Pythagorica liber* [Amsterdam: A.M. Hakkert, 1965 (1884)]: 23.104, 30.173) repeats the narratives reported by Herodotos; Photios (Patriarch of Constantinople in 858–867 and 877–886) in his *Lexicon* (s.v. “Ζάμολιξις [Zamolxis]”) repeats Herodotos' two narratives. Sorin Paliga (“La divinité suprême des Thracos-Daces,” *Dialogues d'histoire ancienne* 20, no. 2 [1994]: 140) explains the association of Zalmoxis with the Greek god Kronos as showing that the Greeks acknowledged Zalmoxis' antiquity: “Kronos represented the first generation of gods: the pre-Indo-European deities.”

studied this cult and the ancient peoples of Thrace and Dacia interpret the cult of Salmoxis as chthonian or as associated with Asian shamanism, whereas others point to features similar to Pythagoreanism – possibly explaining the connection of Salmoxis with Pythagoras in the Greek narrative.<sup>11</sup> Be its features as they might, the cult appears to have been very much esteemed by the Thracians, who worshipped Salmoxis as a powerful god.

Some scholars base their interpretation of the cult on the etymology offered by Porphyry, who traces the variant Zalmoxis to the Thracian word *zalmos*, “skin” or “fur,” because, according to an anecdote, Zalmoxis was wrapped in bearskin at birth.<sup>12</sup> Hence, it has been suggested that he was a “Bear-God”; others infer that he was part of, or the founder of, a mystery cult of warriors. Yet another etymology derives the name from the Thracian word *zemelen*, “earth,” and identifies Zalmoxis as a chthonic god.<sup>13</sup> But it is worth noting what Dana writes:

For my part, the fact that some of the ancient sources for this cult are so brief and others are so stereotypical is a good argument for caution of generalizations, and invites a close analysis of each element. [ . . . ] The interpretations of modern scholars [i.e., Zalmoxis as a god of the earth / of vegetation, a bear god, a sky god, a shaman, or a master of initiation] betray the intellectual environment and the temporal framework in which they have been developed, and the changing concerns of the authors (which explain the disconcerting variety of theses).<sup>14</sup>

These words may also apply to the second ancient version of the story. This narrative, which Herodotus ascribes to “the Greeks who dwell beside the Hellespont and Pontos”<sup>15</sup> and which recurs in other texts (e.g., Porphyry, cited above), is quite disparaging. Lateiner describes the account as a travesty of Asiatic shamanism. Instead of a god, we have a Thracian enslaved man, who learned Greek wisdom from his master at Samos, the famous philosopher Pythagoras, and after attaining freedom amassed great wealth, returned to his native land, built an underground chamber into which

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11 For analyses and interpretations of this cult, see, e.g., Mircea Eliade, *Zalmoxis: The Vanishing God* (Chicago: University of Chicago Press, 1972): esp. 109; Donald Lateiner, “Deceptions and Delusions in Herodotus,” *Classical Antiquity* 9, no. 2 (1990): 243–44; Paliga, “La divinité suprême des Thraco-Daces”: 137–50; Dan Dana, “Zalmoxis et la quête de l’immortalité: pour la révision de quelques théories récentes,” *Les Études Classiques* 75 (2007): 93–110; David Braund, “Scythian Laughter: Conversations in the Northern Black Sea Region in the 5th Century BC,” in *Meetings of Cultures in the Black Sea Region: Between Conflicts and Coexistence*, ed. Pia Guldager Bilde and Jane Hjarl Petersen (Aarhus: Aarhus University Press, 2008): esp. 358; Isabelle Sabau, “Zalmoxis: Preceding the Greeks or Influenced by Them?” *Fizica și Tehnologiile Moderne* 11, no. 1–2 (2013): 71–76.

12 Porphyry (*Vita Pythagorae*: 14) also says that Zalmoxis was a disciple of Pythagoras, acquired by him from Thrace, and that Pythagoras instructed him in the theory “of things above and things concerning sacred rites and other rites in honor of the gods. Some say that his name was Thales. And the barbarians worshipped him as Hercules.”

13 Mircea Eliade, *Zalmoxis: The Vanishing God* (Chicago: University of Chicago Press, 1972): 45.

14 Dana, “Zalmoxis et la quête de l’immortalité: pour la révision de quelques théories récentes”: 109.

15 Hdt. 4.95.

he later disappeared for four years, and by deceiving the Getai into believing that he had come back to life, taught them that they were immortal.<sup>16</sup> Salmoxis is presented here not only as a human being but as a former slave who developed his doctrine by adopting the superior Greek civilization. According to Paliga, the story of Salmoxis' servile status reflects a popular Greek tradition and was fed by the etymology that derived the name Zalmoxis from the Thracian word for bearskin, painting Salmoxis as a slave of simple and coarse attire.<sup>17</sup> Paliga suggests that this etymology was put forward by the Getai-Dacians themselves either to hide the real, serious meaning of their divinity or to offer the Greeks a pseudo-etymological explanation that would suit their taste and pride.

Apart from the chauvinistic attitude apparent in the Greek version, which presents the Getai as having learned and borrowed Pythagoras' doctrine of reincarnation<sup>18</sup> – a doctrine that itself may have been borrowed by the Greeks from non-Greeks or assimilated by the Greeks to non-Greek religions<sup>19</sup> – why did the Greeks disparage Salmoxis and describe him as a slave? Salmoxis was not the only non-Greek northerner whose story was doubted (even derided) by Herodotos,<sup>20</sup> and the Greeks told many stories about slaves who became rich and famous. None of these slaves, however, was considered by non-Greeks to be their god, as Salmoxis was. Still, stories about Thracian slaves – like that of Aesop, as I show presently – may have spurred the Greek version of Salmoxis' story.

Another answer may be deduced from Eliade's discussion of the human sacrifice that Herodotos describes.<sup>21</sup> This sacrifice, the essential element of which was the dispatch

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16 Lateiner, "Deceptions and Delusions in Herodotus": 243.

17 Paliga, "La divinité suprême des Thraco-Daces": 140–43.

18 Eric R. Dodds, *The Greeks and the Irrational* (Berkeley: University of California Press, 1951): 144; Paliga, "La divinité suprême des Thraco-Daces": 140; Sabau, "Zalmoxis: Preceding the Greeks or Influenced by Them?": 71–72. Eric R. Dodds, *The Greeks and the Irrational*: 144 writes that the Greek settlers in Thrace made Zalmoxis into Pythagoras' slave because they must have been aware of some analogy between the two. "That was absurd, as Herodotus saw: the real Zalmoxis was a daemon, possibly a heroised shaman of the distant past. But the analogy was not so absurd: did not Pythagoras promise his followers that they should live again, and become at last daemons or even gods?" John Bodel, "Death and Social Death in Ancient Rome," in *On Human Bondage: After Slavery and Social Death*, ed. John Bodel and Walter Scheidel (Oxford: Wiley-Blackwell, 2017): 93–94, points out the symbolic value of the story of the double enslavement (metaphorical death) and manumission (regeneration), "a myth fashioned around the realities of a world in which individuals customarily disappeared into slavery, but also, like Zalmoxis, returned" (94). Bodel interprets this myth as marking triumph over death.

19 Donald Lateiner, "Deceptions and Delusions in Herodotus": 142 and n. 30; Sabau, "Zalmoxis: Preceding the Greeks or Influenced by Them?": 73–74.

20 See Herodotos, 4.13–16 (with 3.116.1–2) on Aristes from Prokonnesos (= Marmara island) and 4.36.1 on Abaris (a "Hyperborean"). Different stories are told about the Skythians Anacharsis (4.46.1, 76–77) and Skylēs (4.78–80), who were killed by Skythian kings for learning and practicing Greek customs and cults. See also Dana, "Zalmoxis et la quête de l'immortalité: pour la révision de quelques théories récentes": 94–95.

21 Mircea Eliade, *Zalmoxis: The Vanishing God*: 49–50.

to Zalmoxis of a messenger chosen by lot, is interpreted by Eliade as the re-actualization of the direct relations that existed between the Getai and their god. Eliade points to the prevalence of this kind of sacrifice in Southeast Asia and the regions adjoining the Pacific, “where slaves are immolated to inform the Ancestor of his descendants’ desires”.<sup>22</sup> Yet, as Eliade remarks, the form of the Getic sacrifice described involves not slaves but free men.<sup>23</sup>

It may well have been the Greeks’ claim to cultural superiority and their (or Herodotos’) rejection of supernatural phenomena that spurred them to degrade the Getic god to a slave. And, as suggested by Eliade,<sup>24</sup> Zalmoxis’ doctrine of immortality and the episode that made him “the slave of Pythagoras” may have inspired the ancient authors to continue writing about him. As noted above, however, the Greeks were also familiar with other stories about slaves who learned their wisdom from their masters and communicated it to others after gaining their freedom. The question is not (or not only) whether such stories are historically true but what they can teach us about the Greeks’ attitude toward wise and resourceful ex-slaves. Note that Herodotos does not commit himself to whether Salmoxis was a god or a slave;<sup>25</sup> he merely rejects the chronology and claims that Salmoxis predated Pythagoras (ca. 570–490 BCE). I hold any inference regarding Salmoxis in abeyance until I discuss the other stories.

### 3 Rhodōpis and Aesop

The second set of stories I discuss comprises those of Rhodōpis (“Rosy Face”) and Aesop – the former a famous and very rich *hetaira* (courtesan), the latter the well-known fabulist. They were fellow slaves (*syndouloi*), whose lives inspired numerous and various stories, the oldest of which is again by Herodotos:

[134] Some Greeks say that the pyramid [built by the Egyptian king Mykerinos] was built by Rhodōpis, a *hetaira*, but they are wrong. [2] indeed, it is clear to me that they say this without even knowing who Rhodōpis was [ . . . ], or that Rhodōpis flourished in the reign of Amasis, not of Mykerinos; [3] [ . . . ] She was a Thracian by birth, slave to Iadmon, son of Hephaistopolis, a Samian, and fellow-slave (*syndoulos*) of Aesop the story-writer. For he was owned by Iadmon, too, as the following made crystal clear: [4] when the Delphians, obeying an oracle, issued many proclamations summoning

22 Mircea Eliade, *Zalmoxis: The Vanishing God*: 49.

23 Mircea Eliade, *Zalmoxis: The Vanishing God*: 50.

24 Mircea Eliade, *Zalmoxis: The Vanishing God*: 67 and n. 28.

25 (4.96). In Hartog’s view (François Hartog, “Salmoxis: le Pythagore des Gètes ou l’autre de Pythagore?” *Annali della Scuola normale superiore di Pisa Ser. III* 8, no. 1 [1978]: 42): “Salmoxis maybe man or demon, he could have been one and the other, he can even still be something else; after all, it is in this non-conclusion that his otherness resides and this is, I believe, the meaning of the final *χαίρετω* [translated by Alfred D. Godley as ‘let the question be dismissed’], this third-person imperative, ‘Good-bye, or let’s leave that, or else get lost!’; in short, the other world of which Sartre was talking.”

anyone who wanted it to accept compensation for the killing of Aesop, no one accepted it except the son of Iadmon's son, another Iadmon; hence Aesop, too, was Iadmon's. [135] Rhodōpis arrived at Egypt, brought there by Xanthēs of Samos, and upon her arrival was set free because of her practice for a great sum of money by Charaxos of Mytilene son of Skamandronymos, the brother of Sappho the poetess. Thus Rhodōpis was set free and stayed in Egypt, and, being very charming (*epaphroditos*), she acquired great wealth enough for a Rhodōpis, but not for such a pyramid. [ . . . ] For Rhodōpis desired to leave a memorial of herself in Greece, by having something made which no one else had thought of or dedicated in a temple and presenting this at Delphi to preserve her memory; [4] so she spent one tenth of her substance on the manufacture of a great number of iron beef spits, as many as the tenth would pay for, and sent them to Delphi; these lie in a heap to this day, behind the altar set up by the Chians and in front of the shrine itself. [5] The courtesans of Naukratis seem to be peculiarly alluring, for the woman of whom this story is told became so famous that every Greek knew the name of Rhodōpis, and later on a certain Archidikē was the theme of song throughout Greece, although less celebrated than the other.<sup>26</sup>

### 3.1 Rhodōpis

In contrast to the male freed slaves discussed in this paper, Rhodōpis was neither a philosopher nor a writer, but she became very famous and, because Herodotos connects her life with Aesop's, she serves here as another example of a slave or semi-legendary slave who succeeded in life.

Herodotos doubts the story that Rhodōpis paid for the construction of a pyramid. Yet he does not distrust the basic storyline: that she was a slave of Iadmon; that she was (probably) bought by another person in Samos, Xanthēs (or Xanthos – itself a common slave name), who brought her to Egypt to practice prostitution; that she was manumitted for a great sum of money by Charaxos, the brother of the poetess Sappho; that she became so rich that she dedicated spits to Apollo's sanctuary at Delphi; and that every Greek knew her name. Herodotos also rejects the traditional chronology (as he does in the story about Salmoxis), according to which Rhodōpis lived at the time of the Egyptian king Mykerinos (Menkaure's Greek name), who reigned in the mid-third millennium BCE. Instead, he places her in the reign of Amasis II (570–526 BCE). Herodotos's chronology is reasonable because Sappho, whose brother bought Rhodōpis for the purpose of setting her free, lived in the late seventh/early sixth century BCE.

The Greek geographer and historian Strabo (ca. 63 BCE–23 CE) gives a slightly different version, in which the woman is identified as Dorichē,<sup>27</sup> a name also mentioned

<sup>26</sup> Herodotus (2.134–35), trans. Alfred D. Godley.

<sup>27</sup> Strabo 17.1.33. Strabo's version is seen as the source of the Cinderella legend: Once, when Dorichē was bathing, an eagle snatched one of her sandals and carried it to Memphis. The eagle let the sandal fall into the lap of the king, who was then administering justice. The king sent people across the country in search of the woman who owned the sandal. She was found in the city of Naukratis and delivered to the king, who made her his wife.

by the poetess Sappho herself.<sup>28</sup> Despite the difference in name and although Strabo ascribes the funding of the pyramid to Rhodōpis/Dorichē's lovers – as does the first-century BCE historian Diodoros Siculus<sup>29</sup> – their accounts share narrative features that were also known to the Greeks in real life. We hear of several historical *hetairai* who were expensive to buy, expensive to manumit, and famous. Some were even influential, although none became legendary as did Rhodōpis.<sup>30</sup> This phenomenon may have given rise to the literary motif of the beautiful, rich, ex-slave courtesan.<sup>31</sup> Yet although famous and rich *hetairai* were common, as far as we know none of them became a fabulist, a philosopher, or a published author.<sup>32</sup>

### 3.2 Aesop

Different was the lot of Rhodōpis' fellow-slave, Aesop, to whom numerous animal fables transmitted by much later authors are ascribed. Many anecdotes recount his life and adventures, especially a first-century CE fictitious biography, the *Life of Aesop*,<sup>33</sup>

28 Sappho, Fragments 3, 5, 7, 15. In Fragment 5, Sappho asks Aphrodite and the Nereides (the sea nymphs) to make her brother cross the sea and bring him back, safe and unmindful of the love for Dorichē.

29 Diodoros Siculus 1.64.13–14.

30 Like the famous and popular *hetaira* Neaira, who, after manumission came to Athens, passed herself off as a citizen's lawful wife. But she was not rich and, after her marriage lived 'under the radar.' See above for references.

31 See Leslie Kurke, "Inventing the 'Hetaera': Sex, Politics, and Discursive Conflict in Archaic Greece," *Classical Antiquity* 16 (1997): 106–50. Nagy reconstructs the syncretic myth of the beautiful Egyptian queen Nitōkris, who is said to have built her own pyramid, and the Greek versions of Rhodōpis/Dōrichē (§20: "Rhodōpis was modeled on the courtesan or princess or queen of pre-existing Egyptian traditions centering on the multivalent figure of Nitōkris"; Gregory Nagy, "Herodotus on Queens and Courtesans of Egypt," The Center for Hellenic Studies, Harvard University, 3 November 2020, [http://nrs.harvard.edu/urn-3:hnc.essay:NagyG.Herodotus\\_on\\_queens\\_and\\_courtesans\\_of\\_Egypt.2018](http://nrs.harvard.edu/urn-3:hnc.essay:NagyG.Herodotus_on_queens_and_courtesans_of_Egypt.2018) [accessed 31.10.2022] [originally in *Herodotus: Narrator, Scientist, Historian*, ed. Ewen Bowie (Berlin: De Gruyter, 2018): 109–22]).

32 Nuno Simões Rodrigues ("Rodōpis no país dos faráos: Itinerário de uma hetera grega," *Cuadernos de filología clásica: Estudios griegos e indoeuropeos* 19 [2009]: 116) argues: "The references to Aesop and Sappho in the passage under analysis is relevant. We can say little about Aesop, since the only information included is about his servile condition, as well as his living with Rodopis in servitude. Although this too is a figure shrouded in legendary features, the allusion to Aesop is intended to guarantee a true consistency to the figure of the *hetaira*, who was not known for any type of intellectual production, as with most figures who became famous in the ancient Greek world. Likewise, the inclusion of Sappho is intended as confirmation of this truth, but with an added value." See also Giulia Donelli, "Herodotus, the Old Sappho and the Newest Sappho," *Lexis* 39, no.1 (2021): 14–15.

33 The text, collated from various manuscripts, was edited by Ben E. Perry, *Aesopica* (Urbana, IL: Illinois University Press, 1952). See Consuelo Ruiz-Montero, "The Life of Aesop (rec. G). The Composition of the Text," in *A Companion to the Ancient Novel*, ed. Edmund P. Cueva and Shannon N. Byrne (Oxford: Wiley-Blackwell, 2014) for its composition, Jeorijos Martin Beyer, "Aesop – eine Sklavenbiographie,"

which also makes him deformed and ugly. These anecdotes build on the gap between his hideous looks and low status and his intellectual abilities.

Setting aside for the moment the *Life*, which most probably is a compilation of various texts from various dates, we can detect the main lines of Aesop's story with the help of two other texts, Aristotle<sup>34</sup> and Plutarch:<sup>35</sup> Aesop was a slave of Thracian origin; his Samian master, Iadmon, probably sold him to someone else (Xanthēs?) or to a slave dealer; later, Aesop was manumitted; his wit, sharp tongue and fables earned him a reputation; and he seems to have travelled in Greece and Asia Minor, invited by rulers or sent to them as an emissary. A persistent story tells of his violent death in Delphi after being accused of stealing sacred vessels.<sup>36</sup>

In the *Life*, Aesop is the slave of an unnamed master. He is ugly, deformed and mute. After showing kindness to a priest of the goddess Isis, the goddess restores his power of speech and the Muses endow him with "the invention of words, and the entwining and compositions of Greek fables."<sup>37</sup> As Ruiz-Montero observes, "[t]his is the birth of Aesop the *logopoios* [the story-teller], a hero with new qualities to add to that of his inborn cunning".<sup>38</sup> This gift is symbolic: the humble, maltreated slave now has a voice, which he uses uninhibitedly to survive and gain his freedom. Aesop's master then sells him to a slave dealer, who takes him to Ephesos and then to Samos, where he is bought by the philosopher Xanthos. Later on, Aesop advises the Assembly of Samos to resist Kroisos, the king of Lydia, who plans to invade the island. As a reward for his advice, he is given his freedom.

For Perry, the *Life of Aesop* is

a naïve, popular, and anonymous book, composed for the entertainment and edification of the common people rather than for educated men, making little or no pretense to historical accuracy or literary elegance. As a biography of a cultural hero, it is almost without parallel among the ancient texts. It gives the portrait of a wise man as seen through the eyes of the poor in spirit, at the same time enlivened by a spontaneous and vigorous wit.<sup>39</sup>

Perry sees Aesop as an emblem of folk tradition and folk intelligence and cunning.<sup>40</sup> Hopkins argues that the *Life*, although a satirical fiction, reflects the emotional world

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*Antike Welt* 25, no. 3 (1994): 290–91 for a useful evaluation of the text, and Keith Hopkins ("Novel Evidence for Roman Slavery": 3–27) for a ground-breaking study of the text and its social significance.

34 *Rhet.* 2, 1393b.

35 *De sera*: 14.

36 See also Aristophanes, *Vesp.*: 1446–49.

37 Ben E. Perry, *Aesopica* (Urbana, IL: Illinois University Press, 1952), G Recension, §7 (my translation).

38 Consuelo Ruiz-Montero, "The Life of Aesop (rec. G). The Composition of the Text": 260. Cf. John Dillery, "Aesop, Isis, and the Heliconian Muses," *Classical Philology* 94 (1999): 268–80.

39 Ben E. Perry, *Studies in the Text History of the Life and Fables of Aesop* (Chico, CA: Scholars Press, 1981): 1.

40 Perry, *Studies in the Text History of the Life and Fables of Aesop*: 15.



and interpersonal conflicts in Roman society.<sup>41</sup> In his view, it is a generic, composite work that incorporates many different stories told about slaves but is attached to Aesop – not the “true” history of an exceptional slave but an invented, generalized caricature of a slave, whose relations with his master and his master’s wife, friends, and fellow citizens reflect central tensions in relations between slaves and their owners in the Roman society. Unlike real slaves, Aesop speaks his mind and so discloses what is in others’ minds; hence he is too troubling to be left alive.<sup>42</sup> His story served as a social mirror that helped members of the in-society to define themselves and their relations with each other. The appropriate question, adds Hopkins, is not “Did slaves really talk like that to their masters?” but rather “Did many slave-owners in some way fear that they might?”<sup>43</sup>

As Beyer remarks, many slaves surpassed their masters in education, achieved honorable positions such as secretaries, teachers, architects, doctors, or were employed in administration and agriculture.<sup>44</sup> Thus they became thorns in their owners’ flesh and targets of jealous attacks. The *Life*, Beyer argues, is about “a rebellion of the spirit against the social order, a harsh criticism of authoritarian structures”.<sup>45</sup> Similarly, seeing Aesop as expressing popular culture, Kurke suggests that already by the fifth century BCE the figure of Aesop

had floated free from any particular context and passed into the common discursive resources of the culture, available as a mask or alibi for critique, parody, or cunning resistance by any who felt themselves disempowered in the face of some kind of unjust or inequitable institutional authority. [. . .] “Aesop” was a readily available cipher or “ideologeme” for all kinds of parody or critique from below.<sup>46</sup>

Yet another interpretation is that of Sara Forsdyke, who argues:

Fifth-century Greeks believed that the fable was invented by a slave, whether or not this is historically accurate. Something about the fable – either its actual popularity among their slaves, or the content of these early fables – caused the Greeks to associate it with a slave. I suggest that both of these factors led the Greeks to attribute the fable to the ugly and misshapen but devastatingly clever slave named Aesop. From then on, it was an easy step to elaborate a biography for this real or imagined slave author. [. . .] Aesop, following the pattern of the fables themselves,

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41 Hopkins, “Novel Evidence for Roman Slavery”: 12.

42 Hopkins, “Novel Evidence for Roman Slavery”: 21.

43 Hopkins, “Novel Evidence for Roman Slavery”: 22.

44 Beyer, “Aesop – eine Sklavenbiographie”: 290.

45 Beyer, “Aesop – eine Sklavenbiographie”: 291.

46 Leslie Kurke, *Aesopic Conversations: Popular Tradition, Cultural Dialogue, and the Invention of Greek Prose* (Princeton, NJ: Princeton University Press, 2011): 12. Ruiz-Montero, “The Life of Aesop (rec. G). The Composition of the Text” argues that *The Life of Aesop* combines elements of oral and rhetorical traditions typical of the imperial period but suggests that it was aimed at a less-educated, less-affluent audience. In contrast, Page DuBois, *Slaves and Other Objects* (Chicago/London: Chicago University Press, 2003): 177 regards the fable as conveying an antidemocratic, elite strain that often poses as populism.

became the slaves' trickster, a cunning hero who triumphs [. . .] over a human master. But the biography of Aesop had important ideological functions for masters too.<sup>47</sup>

The *Life of Aesop*, Forsdyke holds, represents a compromise between the fantasy of complete revenge, as seen in Aesop's animal fables, and

the practical need to negotiate better treatment in the very real and inescapable conditions of slavery. As such, the "Life of Aesop" blends slave traditions celebrating the slave-hero with the dominant ideology of the free Greeks, namely, the necessity and naturalness of slavery.<sup>48</sup>

Since fables were popular and "came to be *imagined* as the product of a slave",<sup>49</sup> it seems that either Aesop was not a fable-teller but came to be identified as one or was an invented figure who fit the image of the clever slave. It is significant that in the Near East, whence the Greek genre of fable is believed to have come, the fable was not particularly connected with slaves.<sup>50</sup> As we have just seen, Forsdyke believes that fables were attached to Aesop because of their content and their popularity among slaves. Doubts about Herodotos' version of the Aesop story, however, have been raised, first by West:

This is our earliest evidence about Aesop; and it is clear that we are already in the realm of legend. The linking of three notable persons, Aesop, Rhodopis, and Sappho, is suspicious in itself. If there was any justification for identifying the Doricha named by Sappho with Rhodopis, we do not know what it was. [. . .] As for Aesop's servitude in Samos, it seems that this rested, at best, on the unsupported assertion of a Samian two generations later, that is, about the end of the sixth century. No one else at that time was able to say anything about the matter. I say 'at best', because there is no guarantee that even the second Idmon, the grandson, and the Delphic proclamation are historical.<sup>51</sup>

As West himself mentions, an epitome by the second-century BCE writer Heraklidēs Lembus of Aristotle's lost work *On the Constitution of the Samians* has a variant of the story of Aesop – perhaps derived from the fifth-century BCE historian Euagon (or Eugeon) of Samos – in which Aesop is said to be of Thracian origin, his first master's name is Xanthēs (or Xanthos), and his freedom is given by Idmon (fragment 33 Dilts [= Arist. fragment

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47 Sara Forsdyke, *Slaves Tell Tales and Other Episodes in the Politics of Popular Culture in Ancient Greece* (Princeton/Oxford: Princeton University Press, 2012): 62.

48 Forsdyke, *Slaves Tell Tales and Other Episodes in the Politics of Popular Culture in Ancient Greece*: 62, 78–85 compares the *Life of Aesop* with the story of the bandit-slave Drimakos, told by the third-century BCE ethnographer Nymphodrus of Syracuse (quoted in Athenaeus 265d–266e), who led a slave revolt on the island of Chios and came to an agreement with the Chians; after his death, a cult of him was established, in which slaves and masters took part. Cf. Sara Forsdyke, "Slaves, Stories, and Cults. Conflict Resolution between Masters and Slaves in Ancient Greece," *Common Knowledge* 21, no. 1 (2015): 19–43.

49 Forsdyke, *Slaves Tell Tales and Other Episodes in the Politics of Popular Culture in Ancient Greece*: 62 (italics in the original).

50 Forsdyke, *Slaves Tell Tales and Other Episodes in the Politics of Popular Culture in Ancient Greece*: 6.

51 Martin L. West, "The Ascription of Fables to Aesop in Archaic and Classical Greece," *Entretiens sur l'Antiquité classique* 30 (1984): 117.

373]).<sup>52</sup> Thus, two fifth-century historians, both connected to Samos (see also below), locate Aesop in Samos, where they may have first encountered the story. Nevertheless, this evidence does not prove the existence of a slave named Aesop.

These various and sometimes only slightly diverse interpretations show how complex and difficult it is to pinpoint the meaning of the *Life of Aesop*. Yet the persona of Aesop, as it emerges from all the ancient sources, is also compatible with the figure of the shrewd, cunning, and energetic slave in Greek and Roman comedy,<sup>53</sup> which may have been its forerunner.

Whether Aesop was a historical figure or an invention and whether the stories about him are true or fictional, it is worth noting that he, like Rhodōpis and Salmoxis, were presented by the Greeks as slaves of Thracian origin, all three are roughly dated to the sixth century BCE, and all three are connected to Samos in some way. I will return to these shared features below.

## 4 Biōn

Our third story is that of Biōn, a Greek philosopher whose diatribes were known for their cynical attacks on gods, religion, and people's foolishness. His biography is known mainly from Diogenes Laërtios,<sup>54</sup> *Lives and Opinions of Eminent Philosophers*, 4.46–47:

[46] Biōn was by birth a Borysthenian; who his parents were, and what his circumstances before he took to philosophy, he himself told Antigonos in plain terms. For when Antigonos inquired: 'Who among men, and whence, are you? What is your city and your parents?'<sup>55</sup> he, knowing that he had already been maligned to the king, replied, 'My father was a freedman who wiped his nose on his sleeve' – meaning that he was a dealer in salt fish – 'a native of Borysthenes, with no face to show but only the writing on his face, a token of his master's severity.'<sup>56</sup> My mother was such as a man like my father would marry, from a brothel. Afterwards my father, who had cheated the revenue in some way, was sold with all his family. And I, then a charming youngster, was bought by a certain rhetorician, who on his death left me all he had. [47] And I burnt his books, scraped everything together, came to Athens and turned philosopher. "This is the stock and this the blood from which I boast to have sprung."<sup>57</sup> Such is my story [ . . . ].' In truth, Biōn was in other respects wily, a subtle sophist, and one who had given many pretexts to those wishing to trample philosophy, while in certain respects he was even pompous and able to indulge in arrogance (trans. Robert D. Hicks, with slight adaptation).

<sup>52</sup> West, "The Ascription of Fables to Aesop in Archaic and Classical Greece": 117–19.

<sup>53</sup> Cf. Roberta Stewart, *Plautus and Roman Slavery* (Chichester: Wiley-Blackwell, 2012); Ben Akrigg, "Aristophanes, Slaves and History," in *Slaves and Slavery in Ancient Greek Comic Drama*, ed. Ben Akrigg and Rob Tordoff (Cambridge: Cambridge University Press, 2013).

<sup>54</sup> A third-century CE biographer of Greek philosophers.

<sup>55</sup> The question of the Macedonian king Antigonos II is a quotation from Homer, *Odyssey*, 10.325.

<sup>56</sup> This may allude to the branding of slaves (see, e.g., Aelian, *VH* 2.9; Herodas 5.79).

<sup>57</sup> A quotation from Homer, *Iliad*, 6.211 = 20.241.

Biōn lived later than the former three slaves (c. 335/325–250/245 BCE) but he, too, came from the north – from Borysthenes, better known as Olbia, a Greek city near the mouth of the River Borysthenes (Dnieper) on the Black Sea coast.<sup>58</sup> Unlike Salmoxis, Rhodōpis, and Aesop, Biōn was probably born a free citizen, but his father was a freedman. In the Greek world, manumitted slaves gained citizenship not automatically but only if granted by a special decision of the polis in which they lived. Thus, if Biōn was a citizen of Borysthenes by birth, as Diogenes Laërtios' text seems to imply, his father may also have been a Borysthenian citizen who had been enslaved and who returned to his home city after manumission, thus regaining his citizen status. Or may have been granted freedom and citizenship when the people of Borysthenes-Olbia freed their slaves and conferred citizenship on foreign immigrants in order to increase the number of their soldiers during the siege that Zopyrion, one of Alexander the Great's generals, laid on the city.<sup>59</sup>

Biōn's biography is given in his own words, in reply to a question put to him by Antigonos II Gonatas, King of Macedonia. Biōn's background was nothing to be proud of: his father a freedman and a salt-fish dealer (not a very honorable occupation),<sup>60</sup> his mother a prostitute, and the whole family sold into slavery because of the father's offence against the authorities – perhaps, as Kindstrand suggests, for embezzling money in his job as a tax collector (which he held in addition to his other occupation).<sup>61</sup> Although Biōn is ostensibly quoted, this biographical text has raised some suspicions and may have been invented, at least in some of its details.<sup>62</sup> Like Salmoxis, who is said to have been bought by Pythagoras and taught by him, so Biōn here says that he was bought by a rich rhetorician who taught him and also made him his heir. For an unexplained reason, Biōn burned all his master's works, perhaps, as argued by Kindstrand,<sup>63</sup> to stress the change in his life; then he scraped everything together (his master's property seems to have been modest, despite his being a rhetorician who probably exacted fees for his teaching) and went to Athens to become a philosopher.

In Athens he probably first went to the Academy. An anecdote told by Diogenes Laërtios in his biography of Xenocratēs, the head of the Academy from 339/8–314/3

<sup>58</sup> On this city, see Jan Fredrik Kindstrand, *Bion of Borysthenes: A Collection of the Fragments with Introduction and Commentary* (PhD diss., University of Uppsala, 1976): 3–4.

<sup>59</sup> The only evidence of this siege is Macrobius, *Saturnalia*, 1.11.33. Scholars suggest two dates for this event, 331 and 325 BCE (see references in Jan Fredrik Kindstrand, *Bion of Borysthenes*: 4, n. 14), and both seem to fall within Biōn's early years. For the suggestion that Biōn's father was freed during the siege of Zopyrion, see Kindstrand, *Bion of Borysthenes*: 177.

<sup>60</sup> See Kindstrand, *Bion of Borysthenes*: 178–79.

<sup>61</sup> Kindstrand, *Bion of Borysthenes*: 7, 180–81.

<sup>62</sup> John L. Moles (s.v. "Biōn [1]," *Oxford Classical Dictionary*, 4th ed., online edition, 2012, <https://www.oxfordreference.com/display/10.1093/acref/9780199545568.001.0001/acref-9780199545568-e-1107?rskey=y9P5s6&result=1119> [accessed 21.09.2022]) argues that Biōn's own account of his life is fictionalized, that his disreputable parents strain credulity, and that his father's financial disgrace and his own enslavement recall the alleged adventures of the Cynic philosopher Diogenes.

<sup>63</sup> Kindstrand, *Bion of Borysthenes*: 8.

BCE, demonstrates Biōn's sarcastic and quarrelsome character (4.10): When mocked by Biōn, Xenocratēs would not reply to him because even tragedy does not deem it worthy to reply when mocked by comedy. Kindstrand suggests that another anecdote reported by Diogenes, recounting how Xenocratēs refused to teach a person who lacked all knowledge in music, geometry, and astronomy, also relates to Biōn, "who cannot have acquired a very thorough education and who was later known to deprecate all branches of the liberal education as completely worthless."<sup>64</sup> Indeed, Diogenes Laërtios says that Biōn made fun of music and geometry (4.53) and characterizes Biōn as a wily, versatile sophist who provided many pretexts to those who wished to trample philosophy while in other respects being pompous and able to enjoy vanity (4.47).

Biōn's versatility, according to Diogenes Laërtios, is also demonstrated by his having attended four different schools of philosophy. Like the sophists, he traveled, gave lectures, for instance, at Rhodes and Chalkis (4.53–54), and was friendly with the Macedonian king, Antigonos II Gonatas. Obviously, Biōn's character, as depicted by Diogenes, represents a hostile tradition. In addition to the traits mentioned above, Diogenes also pictures him as a selfish, greedy man, interested only in satisfying his physical pleasures (4.53–54). Kindstrand argues that Biōn's lowly background is important for understanding his personality: it explains his behavior, which must have shocked and annoyed many.<sup>65</sup> He seems to have been very self-confident, eager to joke at the expense of respected people; fond of fighting, he attracted many enemies. Conversely, he was popular and influential. According to Strabo (1.2.2), Eratosthenēs said that Biōn was the first to clothe philosophy in a flowery dress and was great despite his rags.

## 5 Menippos

The last story is that of Menippos, a slave of Phoenician origins, born in Gadara in Koilē-Syria. Our only source of information, again, is Diogenes Laërtios, who describes Menippos unflatteringly:

Menippos, also a Cynic, was by descent a Phoenician – a slave, as Achaïkos in his treatise on *Ethics* says.<sup>66</sup> Dioklēs further informs us that his master was a citizen of Pontos and was named Baton.<sup>67</sup> But as avarice made him very resolute in begging, he succeeded in becoming a Theban citizen. There is no seriousness in him; but his books overflow with laughter. [ . . . ] Hermippos

<sup>64</sup> Kindstrand, *Bion of Borysthenes*: 9.

<sup>65</sup> Kindstrand, *Bion of Borysthenes*: 20.

<sup>66</sup> Achaïkos (first century CE?) is also mentioned in Clement of Alexandria (*Strōmata*, 4.8.56) as the author of an *Ethics*; he also seems to have written a commentary on Aristotle's *Categories*; see Simplicius, *In cat.*, 159.24.

<sup>67</sup> Dioklēs is probably Dioklēs of Magnesia (first or second century BCE), the writer of philosophers' lives.

says that he lent out money by the day and got a nickname from doing so.<sup>68</sup> For he used to make loans on bottomry and take security, thus accumulating a large fortune. [100] At last, however, he fell a victim to a plot, was robbed of all, and in despair ended his days by hanging himself.<sup>69</sup>

Menippos lived in the first half of the third century BCE. His master lived in the kingdom of Pontos, on the southern coast of the Black Sea; hence, until he gained freedom Menippos – like Salmoxis, Rhodōpis, Aesop, and Biōn – lived in the northern part of the Greek world. We have no information on how he became a slave and how he gained his freedom. Diogenes Laërtios describes Menippos as a greedy person and insinuates that he bought his citizenship in the polis of Thebes. Menippos made his fortune, Diogenes Laërtios says, by lending money at interest (a dishonorable occupation) and met a disgraceful end.<sup>70</sup> The Menippean satire, a literary form combining prose and poetry and characterized by attacking mental attitudes and traditional myths rather than specific individuals, was named for him. His writings (listed by Diogenes Laërtios, 6.101), now lost,<sup>71</sup> influenced later authors such as Lucian – who counts him among the Cynic philosophers and makes him a character in three of his dialogues – and Roman writers such as Varro, Seneca the Younger, and Petronius.<sup>72</sup>

Thus, Menippos' reputation and the influence of his literary output (whether the so-called Menippean satire originated with him or was only ascribed to him by later authors) are better known than the exact details of his life. As Baldwin comments: "Despite rancid competition from the likes of Diogenes, Bion, and a host of other 'Dogs,' Menippos became the most notorious with posterity, admirers, and detractors alike."<sup>73</sup> Diogenes Laërtios relies on three writers: Achaïkos, Dioklēs and Hermippos. Given that none of their works has survived, Diogenes' paraphrases of them and their

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68 Hermippos of Smyrna was a third-century BCE philosopher, who wrote biographies of prominent men.

69 Diogenes Laërtios: 6.99–100; trans. Robert D. Hicks.

70 "Not the best credentials for a true Cynic," wryly remarks Barry Baldwin, "Hell-Bent, Heaven-Sent: From Skyman to Pumpkin," in *A Companion to the Ancient Novel*, ed. Edmund P. Cueva and Shannon N. Byrne (Oxford: Wiley-Blackwell, 2014): 160.

71 Diogenes Laërtios: 6.29 and 6.101, and Athenaios: 14.629F and 664E, give a list of works ascribed to Menippos.

72 See Lucian, *Nekyomantia – Menippos or The Descent into Hades, Ikaromenippos*, and the *Dialogues of the Dead*. It has been suggested that the *Menippos or The Descent into Hades* is probably a reworking of a work by Menippos himself and inspired Lucian to produce more appearances of Cynics in the Underworld. Gadara was the hometown of two other famous Cynics, the poet Meleager and the philosopher Oinomaos. For thorough studies about what may be known about the genre of Menippean satire (the exact nature of which is not easy to pinpoint), its alleged originator Menippos, and his relation to the Cynics, see Howard D. Weinbrot, *Menippean Satire Reconsidered: From Antiquity to the Eighteenth Century* (Baltimore: Johns Hopkins University Press, 2005) and Baldwin, "Hell-Bent, Heaven-Sent: From Skyman to Pumpkin."

73 Cf. Baldwin, "Hell-Bent, Heaven-Sent: From Skyman to Pumpkin": 161. See also Weinbrot, *Menippean Satire Reconsidered: From Antiquity to the Eighteenth Century*: 23: "Menippos exists almost wholly in tradition."

sources of information cannot be checked. Since Menippos, like Biōn, was regarded as a Cynic philosopher and hence – according to the image of the Cynics – a pursuer of simple life (though this was not so, according to Hermippos) and allegedly of humble background, the story of his servile status may have been a *topos*, a stock feature in stories about the Cynics. Menippos himself was credited with the authorship of a book titled *On the Sale of Diogenes*, in which he described the capture by pirates and sale into slavery of Diogenes of Sinopē, one of the founders of the Cynic School.<sup>74</sup>

## 6 Conclusion

Menippos' character is not much different from that of Biōn, as exemplified by his own words and Diogenes Laërtios' description; although said to be Cynics, they did not always live up to this label. Biōn's character, considered on its own, seems similar to Aesop's and all three are described as attacking society, be it via fable, diatribe, or satire. The three also resemble Salmoxis and Rhodōpis: all are presented as resourceful, witty, and wily. Side by side with their ingenuity, learning, and intellectual skills (at least among the male figures), these ex-slaves are portrayed as cunning and intriguing individuals whose success and wealth often traces to avarice. Moreover, very little is known about them; even their servile status is uncertain. In the cases of Biōn and Menippos, it is tempting to surmise that their biographies were "invented" to fit the archetypical poor Cynic.

Why did the Greeks preserve, expand, and retell stories about such schemers, non-citizens of inferior social background whom they often considered threats?

Even if the biographical evidence we have is fictional, it establishes the model of a successful former slave, a trickster and a representative of popular culture who outwits his or her betters in order to realize his or her aspirations and secure freedom. This model, again, whether based on real experiences or not, seems to be what the Greeks – themselves slave-owners or former slaves – fretted about or dreamt to be. It is remarkable that the model recurs in varied genres or narrative forms: anecdotes and myths incorporated into historical works (Herodotos, Diodoros), myths and legends inserted into a geographical work (Strabo), biographies (Diogenes Laërtios, Porphyry), philosophical texts (Plato, Plutarch), lexica (Photios), and a rhetorical treatise (Aristotle). Hence, we should be wary of ascribing this model to one literary genre. This is not the place to elaborate on the Greeks' attitude toward myths and legends. Suffice it to say that interlaced with what today is considered serious, factual texts (such as historical narratives), we frequently find anecdotal and mythical material. Note that Herodotus, although taking a non-committal position, does not eschew the legendary tales about

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74 Diogenes Laërtios: 6.29.

Salmoxis and rejects only the given dates and Rhodōpis' construction of the pyramid but not the basic elements of the stories about her and Aesop.

In Biōn's case (in his own words, as quoted by Diogenes Laërtios), his youth and attractiveness facilitated his purchase by an educated man who made him his disciple and heir but probably also exploited him sexually. Beauty and sex also helped Rhodōpis and, according to the fictitious *Life of Aesop*, even this deformed slave got even with his master by tempting the latter's wife. Numerous texts, such as forensic orations and epigraphic manumission documents, show that slaves were often used sexually by their owners and that many were adopted by their masters and made their heirs.<sup>75</sup> The slave's wit and resourcefulness as means of realizing his or her aspirations and attaining freedom, however, is fully presented mostly in comedy, novels, and biographical texts such as those discussed here. A Roman example, influenced by Menippos' satire, is the famous story of Trimalchio in Petronius' *Satyricon*, written ca. 54–68 CE and depicting a very rich freedman in Rome (especially Chapter 76).<sup>76</sup> As mentioned above, the Cunning Slave character (the *servus callidus*) is typical of Greek and, even more, of Roman comedy (some early Roman playwrights were themselves formerly enslaved persons<sup>77</sup>). Perhaps, then, we may see the literary character of the cunning, insolent slave as a kind of a safety valve who serves to relieve feelings of fear, resentment, and revenge among both slaves and masters but also reflects the slaves' hopes for freedom.

All the slaves I have discussed were born or carried out their servitude in northern Greece, mostly near or around the Black Sea and Thrace – one of the principal centers of the ancient Greek slave trade. Thus, Salmoxis, Rhodōpis, Aesop, Biōn, and Menippos may also be seen as prototypes of slaves who arrived at Greek cities from the north. It is also noteworthy that the master of Salmoxis and that of Rhodōpis and Aesop are described as coming from Samos – an island where Herodotos lived for a while, hence knew its history and legends and may have heard these stories there.

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75 Cf. Rachel Zelnick-Abramovitz, *Not Wholly Free: The Concept of Manumission and the Status of Manumitted Slaves in the Ancient Greek World* (Leiden: Brill, 2005): chapter 3; Kamen, "Sale for the Purpose of Freedom: Slave Manumission in Ancient Greece": 291–98. Kindstrand, *Bion of Borysthenes*: 181 adduces Lucian, *Timon*, 22, and *Dialogues of the Dead*, 19.4, for other examples.

76 Paul Veyne, "Vie de Trimalcion," *Annales. Histoire, Sciences Sociales* 16, no. 2 (1961): 213–47 views the life of Trimalchio as typical of Roman realities in the first century CE. The main narrator of the story, Encolpius, is accompanied by Giton, his young slave and lover.

77 For some recent studies on this type, see Alan H. Sommerstein, "Slave and Citizen in Aristophanic Comedy," in *Talking about Laughter and Other Studies in Greek Comedy*, ed. Alan H. Sommerstein (Oxford: Oxford University Press, 2009): 136–54; Roberta Stewart, *Plautus and Roman Slavery* (Chichester: Wiley-Blackwell, 2012); S. Douglas Olson, "Slaves and Politics in Early Aristophanic Comedy," in *Slaves and Slavery in Ancient Greek Comic Drama*, ed. Ben Akrigg and Rob Tordoff (Cambridge: Cambridge University Press, 2013); Amy Richlin, *Slave Theater in the Roman Republic: Plautus and Popular Comedy* (Cambridge: Cambridge University Press, 2017); Ferdinand Stürner, "The Servus Callidus in Charge: Plays of Deception," in *A Companion to Plautus*, ed. George Fredric Franko and Dorota Dutsch (New York: Wiley-Blackwell, 2020): 135–49.



In other words, in addition to their narratological elements and the cunning slave character who outwits and overpowers his master and who threatens the social equilibrium of a slave-holding community, these stories may reflect the common opinion on slaves who came from the north – whence many of them originated. This is so, of course, if their servile background is genuine and not invented. But even if it is invented, these stories may have been told among slaves as “slave stories” to implant hope and provide comfort or, as suggested above, as safety valves for feelings of resentment and revenge; whereas for slaveholders they functioned as safety valves for feelings of fear.

Above I mentioned the possibility that the subjects of these stories were not slaves at all. But why would people invent servile backgrounds for story-tellers and philosophers? As we have seen, in discussing Aesop, Forsdyke suggests that there was something about the fable or the contents of the early fables that made the Greeks associate them with slaves.<sup>78</sup> But what about the other former slaves discussed here? It may be that, as with the ancient novel, in which most of the heroes are kidnapped by pirates and enslaved,<sup>79</sup> a feature of folktales about famous people – especially if they were known to come from humble families or assumed to be Cynics (see above) – was their servile background.<sup>80</sup>

So who, really, were these slaves? I would say that their literary personae were both fictional and symbolic, reflecting prejudices and fears and preserved in narrative form as prototypes that were varied and to which details were added or subtracted. We should also, however, take into consideration that slaves needed such qualities as exemplified in the figures discussed here in order to gain freedom and survive in a highly stratified, chauvinistic, and xenophobic society.

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<sup>78</sup> Forsdyke, *Slaves Tell Tales and Other Episodes in the Politics of Popular Culture in Ancient Greece*: 62; cf. Leslie Kurke, *Aesopic Conversations: Popular Tradition, Cultural Dialogue, and the Invention of Greek Prose*: 3–4.

<sup>79</sup> See, e.g., Graham Anderson, “Chariton: Individuality and Stereotype,” in *A Companion to the Ancient Novel*, ed. Edmund P. Cueva and Shannon N. Byrne (Oxford: Wiley-Blackwell, 2014): 13; Kathryn S. Chew, “Achilles Tatius, Sophistic Master of Novelistic Conventions,” in *A Companion to the Ancient Novel*, ed. Edmund P. Cueva and Shannon N. Byrne (Oxford: Wiley-Blackwell, 2014): 69–70.

<sup>80</sup> See Alberto Camerotto, “Gli occhi e la lingua dello straniero: satira e straniamento in Luciano di Samosata,” *Prometheus* 38, no. 1 (2012): 217–38, who argues that the foreign and servile status of Menippus (like that of Anacharsis, a sixth-century Skythian philosopher) was deliberately stressed by Lucian and Diogenes Laërtios as a source of estrangement that allows one to take a critical look at conventions and express frank judgments.

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Elke Brüggem

# Captured, Abducted, Sold: The Muslim Rennewart in the Middle High German Epic Poem *Willehalm*

## 1 Introduction

In Middle High German narratives around 1200, dependencies are often presented in sub-plots and/or associated with secondary characters. This is also true for Wolfram von Eschenbach's *Willehalm*, a narrative about a great war between Christians and Muslims; however, Rennewart, the crucial figure within the thematic context of dependency, becomes more and more prominent in the course of the action. Born in Mecca and of royal descent, Rennewart was kidnapped, abducted and sold as a small child and was finally brought to the French royal Court of King Lôis. Due to his extraordinary beauty and high rank, he was at first intended to be the playmate of the king's daughter, Princess Alyze. However, after refusing to be baptized as a Christian, he was instead assigned to hard and degrading services in the court kitchen. This article places Rennewart in the context of asymmetrical dependency by analyzing the construction of his forced isolation and alienation, which had traumatizing effects. It argues for a re-reading of the narrative that is guided by a closer look at the literary representation of dependencies.

## 2 The Lament of a Christian Prince for a Muslim Warrior

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- [19] er sprach: 'ine hân noch niht vernumen,  
20 war mîn zeswiu hant sî kumen.  
ich mein in, der ze bêder sît  
den pris behielt, dô diu zît  
kom und der urteilliche tac,  
daz ich von im des siges pflac  
25 und von der hoehsten hende.  
alrêste mîn ellende

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- ist groezer, denn ich waere aldâ  
in der stat ze Siglimessâ  
und dannen verkoufet ze Tasmê.  
mir ist hie vor jâmer alse wê.
- 453 ei starc lîp, klâriu jugent,  
*wil* mich dîn manlichiu tugent  
und dîn süez einvaltekeit  
und dîn prîs hôch und breit
- 5 dir niht dienen lâzen,  
sô bin ich der verwâzen.  
hât dich der tôt von mir getân?  
soltû nû niht mîn dienest hân  
und al, daz teilen mac mîn hant?
- 10 wan dû revaehte mir ditze lant,  
dû behabtes hie mîn selbes lîp  
und Gîburge, daz klâre wîp.  
wan dîn ellen ûz erkorn,  
mîn alter vater waere verlorn.
- 15 ieslich mîn helfaere,  
wan dû, verloren waere,  
al mîne mâge und mîne bruoder.  
[. . .]
- [28] mîn triuwe het des schande,  
ob niht mîn herze kunde klagen  
und der munt nâch dir von vlüste sagen.  
[. . .]
- 454
- [4] ich mac wol dînem ellen jehen,  
5 daz alle getouften liute  
dich solten klagen hiute  
und dich vûrbaz klagen al die zît,  
die got der werelt ze lebene gît.  
[. . .]
- 15 got, hât dîn erberme kraft,  
al d'engele in ir geselleschaft  
müezen mîne vlust erkennen.  
diz sî mîn hellebrennen,  
daz diu sêle mîn deheine nôt
- 20 vûrbaz enpfâhe, sît mir tôt  
des lîbes vreude ist immer mêr.  
[. . .]'

He said: "I have still not heard where my right hand has got to. I mean the one who was acknowledged as outstanding by both sides, when the time had come, that day of fateful decision when I was victorious through him and through the Highest Hand. Now for the first time my sense of loss is greater than if I were in the city of Siglimessa and sold from there to Tasme. I am just as miserable here with my anguish.

Alas, strong body, handsome youth, if I cannot serve you in your brave virtue, your sweet simplicity and your renown high and wide, then I am lost! Has death snatched you from me? Are

you not to have my service and all that my hand can share? For you have won this land for me, and you have served my own life here and Giburc, my beautiful wife. Were it not for your exceptional bravery, my old father would be lost. But for you, each one of my supporters would be lost, all my kinsmen and brothers. [ . . . ] My loyalty would be disgraced, if my heart could not lament and my mouth tell of the loss of you. [ . . . ] Because of your bravery all Christians should mourn for you today and continue all the time that God will give the world to exist. [ . . . ]

O God, if You have pity, may all the angels in Your company recognize my loss! Let this be my purgatory, so that my soul shall receive no further pain, since my bodily joy is dead for ever more. [ . . . ]” (219–20)

These verses (452,19–454,21) are from a longer passage (452,15–456,24) in Wolfram von Eschenbach’s *Willehalm*,<sup>1</sup> an epic poem from the second decade of the thirteenth century.<sup>2</sup>

1 I cite from the following edition: Wolfram von Eschenbach, *‘Willehalm’*. *Nach der Handschrift 857 der Stiftsbibliothek St. Gallen. Mittelhochdeutscher Text, Übersetzung, Kommentar. Mit den Miniaturen aus der Wolfenbütteler Handschrift und einem Aufsatz von Peter und Dorothea Diemer*, ed. Joachim Heinzle, Bibliothek deutscher Klassiker 69, Bibliothek des Mittelalters 9 (Frankfurt am Main: Deutscher Klassiker Verlag, 1991). The English translation is taken from: Wolfram von Eschenbach, *‘Willehalm’*, ed. and trans. Marion E. Gibbs and Sidney M. Johnson (Harmondsworth: Penguin, 1984). Compare also Wolfram von Eschenbach, *The Middle High German Poem of ‘Willehalm’*, ed. and trans. Charles E. Passage (New York: Ungar, 1977). Page numbers are noted in parenthesis.

2 The research literature on *Willehalm* can only be cited selectively here. Cf. Verena Barthel, *Empathie, Mitleid, Sympathie. Rezeptionlenkende Strukturen mittelalterlicher Texte in Bearbeitungen des ‘Willehalm’-Stoffs*, Quellen und Forschungen zur Literatur- und Kulturgeschichte 50 (Berlin: De Gruyter, 2008); Tobias Bulang and Beate Kellner, “Wolframs *Willehalm*: Poetische Verfahren als Reflexion des Heidenkriegs,” in *Literarische und religiöse Kommunikation in Mittelalter und Früher Neuzeit*, ed. Peter Strohschneider (Berlin: De Gruyter, 2009): 124–60; Joachim Bumke, *Wolframs ‘Willehalm’*. *Studien zur Epenstruktur und zum Heiligkeitsbegriff der ausgehenden Blütezeit* (Heidelberg: Winter, 1959); Joachim Bumke, *Wolfram von Eschenbach*, 8th ed., Sammlung Metzler 36 (Stuttgart: Metzler, 2004), esp. chap. IV “*Willehalm*,” 276–406; Christoph Fasbender, “*Willehalm* als Programmschrift gegen die Kreuzzugsideologie und Dokument der Menschlichkeit,” *Zeitschrift für deutsche Philologie* 116 (1997): 16–31; Stephan Fuchs, *Hybride Helden: Gwigois und Willehalm. Beiträge zum Heldenbild und zur Poetik des Romans im frühen 13. Jahrhundert*, Heidelberger Beiträge zur Germanistik 31 (Heidelberg: Winter, 1979); Saskia Gall, *Erzählen von ‘unmāze’. Narratologische Aspekte des Kontrollverlusts im ‘Willehalm’ Wolframs von Eschenbach*, Beihefte zum Euphorion 101 (Heidelberg: Winter, 2018); Marion E. Gibbs, *Narrative Art in Wolfram’s ‘Willehalm’*, Göppinger Arbeiten zur Germanistik 159 (Göppingen: Kümmerle, 1976); John Greenfield and Lydia Miklautsch, *Der ‘Willehalm’ Wolframs von Eschenbach. Eine Einführung*, De Gruyter Studienbuch (Berlin: De Gruyter, 1998); Joachim Heinzle et al., “F. *Willehalm*,” in *Wolfram von Eschenbach. Ein Handbuch*, vol. 1, *Autor, Werk, Wirkung*, ed. Joachim Heinzle (Berlin: De Gruyter, 2011): 523–702; Klaus Klein, “Beschreibendes Verzeichnis der Handschriften (Wolfram und Wolfram-Fortsetzer),” in *Wolfram von Eschenbach. Ein Handbuch*, vol. 2, *Figuren-Lexikon, Beschreibendes Verzeichnis der Handschriften, Bibliographien, Register, Abbildungen*, ed. Joachim Heinzle (Berlin: De Gruyter, 2011): 973–88; Joachim Heinzle, “Bibliographie zu Wolfram von Eschenbach (1748–2008/2011),” in *ibid.*, 1255–93; Joachim Heinzle, *Wolfram von Eschenbach. Dichter der ritterlichen Welt. Leben, Werke, Nachruhm* (Basel: Schwabe, 2019): esp. Vierter Teil “*Willehalm*,” 171–217, with a comparison between Wolfram’s *Willehalm*, the Old French *chanson de geste*-poem *Aliscans* and the *Willehalm*-sequels *Arabel* by Ulrich von dem Türlin and *Rennewart* by Ulrich von Türheim; Christian Kiening, *Reflexion – Narration. Wege zum ‘Willehalm’ Wolframs von Eschenbach*, Hermaea, n.s. 63 (Tübingen: Niemeyer, 1991); Christoph A. Kleppel, *‘vremder bluomen underscheit’. Erzählen von Fremdem in*

The passage as well as the quotation from it appear at the end of the text.<sup>3</sup> The one who laments, begs and pleads here is the protagonist, Willehalm, Margrave of Provence, who is a very important vassal of the French king. He, a Christian, has fought a great battle against an overpowering invading army led by the great Muslim King Terramer; unlike in a previous battle, he has now won a victory. However, neither relief nor joy is felt because the one to whom this outcome of warfare is owed, quite significantly, is found neither on the battlefield nor among the living or the dead; it is unclear what happened to him. This will not change in the remaining verses of the text. He, whose name is not mentioned here, is present only in his confusing absence, more precisely in Willehalm's poignant lament that reflects his inner distress that results from a fear that the person he misses might be lost forever.

The distress of the epic's victorious hero is expressed in a speech that oscillates between a soliloquy and a prayer to God, voicing perceptions that are apt to give rise to a profile of the unnamed. At a youthful age, endowed with great physical strength, courage and bravery, he appears above all as a glorious fighter – an exceptional and unrivalled figure among both the Christians and the Muslims and thus enjoying incomparable fame. His physical as well as mental strength are accompanied by a quality that is termed “süez einvaltekeit” (453,3). This Middle High German wording can hardly be translated into English with the necessary brevity and precision; instead, the concept can best be approached descriptively. *Einvaltekeit*, a strong feminine, must not be understood as being similar to the terms *Einfalt* in Modern German and

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*Wolframs 'Willehalm'*, Mikrokosmos 45 (Frankfurt am Main: Peter Lang, 1996); Anna Mühlherr, “5. Willehalm,” in *Themenorientierte Literaturdidaktik: Helden im Mittelalter*, ed. Franziska Küenzlen, Anna Mühlherr and Heike Sahn, UTB 4163 (Göttingen: Vandenhoeck & Ruprecht, 2014): 69–89; Martin Przybilski, ‘*sippe und gesehte*’. *Verwandtschaft als Deutungsmuster im 'Willehalm' Wolframs von Eschenbach*, *Imagines Medii Aevi* 4 (Wiesbaden: Reichert, 2000): esp. chapter C.4 “Die unbegehbare Brücke – Rennewart,” 173–92; Barbara Sabel, *Toleranzdenken in mittelhochdeutscher Literatur*, *Imagines Medii Aevi* 14 (Wiesbaden: Reichert, 2003); Nina Scheibel, “Wolframs Visionen? Diversität, Identität und der Entwurf einer (inter-)kulturellen Wertegemeinschaft im *Willehalm*,” in *Europäische Utopien – Utopien Europas. Interdisziplinäre Perspektiven auf geistesgeschichtliche Ideale, Projektionen und Visionen*, ed. Oliver Victor and Laura Weiß (Berlin: De Gruyter, 2021): 47–68; Florian Schmitz, *Der Orient in Diskursen des Mittelalters und im 'Willehalm' Wolframs von Eschenbach*, *Kultur, Wissenschaft, Literatur* 32 (Berlin: Lang, 2018); Sylvia Stevens, *Family in Wolfram von Eschenbach's 'Willehalm': 'miner mäge triwe ist mir wol kuont'* (New York: Lang, 1997); Angila Vetter, *Textgeschichte(n). Retextualisierungsstrategien und Sinnproduktion in Sammlungsverbänden. Der 'Willehalm' in kontextueller Lektüre*, *Philologische Studien und Quellen* 268 (Berlin: Erich Schmidt, 2018); Christopher Young, *Narrative Perspektiven in Wolframs 'Willehalm'. Figuren, Erzähler, Sinngebungsprozess*, *Untersuchungen zur deutschen Literaturgeschichte* 104 (Tübingen: Niemeyer, 2000).

<sup>3</sup> For a recapitulation of the content cf. Joachim Heinzle, “F. *Willehalm*. I. Abriß der Handlung,” in *Wolfram von Eschenbach. Ein Handbuch*, vol. 1, *Autor, Werk, Wirkung*, ed. Joachim Heinzle (Berlin: De Gruyter, 2011): 525–43, and, in more detail, Bumke, *Wolfram von Eschenbach*: 276–319.

“simplicity” in Modern English, designating a modest strength of mind.<sup>4</sup> *Einvaltekeit*<sup>5</sup> rather means an undividedness of the inner man; it refers to someone who is without inner angles and falsehood but is straightforward, sincere and truthful. The adjective *süeze*,<sup>6</sup> which is attached to the noun, is no less presuppositional and complex than the noun itself, and therefore the words *süß* and “sweet” as commonly used translations into Modern German and Modern English, respectively, are not fully equivalent. In the passage concerned, *süeze* is not, as it often is, related to taste or smell, but it is in a broader sense associated with a sensation that denotes something pleasant or beneficial, something that touches one in its sweetness and grace and makes something resound in one’s inner being. The Middle High German adjective generally may not only refer to a spring-like nature such as in the air of May, the singing of birds or the splendor of bright flowers – that is, something one feels on one’s skin or takes in with one’s ears and eyes – but “süeze” can also refer to people, either specifically their mouths or eyes or to their whole physical appearance. Furthermore, it can relate to the words that flow from a person’s mouth, to the *tugende* as the excellent qualities of a person, to his or her heart and disposition. Women as well as men may be called “sweet” in this broader sense.

To the personality thus praised and to his outstanding efforts in battle, the Christians owe their victory. Moreover, Willehalm’s own life as well as that of his wife, father, all his relatives, and with them his brothers, are due to this man. In war and battle, they were all dependent on him, and for Willehalm there is only one appropriate response to this circumstance: the modeling of a relationship in which he, the high prince, not only rewards the other but henceforth gives him his “dienest” (453,8), that is, his service as an expression of his “triuwe” (453,28), or his loyalty and reliability. The idea of service is encountered in contemporary culture in various contexts, and along with the expression of deep emotional involvement, this part of the text where Willehalm speaks of service is perhaps the strongest exhibition of the extent of his dependency: a dependency on someone who was initially dependent and reliant

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4 Cf. Heinze in Wolfram von Eschenbach, *Willehalm: Nach der Handschrift 857 der Stiftsbibliothek St. Gallen*, commentary to 453,3 on page 1088, with reference to Ernst-Joachim Schmidt, *Stellenkommentar zum IX. Buch des ‘Willehalm’ Wolframs von Eschenbach*, Bayreuther Beiträge zur Sprachwissenschaft 3 (Bayreuth: Universität Bayreuth, 1979): 469. The translation chosen by Gibbs and Johnson (“your sweet simplicity”) thus might be misleading.

5 Cf. entries “einvaltekeit, stf.” and “einvalte, einvalt, stf.” in Matthias Lexer, *Mittelhochdeutsches Handwörterbuch, digitalisierte Fassung im Wörterbuchnetz des Trier Center for Digital Humanities*, version 01/21, <https://www.woerterbuchnetz.de/Lexer> [accessed 31.10.2022]. “einvaltekeit st.F.” in *MWB* online, <https://www.mhdwb-online.de> [accessed 05.04.2023].

6 Cf. entries “suoze, süeze, adj.” in Georg Friedrich Benecke, Wilhelm Müller and Friedrich Zarncke, *Mittelhochdeutsches Wörterbuch, digitalisierte Fassung im Wörterbuchnetz des Trier Center for Digital Humanities*, version 01/21, <https://www.woerterbuchnetz.de/BMZ>, and “süeze suoze, adj.” in Lexer, *Mittelhochdeutsches Handwörterbuch*.



on him.<sup>7</sup> To analyze the way in which dependencies are discursivised within the text up to this point is one of the worthwhile undertakings that Germanic-Medievalist literary studies can devote itself to within the framework of the Bonn Center for Dependency and Slavery Studies.<sup>8</sup>

### 3 Rennewart: Narrative Splinters on the Fate of a Border Crosser

Even though I have so far avoided naming the one character who has been talked about all along, those who have read *Willehalm* would be well aware that I have been referring to Rennewart, a character who gains increasing importance in the course of the narrative of a great warlike confrontation between Christianity and Islam.<sup>9</sup> Comparing

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7 For the concept of asymmetrical dependency and the dynamics inherent in the social relations of asymmetrical dependency as approached from social and cultural theory, cf. Julia Winnebeck, Ove Sutter Adrian Hermann, Christoph Antweiler and Stephan Conermann, "On Asymmetrical Dependency," *Concept Paper 1*, Bonn Center for Dependency and Slavery Studies (2021), [https://www.dependency.uni-bonn.de/images/pdf-files/concept-papers/bcdss\\_cp\\_1\\_on-asymmetrical-dependency.pdf](https://www.dependency.uni-bonn.de/images/pdf-files/concept-papers/bcdss_cp_1_on-asymmetrical-dependency.pdf) [accessed 31.10.2022]. Updated version: "The Analytical Concept of Asymmetrical Dependency," *Journal of Global Slavery* 8 (2023): 1–59. From the perspective of literary studies, cf. Anne-Kathrin Federow, *Dynamiken von Macht und Herrschaft. Freundschaftskonzeptionen in der Heldenepik der ersten Hälfte des 13. Jahrhunderts*, Texte und Studien zur mittelhochdeutschen Heldenepik 13 (Berlin: De Gruyter, 2020), who treats phenomena of a dynamisation of dependency relationships from the perspective of the theme of friendship.

8 Within the research network of the Bonn Center for Dependency and Slavery Studies (BCDSS) (<https://www.dependency.uni-bonn.de>), I am pursuing a project on *Narratives and Semantics of Social Dependencies in German Court Novels from the 12th and 13th Centuries*.

9 On the Rennewart figure, cf. (in addition to the literature cited in footnote 28) Walther K. Francke, "The Characterization of Rennewart," *German Quarterly* 45 (1972): 417–28; Federow, *Dynamiken von Macht und Herrschaft*: esp. chap. II.3.2, 118–59; Hanna-Myriam Häger, "Rennewart: Riese und/oder Ritter? Zur Identität des Kämpfers mit der Stange in Wolframs *Willehalm*," in *Entwürfe und Deutungen des Außer/Menschlichen in mittelalterlicher Literatur*, ed. Ronny F. Schulz and Silke Winst (Vienna: Fassbaender, 2020): 363–86; David N. Yeandle, "Rennewart's Shame: An Aspect of the Characterization of Wolfram's Ambivalent Hero," in *Wolfram's 'Willehalm'. Fifteen Essays*, ed. Martin H. Jones and Timothy McFarland (Rochester, NY: Camden House, 2002): 167–90; Andrea Kiełpinski, "Der Heide Rennewart als Heilswerkzeug Gottes. Die laientheologischen Implikationen im *Willehalm* Wolframs von Eschenbach" (PhD diss., Freie Universität Berlin, 1990); Susanne Knaeble, "Narrative Reflexionen des *Heidnischen* – perspektivisches Erzählen in Wolframs *Willehalm*," in *Gott und die 'heiden': Mittelalterliche Funktionen und Semantiken der Heiden*, ed. Susanne Knaeble and Silvan Wagner (Berlin: LIT, 2015): 41–62; Fritz Peter Knapp, *Rennewart. Studien zu Gehalt und Gestalt des 'Willehalm' Wolframs von Eschenbach*, Dissertation der Universität Wien 45 (Vienna: Notring, 1970); Carl Lofmark, *Rennewart in Wolfram's 'Willehalm'. A Study of Wolfram von Eschenbach and His Sources*, Anglica Germanica Series 2 (Cambridge: Cambridge University Press, 1972); Victoria J. Moessner, "Rennewart: Wolfram von Eschenbach's Most Controversial Character," in *Studies in Medieval Culture VIII and IX*, ed. John R. Sommerfeldt and Ellen Rozanne Elder (Kalamazoo, MI: Western Michigan University, 1976): 75–83; Martin Przybilski,

the Middle High German text with its Old French model *Aliscans*,<sup>10</sup> handed down anonymously, the German author, Wolfram von Eschenbach, has sharpened the central conflict in a way that highlights the aporias of a bitter and irreconcilable struggle in the name of faith through multiple motivations of the war plot; a complex, almost contradictory character design; and a sophisticated narrative technique. The Christian titular character, Willehalm, and his wife deserve attention; the latter at first lived under the name of Arabel as the daughter and wife of powerful Muslim kings, only to follow the margrave Willehalm into his domain, to be baptized with the name Gyburg, and to enter into a new marriage with Willehalm. Rennewart is an interesting figure; being Arabel/Gyburg's brother, he is also of royal descent, but he was abducted and sold as a

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“Die Selbstvergessenheit des Kriegers. Rennewart in Wolframs *Willehalm*,” in *Kunst und Erinnerung. Memoriale Konzepte in der Erzählliteratur des Mittelalters*, ed. Ulrich Ernst and Klaus Ridder (Cologne: Böhlau, 2003): 201–22; Sabel, *Toleranzdenken*: chap. IV.5 “Rennewart, ein dezidiert Untertaucher und unangepaßter Fremder als Held der Christen,” 143–52; Nobuko Ohashi Tsukamoto, “Rennewart: Eine Untersuchung der Charakterisierungs- und Erzähltechnik im *Willehalm* Wolframs von Eschenbach” (PhD diss., Washington University, 1975); Werner Schröder, “Ahnungsvolle Nähe. Gyburg und Rennewart in Wolframs *Willehalm*,” in *Akademie der Wissenschaften und der Literatur Mainz 1949–1989* (Stuttgart: Steiner, 1989): 269–81.

10 It is disputed in research which of the manuscripts of *Aliscans* still surviving today was closest to Wolfram von Eschenbach's original version of the tale. Two important editions have to be considered: the edition of manuscript M by Günter Holtus as well as to the edition by Claude Régner, which follows the manuscript group A to a large extent. Cf. *La versione franco-italiana della 'Bataille d'Aliscans': Codex Marcianus fr. VIII [= 252]*, ed. Günter Holtus, Beihefte zur Zeitschrift für romanische Philologie 205 (Tübingen: Niemeyer, 1985); *Aliscans. Tome I*, ed. Claude Régner, Les Classiques français du Moyen Age 110–11 (Paris: Éditions Champion, 1990). The translation into Modern German by Fritz Peter Knapp is based on M: *Aliscans. Das altfranzösische Heldenepos nach der venezianischen Fassung M*, ed. and trans. Fritz Peter Knapp, De Gruyter Texte (Berlin: De Gruyter, 2013). Cf. on the narrative tradition around Guillaume d'Orange, on the profile of *Aliscans*, which is taken as a model, on the references between the Old French and Middle High German texts, on the connection of Wolfram's *Willehalm* to the sequels, Ulrich von Türheim's *Rennewart* and Ulrich von dem Türlin's *Arabel*, as well as on the place of Wolfram's *Willehalm* in the German-language tradition of narrating Charlemagne, for instance Bumke, *Wolfram von Eschenbach*: 375–90; Thordis Hennings, “F. *Willehalm*, II. Der Stoff: Vorgaben und Fortschreibungen,” in *Wolfram von Eschenbach. Ein Handbuch*, vol. 1, *Autor, Werk, Wirkung*, ed. Joachim Heinzle (Berlin: De Gruyter, 2011): 544–90 and Heinzle, *Wolfram von Eschenbach. Dichter. Aliscans and Willehalm* have been the subject of several comparatist readings, cf. for instance Stephanie L. Hathaway, *Saracens and Conversion. Chivalric Ideals in 'Aliscans' and Wolfram's 'Willehalm'*, Studies in Old Germanic Languages and Literatures 6 (Oxford: Peter Lang, 2012); Marie-Noël Huby-Marly, “*Willehalm* de Wolfram d'Eschenbach et la *Chanson des Aliscans*,” *Études germaniques* 39 (1984): 388–411; Jean-Marc Pastré, “Rainouart et Rennewart: Un guerrier aux cuisines,” in *Burlesque et Dérision dans les Épopées de l'Occident médiéval. Actes du Colloque International des Rencontres Européennes de Strasbourg et de la 'Société Internationale Rencesvals (Section Française)'* (Strasbourg, 16–18 Septembre 1993), ed. Bernard Guidot, Annales littéraires de l'Université de Besançon 558, Littéraires 3 (Paris: Diffusion Les Belles Lettres, 1995): 123–31; Sabel, *Toleranzdenken*; Friederike Wiesmann-Wiedemann, *Le Roman du 'Willehalm' de Wolfram d'Eschenbach et l'épopée d'Aliscans. Étude de la transformation de l'épopée roman*, Göppinger Arbeiten zur Germanistik 190 (Göppingen: Kümmerle, 1976).

child and finally arrived at the French royal court of King Lôiis. Although initially intended to be the playmate of the king's daughter Alyze, he is later assigned to degrading services in the court kitchen. He is then given away by King Lôiis to Willehalm, who entrusts him with military tasks; subsequently, he succeeds in a certain social advancement. But the Muslim remains alien and homeless in the Christian environment.

The fact that the narrative ends with a victory of the Christians, while on the battlefield everything is about a search for Rennewart, the Muslim, who is lost in the turmoil of the fighting, can be seen as symptomatic of the narration of a border-crossing figure: he is placed in the context of a/symmetrical dependencies, and with him, the story of an imposed acculturation, which is only partially successful, is told in a very remarkable way. In favor of this view,<sup>11</sup> other perspectives on the Rennewart figure that are well represented in previous research are put aside: the comparison to other figures, the question of whether Rennewart shows signs of an "inner development," the matter of his guilt, the discussion of the figure's function within the text, its oddity and comic potential.

The figure of Rennewart<sup>12</sup> is introduced only in verse 187,30, after 5,610 (of a total of 14,003) verses in the fourth of a total of nine so-called "books".<sup>13</sup> In other words, we first hear or read about Rennewart after more than a third of the narrative has passed. The character seems to appear out of nowhere. It is said that Willehalm notices the boy in a specific situation at the French royal court in Laon. Days with considerable political upheaval have come to an end, and most of the guests who had been present to attend the king's court day have already taken their leave and are on their way home (186,8–13). Willehalm stays a while longer at the court (186,21–30), where he, as Marquis of Orange, had asked his brother-in-law, King Lôiis, and his own sister, the queen, for military support in his fight against the Muslim invaders threatening the Christian kingdom.

The narrator sets a caesura by using the time specification "eines âbends" (187,1) to then report on the entertaining amusements of noble boys, who are pursued by the royal family and also by Willehalm, their guest. Among other things, they practice riding techniques and the handling of lances and shields (187,1–29). The merry and noisy hustle and bustle takes a different direction at the moment when Rennewart appears, whom the narrator does not yet call by name. The delayed naming (it does not occur before verse 188,30) belongs to the peculiarities of Wolfram's art of narration, which a contemporary audience may recognize from his previous work *Parzival*. Withholding the name may be justified at this point by the fact that the perception of the character

11 I was able to draw upon the contributions by Przybilski, 'sippe und geslehte' and "Die Selbstvergessenheit" in particular.

12 For a comparison of the characteristics of the Rainouart and Rennewart figures, cf. recently, but without particular consideration of the question of a literary construction of dependency pursued in the present article, Florian Nieser, *Die Lesbarkeit von Helden. Uneindeutige Zeichen in der 'Bataille d'Aliscans' und im 'Willehalm' Wolframs von Eschenbach* (Berlin: Metzler, 2018).

13 On the book structure of the text, which goes back to the editor Karl Lachmann, cf. Bumke, *Wolfram von Eschenbach*: 353–54.

is initially assigned to Willehalm, who indeed does not know whom he is encountering. However, already after a few verses, in which it is said that Willehalm notices how the young man carrying a huge tub full of water is scorned by the noble boys for his appearance, the narrator communicates in first-person speech what there is to report about him (188,4–17):

188

- [4] ob ich sô von im sprechen sol,  
 5 daz mir'z niemen merke:  
 wol sehs manne sterke  
 an sîn eines lîbe lac.  
 Des küniges kûchen er sô pflac,  
 daz er wazzers truoc al eine,  
 10 des die koche al gemeine  
 bedorften z'ir gereitschaft.  
 Dâ drî mûle mit ir kraft  
 under *waeren* gestanden,  
 zwischen sînen handen  
 15 truoc er'z als ein küsselîn.  
 Ouch gap nâch kûchenvarwe schîn  
 sîn swach gewant und ouch sîn hâr.

If I can describe it like this and have no one take it amiss, he had in his one body the strength of six men. He was employed in the imperial kitchen to carry on his own all the water which the cooks needed for their preparations. It would have taken three mules, with all their strength, to stagger along with what he was carrying in his hands like a little pillow. His mean clothing and his hair bore all the signs of the kitchen. (101)

As soon as Rennewart, the kitchen worker, appears, the noble squires make him the object of their high-spirited jokes and pranks. They attack him from their horses and overturn the huge container in which he carries the water for the court kitchen. Rennewart initially considers the behavior a joke and reacts calmly (188,1–190,4). When the attacks are repeated, however, and the squires now even come at him with lances, making him drop the water a second time (190,5–10), he defends himself: he, who has the strength of six men, grabs one of his opponents and hurls him through the air against a stone pillar, so that he, “[. . .] als ob er waere vûl, / von dem wurfe gar zespranc” (190,16–17, “[. . .] burst open from the blow like an over-ripe fruit” 102). In the context of the courtly, civilized environment, which is committed to preserving peace and friendship, this aggressive act is deemed highly disturbing and as needing an explanation. What is it about this kitchen boy who cannot control his emotions and possibly does not know how to assess his strength? Why is he tolerated at the royal court? Why is no attempt made to stop his behavior, which drastically disrupts the ideal of courtly interaction?

Even before the king himself acknowledges that the boy has never before been seen “in unsiten” (190,27, “behaving badly”) and that he has never before violated the laws of courtly interaction in such a way, the recipient is prepared to refrain from a

hasty judgement. In remarks placed before the sequence on the confrontation of the soiled kitchen worker with the noble male youth, the narrator characterizes the figure with the help of two parables (188,18–189,24). The first one (188,20–189,1) is still immediately accessible in the twenty-first century: just as gold that falls into the dirt or a red-sparkling gemstone that is thrown into black soot do not lose their qualities but remain free of rust or any other impairing coating, in order to shine in their old beauty when brought to light and cleaned, so it is with Rennewart, under whose dirt and lowliness are hidden “geschickede” (188,19, “stature”), “art” (188,19, “lineage”) and “tugent” (188,29, “fine attributes”), which would necessitate an entirely different perception of his person – and an entirely different treatment of him.

The second parable (189,2–24) is incomparably more deeply anchored in contemporary cultural knowledge conveyed via so-called bestiaries, as Christoph Gerhardt notes in his essay “Wolfram’s Adlerbild.”<sup>14</sup> The narrator compares Rennewart to an eagle that does not avoid the sun’s rays in a cowardly manner when exposed to sunrays by its father, thus bravely withstanding them and fulfilling the prerequisite for being accepted as an offspring and not being pushed out of the nest. He thereby activates a contemporary knowledge that can be addressed as a “common property of medieval ornithology.”<sup>15</sup> According to the narrator, Rennewart, “der starke man” (189,18, “the powerful man”), was similarly born in an eagle’s nest and was not thrown out; why he then found himself on the “dürren ast” (189,21, “a withered branch”) – probably an image representing grief over the loss of happiness in life – remains untold at this point.

Both parables have the function of suggesting that Rennewart is not what a first, fleeting glance might suggest. The figure who appears here as a filthy kitchen boy doing socially inferior work actually possesses qualities that distinguish him and that can be traced back to his origins, outer beauty and inner virtue. Not only this striking use of specific, culturally encoded imagery and metaphors, but also other elements of narrative technique must be considered in an analysis of the literary construction of dependencies and recommend themselves for a narratologically informed investigation: linking messages concerning the character to different literary instances of perception and speech, the specific practices of giving information, and the construction of different levels of knowledge.

14 Christoph Gerhardt, “Wolframs Adlerbild. *Willehalm* 189, 2–24,” *Zeitschrift für deutsches Altertum und deutsche Literatur* 99 (1970): 213–22.

15 Heinze in Wolfram von Eschenbach, ‘*Willehalm*’. *Nach der Handschrift 857 der Stiftsbibliothek St. Gallen*: commentary on 189,2–17 on page 966: “Gemeingut der mittelalterlichen Vogelkunde.”

## 4 A Refusal of Conversion and Baptism and its Consequences

Willehalm, who witnesses Rennewart's brutality, knows nothing about him, yet what he has seen concerns him, and he wants an explanation. The king is surprised by the boy's actions, which do not seem to fit at all with his previous behavior (190,25–30) and then reveals fragments of his life story, which make it possible to classify Rennewart's dirty hair and his robe covered with kitchen dirt as deceptive, misleading signs (191,1–18). In fact, the king's words indicate Rennewart is of noble origin and was of incomparable beauty when he arrived at court. The kitchen and kitchen service were by no means his original destiny; rather, he was shunted there when he refused to be baptized.

With Willehalm, we learn that Rennewart, who was apparently kidnapped as a young child, had been acquired by merchants in Persia and then brought across the sea. The merchants educated him and finally presented him as a gift to the king of the Roman Empire because of his beauty. The king's interest in the boy and his motives for integrating him into the court, however, are not revealed; meanwhile, the king's remarks about Rennewart's extraordinary beauty give at least an indirect indication: in combination with his high noble origin, it apparently made him seem suitable for matters of courtly representation. Only the boy's unwillingness to convert to Christianity and be baptized, at a later phase in his life, thwarted these original plans.<sup>16</sup>

With Rennewart, we thus grasp the construction of a figure who was by no means intended for life as a work slave. The dependency he embodies is initially of a different nature. It may seem more subtle to modern readers, even harmless, yet the text here draws attention to a type of existential and, for the individual concerned, cruel dependency, which Rebekka von Mallinckrodt, an Early Modern historian, has recently pointed to with great emphasis as deserving of greater scholarly attention.<sup>17</sup> In an instructive contribution on abducted children in the Holy Roman Empire of the German Nation, she drew attention to the fact that the enslavement of children and young

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<sup>16</sup> In the Old French heroic epic *Aliscans*, the situation is different. The king tells Guillelme that he acquired the squire from merchants for 100 marks, "by the sea," as it says, and then had him brought to the royal court (Knapp, ed., *Aliscans*: 3405–7). A little later, in a repetitive passage, there is a clarification: Loois declares that he bought Renoart "for a hundred marks of weighed silver" (3466) below Palermo (3465–67). Furthermore, the king confesses that Renoart's abnormal, enormous height repels him and that he has therefore ordered his stay in the kitchen of the court (3411–12; 3470–74). Moreover, it is not the case that Renoart refuses to convert to Christianity: On the contrary, he asks for it many times, but the king refuses him (3478–80).

<sup>17</sup> Rebekka von Mallinckrodt, "Verschleppte Kinder im Heiligen Römischen Reich Deutscher Nation und die Grenzen transkultureller Mehrfachzugehörigkeit," in *Transkulturelle Mehrfachzugehörigkeiten als kulturhistorisches Phänomen – Räume, Materialitäten, Erinnerungen*, ed. Dagmar Freist, Sabine Kyora and Melanie Unseld, *Praktiken der Subjektivierung* 13 (Bielefeld: Transcript, 2019): 15–37.

adolescents had been neglected for a long time. This was not solely due to the difficult source situation, but rather had a theoretical-methodological basis in a concept that associated slavery primarily with the extraction of labor. Children and adolescents, who were often abducted and sold at an age when they could not yet be effectively used as labor slaves, were thus lost from view. As such, an important historical manifestation of slavery outside of the transatlantic slave trade has been marginalized: the use of abducted and sold children for purposes of aristocratic representation, for which they could be useful because of their “exotic” origin and immaculate physical beauty.

That the Rennewart figure must be seen from the perspective of a medieval narrativization of dependency is also evidenced by the manner in which Rennewart’s transition from the king’s power of disposal to that of the margrave, which is essential for the plot, takes place (191,19–28; 194,5–8). Like a material possession, Rennewart changes hands; he himself is not involved in the negotiation of this change, and he is not even present when it takes place, but is brought in exactly at the moment when the agreement is reached. Willehalm’s request to the king to let him have the squire is initially rejected, and only the intervention of the king’s daughter Alyze leads to the desired result.

What interest Willehalm takes in Rennewart, why the king initially refuses, what motivates Alyze to accept Willehalm’s request all remain unclear and are at best the subject of conjecture. The narrator’s account most likely points to the intentions of Willehalm, who asks Rennewart “ze stiure” (191,21, “for support”, E.B.) and thus obviously hopes for his support in his military undertakings. Here, the boy’s extraordinary physical strength might be the decisive issue. In addition, a statement by Willehalm, conveyed in the form of direct speech, points to his endeavor to make a better life possible for the squire (191,22–23). However, the directness with which the margrave speaks of Rennewart having been given to him (194,6) should not be misread as an attitude or gesture of magnanimous humanity. Willehalm also decides without hesitation over the young man’s head, but he now provides him with an existence that is explicitly designed according to the model of service and reward (194,7–8) and opens the option for social advancement.

With regard to the narrative structure, Rennewart’s transfer to a new owner offers the opportunity to shape an initial rapprochement between the two characters and, in the process, to introduce further information that enriches Rennewart’s image. The remarks in question are now assigned to Rennewart himself. In a conversation with Willehalm (192,13–195,11), Rennewart names Mecca as his birthplace (193,2–5) and speaks of the fact that he “her wart verkoufet” (193,14, “was sold into this land”). Furthermore, this passage contains the first reference in the text to the destabilizing consequences of the fate suffered by Rennewart, which are addressed several times in the course of the novel. In his refusal to submit to the king’s request for religious conversion, Rennewart is quite resolute, for he is firmly convinced that baptism is “niht geslaht” (193,19) to him – that is, not in accordance with his nature – and that he cannot reveal his

allegiance to Islam. He has preferred to live a life “in lekerîe” (193,25), meaning one that must be considered “immoral,” as measured by his own standards.<sup>18</sup>

However, over the years he loses all hope of deliverance from his predicament through divine help. Therefore, he does not consider a commitment to the Christian God, which he would have to make under Willehalm’s leadership in a religious war, to be a problem for him. In the background, there is obviously the thought of not owing anything to Allah or Mohammed. Willehalm, in turn, unlike King Lôis, does not insist on conversion and baptism. The peculiar intermediate position that Rennewart creates for himself and that is supported by Willehalm, however, reveals its explosive power when the Christian army and with it Rennewart, under Willehalm’s leadership, go into the second great battle of a religious war between Christians and Muslims aimed at mutual destruction. Still unbaptized and clinging to the religion of his origin, Rennewart fights on the Christian side against his own brothers in faith, faces his father, the Muslim Great King Terramer and numerous male relatives; and in the end even slays one of his brothers without knowing it.

## 5 A Short Look at Other Border Crossers in the Text

With the literary design of such a hopeless existence in the context of religion and kinship, Wolfram von Eschenbach exposes a problem that he also shows in a different form in other characters of the text who, like Rennewart, occupy an “in-between” position because of their life paths: between Orient and Occident, between Islam and Christianity.<sup>19</sup> He impressively illustrates the turmoil resulting from the specific biographies and experiences of closeness and familiarity with both cultures and religions associated with them in the case of a female character, Gyburc.<sup>20</sup> Gyburc, who was once called

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18 Cf. Heinzle in Wolfram von Eschenbach, *‘Willehalm’. Nach der Handschrift 857 der Stiftsbibliothek St. Gallen*: commentary to the verses 193,23–25, on page 969; Heinzle argues that the meaning of the word here should not be restricted to “gluttony,” “snacking,” “feasting,” “lechery,” and “debauchery,” but that the semantics should be understood more broadly as designating an indecent, objectionable state of life.

19 Cf. Kleppel, *‘vremder bluomen underscheit’*, whose chapter on “Grenzgänger” (“border crossers,” 141–235) is dedicated to Willehalm, Gyburc, and Rennewart.

20 Cf. Annette Gerok-Reiter, *Individualität. Studien zu einem umstrittenen Phänomen mittelhochdeutscher Epik*, Bibliotheca Germanica 51 (Tübingen: Narr Francke Attempto, 2006): chap. IV “Das Recht des Anderen: Giburg,” 197–246, esp. 246; Fritz Peter Knapp, “F. *Willehalm*. V. Perspektiven der Interpretation,” in *Wolfram von Eschenbach. Ein Handbuch*, vol. 1, *Autor, Werk, Wirkung*, ed. Joachim Heinzle (Berlin: De Gruyter, 2011): 676–702, esp. 690–93; Przybyski, *‘sippe und geslehte’*: chap. C.5 “Die heilige vrouwe – Giburc,” 193–214; Sabel, *Toleranzdenken*: 120–42; Mireille Schnyder, “*manlich sprach daz wip*. Die Einsamkeit Gyburcs in Wolframs *Willehalm*,” in *Homo Medietas. Aufsätze zu Religiosität, Literatur und Denkformen des Menschen vom Mittelalter bis in die Neuzeit. Festschrift für Alois Maria Haas zum 65. Geburtstag*, ed. Claudia Brinker-von der Heyde and Niklaus Largier (Bern: Peter Lang, 1999): 507–20.



Arabel, is a royal child like Rennewart, the daughter of Terramer, the ruler of a multitude of Arab kingdoms, and the wife of the mighty Arab ruler Tybalt. When, as a result of her love for Willehalm, who has fallen into Arab captivity, she also discovers her love for the Christian God, she breaks her kinship ties as well as her marital, cultural and religious ties and undertakes a dangerous flight to Provence with her beloved. There she converts, takes the name Gyburc in her baptism, and unites in a new marriage with the margrave.

This does not mean that she is at the same time free of her emotional ties to her family, which she has left behind. On the contrary, it is her, Rennewart's unrecognized sister, whom the author makes feel the horror of a warlike confrontation between representatives of the two religions most keenly and for whom he even provides a major speech in the men's deliberations immediately before the narration of the war event begins (306,1–310,30). In this speech, Gyburc articulates the thought of an all-embracing *Gottesgeschöpflichkeit* (God-creature), possibly even *Gotteskindschaft* (God-childhood),<sup>21</sup> and of a world-spanning human kinship, deriving from it a commandment to spare the enemy, which should be valid in the case that the Christians win. She is thus concerned with the humanitarian treatment of the prisoners of war, who should not be slaughtered like cattle. It should also be noted here that the main hero himself, Willehalm,<sup>22</sup> through his knowledge of Oriental languages and cultures and his love for his wife, coming from an Arab country and being indigenous to the Arab culture, is one of the border-crossing figures, too, which gives the text its very own character within the genre of the so-called crusade epic.<sup>23</sup>

## 6 Completing a “Psychogram”: Rennewart's *Schame*

Here, let us focus on another aspect by which Wolfram characterizes Rennewart in the context of dependency: the shame that Rennewart feels because of a way of life

21 Cf. Joachim Heinzle, “Die Heiden als Kinder Gottes. Notiz zum *Willehalm*,” *Zeitschrift für deutsches Altertum* 123 (1994): 301–8; Joachim Heinzle, “Noch einmal: Die Heiden als Kinder Gottes in Wolframs *Willehalm*,” *Zeitschrift für deutsche Philologie* 117 (1998): 75–80; Klaus Kirchert, “Heidenkrieg und christliche Schonung des Feindes: Widersprüchliches im *Willehalm* Wolframs von Eschenbach,” *Archiv für das Studium der Neueren Sprachen und Literaturen* 231 (1994): 258–70; Fritz Peter Knapp, “Die Heiden und ihr Vater in den Versen 307,27f. des *Willehalm*,” *Zeitschrift für deutsches Altertum* 122 (1993): 202–7; Walter Johannes Schröder, “Der Toleranzgedanke und der Begriff der *Gotteskindschaft* in Wolframs *Willehalm*,” in *Festschrift für Karl Bischoff zum 70. Geburtstag*, ed. Günter Bellmann, Günter Eifler and Wolfgang Kleiber (Cologne: Böhlau, 1975): 400–15; Ralf-Henning Steinmetz, “Die ungetauften Christenkinder in den *Willehalm*-Versen 307,26–30,” in *Zeitschrift für deutsches Altertum* 124 (1995): 151–62.

22 Cf. Fuchs, *Hybride Helden*; Nieser, *Die Lesbarkeit*: 27–170; Przybilski, ‘*sippe und geslehte*’: chap. C.6 “Der Kriegerheilige – Willehalm,” 215–41; Young, *Narrativische Perspektiven*: 81–101.

23 Cf. Sabel, *Toleranzdenken*: esp. chap. II–IV, 26–162.

that is not appropriate to his lineage or status.<sup>24</sup> The narrator introduces the theme at the moment Willehalm sends for Rennewart to address him for the first time. He emphasizes that Rennewart enters the banquet hall with “grôzer zuht” (192,2, “in a very courtly fashion”), which is probably meant to suggest that he moves measuredly and behaves genteelly and reservedly according to the customs of courtly culture. However, the narrator also notes that this appearance is accompanied by the agonizing awareness of being inadequately dressed: “swach” (192,4, “poor”) is what he wears, something inferior, unsightly and shabby. We read that it would not have been good enough even for a “garzûn” (192,5), i.e. a noble squire who does not even ride a horse but has to walk. For a king’s son, the clothing assigned to him as a kitchen worker is quite unacceptable, and the fact that he must wear it is “schameliche leit” (192,3), or something that shames and distresses him.

It would be a misreading to believe that superficialities are being negotiated here because in the background there is the ideal of a congruence of inner and outer beauty – that is, an exquisite appearance supported by immaculate behavior and an inner attitude traceable to noble descent, upbringing and education. For this comprehensive concept of congruence that underpins the aristocratic habitus, precious and splendid clothing is not something accidental, that one could willingly do without, or that is external to one’s personality. Rather, it is regarded as a genuine and reliable expression of exclusive social rank, legible to all, and its unavailability indicates a defect and a deficiency, no matter how it is justified.<sup>25</sup> The sense of “schame” resulting from a lack of congruence is not only attributed to the character by the narrator, it is also verbalized by the character himself (193,19–25):

193

[19] nû ist mir der touf niht geslaht.  
 20 des hân ich tac und naht  
 gelebt *dem ungelîche*,  
 ob mîn vater ie wart rîche.

<sup>24</sup> Cf. Yeandle, “Rennewart’s *Shame*”; David N. Yeandle, “The Concept of *schame* in Wolfram’s *Parzival*,” *Euphorion* 88 (1994): 302–38; David N. Yeandle, ‘*Schame*’ im Alt- und Mittelhochdeutschen bis um 1210. Eine sprach- und literaturwissenschaftliche Untersuchung unter besonderer Berücksichtigung der Herausbildung einer ethischen Bedeutung, Beiträge zur älteren Literaturgeschichte (Heidelberg: Winter, 2001).

<sup>25</sup> Cf. Elke Brüggén, *Kleidung und Mode in der höfischen Epik des 12. und 13. Jahrhunderts*, Beihefte zum *Euphorion* 23 (Heidelberg: Winter, 1989); Elke Brüggén, “Kleidung und adliges Selbstverständnis. Literarische Interessenbildung am Beispiel der Kleidermotivik in der höfischen Epik des 12. und 13. Jahrhunderts,” in *Literarische Interessenbildung im Mittelalter. DFG-Symposion 1991*, ed. Joachim Heinzle, Germanistische Symposien. Berichtsbände 14 (Stuttgart: Metzler, 1993): 200–15; Andreas Kraß, *Geschriebene Kleider. Höfische Identität als literarisches Spiel*, Bibliotheca Germanica 50 (Tübingen: Francke, 2006).

eteswenne ich in den werken bin,  
 daz mir diu schame nimt den sin,  
 25 wan ich leb in lekerie.

But baptism just does not suit my nature, and so night and day I have lived as if I had never had a powerful man for a father. Sometimes I do things which make me faint with embarrassment, for I am living the life of a pig.<sup>26</sup> (103)

We are confronted with a “psychogram” of a personality whose knowledge of his high, noble origins is paired with an awareness of cultural standards and a self-confident, proud ability to reflect. It is from this base that the further development of the character’s profile takes place. Characteristic of this is striving for a courtly, cultivated form of life for a Muslim in the midst of a Christian-Occidental aristocratic environment, a form of existence that is decoupled from conversion and baptism.

## 7 The Trauma of Forced Separation from the Family of Origin

The profile of Rennewart is deepened later by the information that his military service for Willehalm and the Christians is based on the erroneous assumption that he, who had been kidnapped and sold, was abandoned by his family and they did not search for him. The forcible detachment from the country, culture and environment into which he was born, the isolation from everything that was familiar to him, the experience of alienation, which is reflected not least in an imposed change of language, the pressure to abandon one’s own religion, the disciplinary and punitive measures that result from a refusal to do so, in addition to the feeling of abandonment, which increases to the conviction of being indifferent to one’s own family, the deep grievance caused by being forced to live a life far below his due – all this evokes in Rennewart a deep-seated hatred of his own kinship. It makes this figure a very instructive example of a problematization of asymmetrical dependency in the medium of thirteenth-century fictional literature. The forced separation from his family of origin is here attributed a traumatizing effect,<sup>27</sup> which, however, does not lead to a

26 Cf. the translation by Passage in Wolfram of Eschenbach, *The Middle High German Poem*: 117: “[. . .] Sometimes at work it seems as if I will go out of my mind for shame, for I live like a lout.”

27 On the term “trauma” and its use in medieval literary studies, cf. esp. Sonja Kerth, “Schreiende Kriegswunden: Darstellungen kriegsbedingter Traumatisierung in mittelalterlicher heroischer Dichtung,” in *(De)formierte Körper 2. Die Wahrnehmung und das Andere im Mittelalter / Corps (Dé)formés: Perceptions et l’Altérité au Moyen-Age 2. Interdisziplinäre Tagung Göttingen, 1.–3. Oktober 2010*, ed. Gabriele Antunes, Björn Reich and Carmen Stange (Göttingen: Universitätsverlag Göttingen, 2014): 273–98; Sonja Kerth, “Traumaerzählungen im *Parzival*. Ein Versuch,” *Archiv für das Studium der neueren Sprachen und Literaturen* 252 (2015): 263–93; Sonja Kerth, “Narratives of Trauma in Medieval

longing to return, but, on the contrary, entails a hatred of family and kinship and a hostile demarcation and desire for revenge. Willehalm becomes a new reference person for Rennewart, but this does nothing or little to change his highly problematic relationship with his own family. More than that, even under Willehalm's leadership, Rennewart remains an outsider, integrating himself only reluctantly and hesitantly and only to a limited extent into the society of the French aristocracy. Whether the Middle High German author planned to attribute to Rennewart's love for Alyze, the king's daughter, which is hinted at several times, a healing influence on the experience of alienation and self-alienation negotiated on the basis of the character is a question that must remain open due to the fragmentary state of the narrative. In Wolfram's *Willehalm*, there is no *happy ending* for Rennewart, no compensation for suffering.<sup>28</sup>

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German Literature," in *Trauma in Medieval Society*, ed. Christina Lee and Wendy J. Turner, *Explorations in Medieval Culture* 7 (Leiden: Brill, 2018): 274–97; Sonja Kerth, "diu lücke ist ungeheilet, / die mir jâmer durh'ez herze schôz. Traumaerzählungen in der deutschen Dichtung des Mittelalters," in *Verletzungen und Unversehrtheit in der deutschen Literatur des Mittelalters. XXIV. Anglo-German Colloquium, Saarbrücken 2015*, ed. Sarah Bowden, Nine Miedema and Stephen Mossman (Tübingen: Narr Francke Attempto, 2020): 203–20; Sonja Kerth, "in einem twalme er swebete. Konzeptionen von Trauma in der Literatur des Mittelalters," in *Gewalt, Krieg und Geschlecht im Mittelalter*, ed. Amalie Fößel (Berlin: Peter Lang, 2020): 437–65.

**28** Cf. for example Bumke, *Wolfram von Eschenbach*: 317–19; Greenfield and Miklautsch, *Der 'Willehalm' Wolframs von Eschenbach*: 163–67; Heinzle, "F. Willehalm. I. Abriß der Handlung": 543; Kiening: *Reflexion – Narration*; Fritz Peter Knapp, "Heilsgewißheit oder Resignation? Rennewarts Schicksal und der Schluß des Willehalm," *Deutsche Vierteljahrsschrift für Literaturwissenschaft und Geistesgeschichte* 57 (1983): 593–612. An important supplement to the debates about the fragmentary status of the text and about a possibly planned continuation of the plot, which focuses on the individual text, is provided by those contributions that emphasize the contemporary handling of the open ending on the basis of the tradition of *Willehalm* and its communion with other texts. Of particular relevance here is the production of a narrative cycle around *Willehalm*, as generated by the combination of Wolfram's text with Ulrich von dem Türlin's *Arabel* and Ulrich von Türlin's *Rennewart*. These narratives offer a prehistory or a continuation of the plot of *Willehalm* and thus generate a narrative continuum. Cf. Bernd Bastert, "Rewriting *Willehalm*? Zum Problem der Kontextualisierung des *Willehalm*," in *Retextualisierung in der mittelalterlichen Literatur*, ed. Joachim Bumke and Ursula Peters, *Zeitschrift für deutsche Philologie. Sonderheft 124* (Berlin: Erich Schmidt, 2005): 117–38; Bernd Bastert, *Helden als Heilige. Chanson-de-geste-Rezeption im deutschsprachigen Raum*, *Bibliotheca Germanica* 54 (Tübingen: Francke, 2010); Annelie Krefz, *Perspektivenwechsel. 'Willehalm'-Rezeption in historischem Kontext: Ulrichs von dem Türlin 'Arabel' und Ulrichs von Türlin 'Rennewart'*, *Studien zur historischen Poetik* 16 (Heidelberg: Winter, 2014); Vetter, *Textgeschichte(n)*. Cf. also Christoph Gerhardt, "F. Willehalm. III.1 Die Handschriften des *Willehalm* und seiner Fortsetzungen und die Entwicklung der Texte," in *Wolfram von Eschenbach. Ein Handbuch*, vol. 1, *Autor, Werk, Wirkung*, ed. Joachim Heinzle (Berlin: De Gruyter, 2011): 591–636; Christoph Gerhardt, *Der 'Willehalm'-Zyklus. Stationen der Überlieferung von Wolframs 'Original' bis zur Prosafassung*, *Zeitschrift für deutsches Altertum. Beiheft 12* (Stuttgart: Hirzel, 2010); Dorothea and Peter Diemer, "F. Willehalm. III.2 Bilderhandschriften des *Willehalm*," in *Wolfram von Eschenbach. Ein Handbuch*, vol. 1, *Autor, Werk, Wirkung*, ed. Joachim Heinzle (Berlin: De

## 8 Coda: Hidden and Obscured Dependencies

The following coda refers back to the beginning of this article, picking up Willehalm's words from the opening quotation (452,26–29):

452

[26] alrêste mîn ellende  
 ist groezer, denn ich waere aldâ  
 in der stat ze Siglimessâ  
 und dannen verkoufet ze Tasmê.  
 mir ist hie vor jâmer alse wê.

Now for the first time my sense of loss is greater than if I were in the city of Siglimessa and sold from there to Tasmê. I am just as miserable here with my anguish. (219)

The commentary of the most reliable and best bilingual edition at present has the following statement: “Willehalm hypothetically compares his abandonment by the presumed loss of Rennewart with the abandonment he would have to suffer in the utmost foreign land. There is no reason to assume that he was really in exile in Siglimessa and sold to Tasmê.”<sup>29</sup> However, it is worth asking whether this is obvious. Why should an understanding of the statement as an intellectual game be more plausible than as a recollection of a time actually lived in a foreign land, during which one has been the victim of selling and buying? In any case, the subjunctive form in which the auxiliary verb appears in verse 452,27 – “waere,” subjunctive past tense to the infinitive *wesen* (“to be”) – does not provide any certainty here. In comparative clauses of the type given here, introduced with *denn[e]* or *danne*, present subjunctive as well as subjunctive past tense may appear without the statement itself having to assume a subjunctive meaning.<sup>30</sup> Readers of Walther von der Vogelweide, a well-known contemporary

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Gruyter, 2011): 637–52; Hennings, “F. *Willehalm*, II. Der Stoff”; Bernd Schirok, “A. Wolfram und seine Werke im Mittelalter,” in *ibid.*: 1–81, esp. 18–21; Heinzle, *Wolfram von Eschenbach. Dichter*.

29 Cf. Heinzle in Wolfram von Eschenbach, ‘*Willehalm*’. *Nach der Handschrift 857 der Stiftsbibliothek St. Gallen*: commentary on 452,27–30 on page 1088: “Willehalm vergleicht seine Verlassenheit durch den mutmaßlichen Verlust Rennewarts hypothetisch mit der Verlassenheit, unter der er in der äußersten Fremde zu leiden hätte. Es besteht kein Grund zu der Annahme, er sei wirklich im Exil in Siglimessa gewesen und nach Tasmê verkauft worden.” Accordingly, he translates, “Jetzt bin ich verlassen, / als ich / in Siglimessa wäre / und von dort verkauft nach Tasmê” (*ibid.*, 763). Heinzle thus distances himself from a view held by Reinhard Fink and Friedrich Knorr as well as Werner Schröder. Cf. Wolfram von Eschenbach, *Willehalm*, trans. Reinhard Fink and Friedrich Knorr (Jena: Diederichs, 1941): 245: “So ist mein Elend jetzt größer als dereinst, da ich in Siglimassa war und dann zu Tasmê verkauft wurde”; Wolfram von Eschenbach, *Willehalm*, ed. Werner Schröder (Berlin: De Gruyter, 1978): 654, 658.

30 Cf. Hermann Paul, *Mittelhochdeutsche Grammatik. 25. Auflage neu bearbeitet von Thomas Klein, Hans-Joachim Solms und Klaus-Peter Wegera. Mit einer Syntax von Ingeborg Sch[r]öbler, neubearbeitet und erweitert von Heinz-Peter Prell, Sammlung kurzer Grammatiken germanischer Dialekte. A. Hauptreihe 2* (Tübingen: Niemeyer, 2007): § S 198.

of Wolfram von Eschenbach, may have in mind the famous line from the *Kronenspruch*, with which he pays homage to Philipp von Schwaben: “Diu krôn ist elter, danne der künic Philippe sî”<sup>31</sup> (“The crown is older than King Philipp is”, E.B.).

The interpretation of the statement as a reminiscence of an earlier experience seems more plausible to me because there are several mentions of Willehalm’s stay in the Orient and of his imprisonment in other passages, without the fragments of the protagonist’s past forming a complete picture. Thus, it could be possible that another such oppressive experience of Willehalm is being described here. This possibility of a shared fate may explain his peculiar and steadily growing closeness with Rennewart, the strange young man, at least to some extent. The suggestive denial of this interpretive possibility in the commentary of the edition consulted, that is, its apodictic exclusion, reveals the following: While it is difficult to identify constellations and structures of dependency in Middle High German narratives of the *classical* period because they are often concealed in narratives of secondary characters and parts that are less prominent, research also sometimes tends to make them disappear. This admittedly provides further impetus for the project of deconstructing a noble, courtly conception of society that is largely committed to idealization and uncovering a literary discourse on forms of dependency.

## 9 To Round Off: Abducted and Trafficked Children in the Visual Arts and Literature

In closing, I would like to return to the article by von Mallinckrodt.<sup>32</sup> It is quite illuminating to take a closer look at the author’s argumentation and conclusions. As a starting point, von Mallinckrodt uses a representative portrait which Johanna Charlotte von Brandenburg-Schwedt, Prince-Abbess of Herford Abbey, made of herself around 1740; see Figure 1.<sup>33</sup>

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31 This is the wording of Manuscript B (Stuttgart, Württembergische Landesbibliothek, HB XIII 1). Manuscript C (Heidelberg, Universitätsbibliothek, Cod. Pal. Germ. 848) reads slightly different: “Diu krône ist elter, danne der künic Philippes sî.” Cf. Walther von der Vogelweide, *Leich, Lieder, Sangsprüche. 15., veränderte und um Fassungseditionen erweiterte Aufl. der Ausgabe Karl Lachmanns. Aufgrund der 14., von Christoph Cormeau bearbeiteten Ausg. neu herausgegeben, mit Erschließungshilfen und textkritischen Kommentaren versehen von Thomas Bein. Edition der Melodien von Horst Brunner* (Berlin: De Gruyter, 2013): Ton 9, 60 and 64. Cf. Walther von der Vogelweide, *Werke. Gesamtausgabe*, vol. 1, *Spruchlyrik. Mittelhochdeutsch/Neuhochdeutsch. Hrsg., übersetzt und kommentiert von Günther Schweikle. Dritte, verbesserte und erweiterte Auflage hrsg. Ricarda Bauschke-Hartung*, Reclams Universal-Bibliothek 819 (Stuttgart: Reclam, 2009): 84–85.

32 Cf. section 3.

33 For the author’s analysis of the painting cf. von Mallinckrodt, “Verschleppte Kinder”: esp. 15–16. The article lists further literature concerning the phenomenon of the so-called *Hofmohren*.



**Figure 1:** Antoine Pesne [?], *Portrait of Charlotte von Brandenburg-Schwedt, born Princess of Anhalt-Dessau, abbess of the abbey of Herford*, around 1740, Municipal Museum of Herford, Daniel Pöppelmann-House, Inv. Nr. 92/91.<sup>34</sup>

In what follows, I take up the most relevant considerations for my context. The born princess of Anhalt-Dessau had represented with insignia that are suitable to situate her with regard to her descent and the position she occupied; moreover, they show off her function. Here, the crown should be mentioned; it appears, half cut off, at the left

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<sup>34</sup> Permission to print the portrait of Charlotte von Brandenburg-Schwedt was granted by Sonja Langkafel (Director Daniel Pöppelmann-Haus / Städtisches Museum Herford), and the file was provided by Rebekka von Mallinckrodt; I would like to thank both of them very much.

edge of the painting. In addition, there is the star of the immediate imperial Protestant women's monastery, which the abbess wears on a red ribbon running diagonally across her upper body. A black veil indicates her widowhood. The precious garment she wears is mostly dark, too; only the breast insert of the dress, the decorative bow fastened underneath, and the lavish lining at the hems of the sleeves are white, creating a striking accent. The painter presents a three-quarter view of the seated abbess; her angled right arm supports her head, which is slightly tilted to the side, and rests on a shelf padded with a cushion. Of the left arm, only her hand and with it a small part of her forearm can be seen; the rest is covered by the upper body of a little boy whom the abbess pulls in close and for whom she has moved a little to one side of her armchair so that they may both fit on the seat. While Charlotte von Brandenburg-Schwedt embraces the boy and holds his shoulder with her left hand, the child has put his forearm and hand on her thigh. Spatial closeness, physical contact and bodily gestures seem to express a special familiarity between the two. The familial note that is incorporated into the stately representation is all the more surprising when one becomes aware of what was previously excluded from the description of the painting: the boy's black skin color as well as his habit, livery and turban. Charlotte von Brandenburg-Schwedt did not have herself portrayed with one of her six children or with a boy from her family entrusted to her, but with an African boy, most likely a slave baptized Carl Heinrich Leopold, who had been brought to her court in 1734 and who was probably supposed to perform a servant's task there. His original name is unknown, and so are the circumstances of his existence before his arrival in Herford, where he spent sixteen years in the service of the abbess. After her death, every trace of him is lost.

According to von Mallinckrodt, surrounding oneself with children who were as beautiful, dark-skinned, and exotic as possible for reasons of impressive representation was a fashion that went far back to the eighteenth century, that "encompassed the whole of Europe," and that "even in the second half of the 18th century did not stop for a long time."<sup>35</sup> It is interesting to pay attention to the portrayal strategies that the author pointed out in her article and that are linked to the representational intention of the painting: firstly, an emphasis on skin colors through the use of a strong light-dark contrast; secondly, an accentuation of differences in age and life experience by means of different proportions as well as certain forms of body staging and gestures; and, thirdly, a marking of diverging origins with the help of clothing and staffage. The portrait shows all three moments, but the most striking is probably the handling of the light-dark contrast. Only the whites of the eyes of the softly modelled face of the black boy emerge, whereas the white hair and, in particular, the aristocratic white incarnation of the abbess, perceptible in her complexion, neckline and arms and hands, clearly stand out. The lace cuff, which falls down the abbess's propped-up right arm, allows a view of a roundish lateral forearm, the bright white of which virtually

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35 Von Mallinckrodt, "Verschleppte Kinder": 21.



imposes itself on the observer. The almost completely black presentation of Carl Heinrich Leopold and the pallor of his mistress contrast each other, and the dazzling white of the head bandage of the turban worn by the boy further intensifies the effect. Thus, the abbess clearly appears “in a better light.” Furthermore, differences in size, posture and gestures accentuate the abbess’s superiority, not only in terms of stature but also cognitively. In her pose, she presents herself as a benefactress to a child under her guardianship. Thus, by being involved with the African boy, who was highly dependent on her, she possibly not only drew a value relevant to representation but also an emotional value.

It is by no means my intention to play down the differences between this pictorial testimony and the literary representation of Rennewart. To name the most striking moment right away, skin color was not important in the literary discourse of the thirteenth century. In addition, Rennewart as an acting character appears as an adolescent and a young man, not as a small child. His early years are only recorded through reminiscences. I would like to argue that the comparison of the medieval narrative with the painting from a later period makes sense in that both are concerned with destinies in which a human being is forcibly removed from the world and culture which they were born into, separated from their relatives and transferred to a new, alien environment, where they are appropriated. The comparison sharpens the eye for the respective specifics of the representations and clarifies that in looking at historical forms of dependency, it is necessary to analyze an artistic artefact on various levels and to examine pictorial as well as literary presentations to identify their hidden motifs and meanings. Moreover, in the Bonn Center of Dependency and Slavery Studies and its Cluster of Excellence, which is set up in such a way that it can track phenomena of a/symmetric dependency “beyond slavery and freedom” in a *longue durée*, the comparison of two historical snapshots in the development of the old European aristocratic society proves to be very illuminating. It proves the earlier testimony, that is, the literary text, to be significantly more resistant than the later pictorial testimony, which much more strongly conceals the cruelty underlying the representation.

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Christiane Czygan

# From Slave to Queen: Hurrem Sultan's Agenda in Her Narration of Love (1526–1548)

## 1 Introduction

Written texts by female slaves are rare. Some of the earliest examples, however, date to the sixteenth century, when promising female slaves in the Imperial Ottoman harem received training in writing. These women's letters provide extraordinary insights into their views, power and social relations as well as their perceptions of their own dependency. This legacy has long been neglected, and the exploration of these unique documents crafted by female slaves has only just begun.<sup>1</sup>

Hurrem set several precedents<sup>2</sup> and thus changed the imperial fabric. Her extraordinary ascent to power, from slave to empress, has continued to fascinate and inspire people to the present day. The narrative about her witchcraft was a *topos* promoted by contemporary European diplomats.<sup>3</sup> Nonetheless, nineteenth-century historians – Ottoman and German alike – feverishly adopted this view, a notable example being Joseph v. Hammer-Purgstall.<sup>4</sup>

Hurrem took to writing letters to Sultan Süleyman during his campaigns, some of which lasted several years. A considerable number of these letters have survived and today constitute a most valuable resource, giving voice to a female slave. Hurrem's letters to the sultan can be seen not merely as expressions of her longing and love but also, and perhaps equally, as attempts to keep herself in the sultan's heart and mind during long periods of separation. Süleyman's lengthy and recurrent absences must have reminded Hurrem continually that her life – and the lives of her children – depended completely on the sultan. Simultaneously, however, the missives reveal a

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1 Cf. Betül Argıt İpşirli, *Hayatlarının Çeşitli Safharında Harem-i Hümayun Cariyeleri, 18. Yüzyıl* (Istanbul: Kitap Yayınevi, 2017): 42; Betül Argıt İpşirli, "A Queen Mother and the Ottoman Imperial Harem. Rabia Gülnuş Emetullah Valide Sultan (1649–1715)," in *Concubines and Courtesans. Women and Slavery in Islamic History*, ed. Matthew S. Gordon and Kathryn A. Hain (New York: Oxford University Press, 2017): 211; Hedda Reindl-Kiel, "Mord an einer Haremsdame," *Münchener Zeitschrift für Balkankunde* 7–8 (1991): 171–74.

2 Leslie Peirce, *The Imperial Harem: Women and Sovereignty in the Ottoman Empire* (New York: Oxford University Press, 1993): 55.

3 Cf. Ogier Ghiselin de Busbecq, *The Turkish Letters. Imperial Ambassador at Constantinople 1554–1562*, trans. Edward Seymour Forster (Oxford: Clarendon Press, 1986): 33, 49.

4 Joseph v. Hammer-Purgstall, *Geschichte des Osmanischen Reichs*, vol. 3 (Graz: Akademische Druck- und Verlagsgesellschaft, 1963): 317.

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**Note:** I thank Hedda Reindl-Kiel and William Clarence-Smith for their reading and enlightening thoughts.



rather nonchalant attitude towards the sultan's campaigns and thus suggest a different perspective.

Moreover, these letters offer an intimate view of Hurrem's rhetoric of love, while also revealing her strategies and aims. It is striking that, even after her manumission and rise to the position of queen, Hurrem referred to the *kul*-paradigm of 'paragon obedience', identified by Madeline Zilfi. Nonetheless, Hurrem transformed and instrumentalised this paradigm to suit her own agenda.<sup>5</sup>

## 2 Premodern Ottoman Female Slavery

In accordance with the BCDSS's definition of 'strong asymmetrical dependency', three factors are fundamental:

- The loss of personal autonomy
- An institutionally backed environment
- The impossibility of escape or protest<sup>6</sup>

This raises the question of how the enslavement of women was legally defined. As an Islamicate empire, the Ottoman Empire's theory of female slavery was rooted in Qur'anic and Hanafi premises.<sup>7</sup> According to the Hanafi normative code, female slaves belonged exclusively to their owners and were potential concubines. Despite being commodities, female slaves also had specific rights:

- They were able to marry, except for their masters.<sup>8</sup>
- If the female slave belonged to the lady of the household, intercourse with her was forbidden for all male members of the household.<sup>9</sup>
- If a slave woman bore a child acknowledged by her master as his, the child was a free person.<sup>10</sup>
- If a slave gave birth to her master's child, her manumission was automatic upon her owner's death.<sup>11</sup>
- Slave mothers of an acknowledged son of the master were prohibited from being sold.<sup>12</sup>

5 Madeline Zilfi, *Women and Slavery in the Late Ottoman Empire: The Design of Difference* (Cambridge: Cambridge University Press, 2010): 192.

6 Stephan Conermann and Gül Şen, "Introduction," in *Slaves and Slave Agency in the Ottoman Empire*, ed. Stephan Conerman and Gül Şen (Göttingen: V&R unipress, 2020): 13.

7 Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1964): 127–30.

8 Conermann and Şen, "Introduction": 14.

9 Suraiya Faroqhi, *Women in the Ottoman Empire. A Social and Political History* (London: I.B. Tauris, 2023): 47, 68.

10 Zilfi, *Women and Slavery*: 109–13.

11 Zilfi, *Women and Slavery*: 112.

12 Faroqhi, *Women in the Ottoman Empire*: 68.; Zilfi, *Women and Slavery*: 112.

- Even after giving birth to her master's child, a slave mother remained at her master's disposal.<sup>13</sup>
- Women slaves were able to register complaints.<sup>14</sup>
- Liberation was attainable upon proper payment by the slave.<sup>15</sup>
- Female slaves could be returned to the seller within a three-day window on the basis of defectiveness – a backdoor to illicit prostitution.<sup>16</sup>

This normative code was occasionally abused or ignored.<sup>17</sup> Thus, these rules largely represented an ideal state rather than reality. Nevertheless, it should be emphasised that in Islam manumission was indeed perceived as a desirable act of piety and that slavery connoted a non-permanent state. Release was a matter of negotiation between master and slave; the document that stipulated the instalment and its period was dubbed the *mükâtebe* and it was legally binding.<sup>18</sup>

Abduction occurred in licit and illicit ways. In wartime and during raids, abduction was legally acknowledged, while kidnapping or the sale of female family members were considered illicit. In practice, however, these acts were seldom pursued.<sup>19</sup> While neither race nor ethnicity excluded enslavement, religion did.<sup>20</sup> Although enslavement of Muslims was not permissible, when the Ottomans captured Shiites during the fierce conflict between Selim I (r. 1508–1520) and Shah Ismail (r. 1501–1524), they overcame this problem by declaring their captives apostates.<sup>21</sup>

Once abducted, captives had to travel on foot to their destination. Though precise figures are lacking, the march to the slave markets was a perilous journey that not all survived. Although the slave population increased in wartime and decreased in periods of peace, Madeline Zilfi postulates that 20% of the inhabitants of sixteenth-century Istanbul were slaves.<sup>22</sup> Peace was rare in the sixteenth century, however, and the slave population might have been lower in the following centuries. Suraiya Faroqhi found evidence that even older women were abducted and bought for beggary.<sup>23</sup> Most abducted female slaves, however, were brought to the slave markets of Istanbul, Bursa, or Edirne, where some were forced to reveal themselves publicly.

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13 Zilfi, *Women and Slavery*: 112.

14 Suraiya Faroqhi, "Slave Agencies Compared: The Ottoman and Mughal Empires," in *Slaves and Slave Agency in the Ottoman Empire*, ed. Stephan Conermann and Gül Şen (Göttingen: V&R unipress, 2020): 80.

15 Conermann and Şen, "Introduction": 16–17.

16 Zilfi, *Women and Slavery*: 203.

17 Faroqhi, *Women in the Ottoman Empire*: 66–68, 128; Zilfi, *Women and Slavery*: 112.

18 Zilfi, *Women and Slavery*: 108.

19 Faroqhi, *Women in the Ottoman Empire*: 128.

20 Zilfi, *Women and Slavery*: 106.

21 See Zilfi, *Women and Slavery*: 208.

22 Zilfi, *Women and Slavery*: 130.

23 Faroqhi, *Women in the Ottoman Empire*: 65.

In Ottoman practice, it is necessary to differentiate between female slaves in wealthy or elite households and those in the Imperial harem. Within Ottoman households, female slaves merged into family life, and their treatment was a matter of chance. Their situation was to a large extent relational,<sup>24</sup> though they could in principle appeal to Hanafi law (outlined above). In contrast, research suggests that entry to the Imperial harem offered an opportunity to acquire wealth and even power through marriage to state officials or by becoming an ‘elite slave’.<sup>25</sup> Under Islamic law, women could accumulate wealth themselves, and Imperial concubines of higher status obtained salaries that put them in such a favourable position.<sup>26</sup> However, life in the Imperial harem bore certain risks that did not exist within other households. Hanafi law forbade slave owners to apply the death penalty unilaterally and without reference to a *kāḍī*. By contrast, in individual cases the sultan could take action, deviating from shari’a practice on the grounds of protecting the empire’s well-being.<sup>27</sup> When the sultan decided on execution, no *kāḍī* had to be consulted. The narrative that women from the harem were drowned by being thrown into the Bosphorus on the sultan’s command is backed by poor evidence, and care must be taken if relying on such narratives.<sup>28</sup> Beyond these risks, entering the Imperial harem did confer reputation and social status.<sup>29</sup> Conversely, it also increased asymmetrical dependency by weakening personal autonomy; protest could end perilously, and leaving was typically achieved through marriage.<sup>30</sup> Thus, although Imperial harem slaves were distinguished from other slaves by their social status, they were inseparably bonded to their Imperial owner. Importantly, social status was not necessarily an indicator of freedom but, as in the case of Imperial harem slaves, could in fact be linked to a higher degree of dependency.

Since the reign of Orhan, Ottomans took care to avoid motherhood by Imperial wives, and the reproduction of the dynasty was achieved via concubines. As institutions

24 İpşirli-Argat, *Harem-i Hümayun Cariyeleri*: 35; Zilfi, *Women and Slavery*: 36.

25 İpşirli-Argat, *Harem-i Hümayun Cariyeleri*: 58; Faroqhi, “Slave Agencies Compared”: 70–73; William Gervase Clarence-Smith, *Islam and the Abolition of Slavery* (London: Hurst & Company, 1988): 85. Thanks are owed to Hedda Reindl-Kiel for the reminder that all women in the Imperial harem obtained a daily salary, though less than that received by men of equal rank in the Imperial household.

26 Peirce, *The Imperial Harem*: 8, 52.

27 Zilfi, *Women and Slavery*: 103.

28 Faroqhi, “Slave Agencies Compared”: 73. Thanks are owed to Colin Imber, who pointed out a rare piece of evidence on drowning described by the British ambassador. Henry Lello based his observations of procedures at Mahmud III’s court in 1603. According to Lello, 31 women were tied up alive in sacks and thrown into the sea. Although ambassadors followed their own agendas and might have misunderstood people or have been incorrectly informed, this report at least mentions the practice, even if it falls well short of historiographical verification. Orhan Burian, ed., *The Report of Lello: Third English Ambassador to the Sublime Porte* (Ankara: Türk Tarih Kurumu Basimevi, 1952): 15.

29 Colin Imber, *The Ottoman Empire, 1300–1650. The Structure of Power* (New York: Palgrave Macmillan, 2009): 75–76.

30 Ehud R. Toledano, *As If Silent and Absent. Bonds of Enslavement in the Islamic Middle East* (Yale: Yale University Press, 2007): 19–22.

developed, the Ottoman Imperial harem organised the reproduction of the dynasty from at least the fourteenth century to modern times.<sup>31</sup> Marriage was abrogated altogether after Mehmed II's reign (1451–1481). In the sixteenth century, it was usual for the sultan not to marry but to enter into temporary relationships with female slaves from the harem. The rule was “one mother for one potential heir.”<sup>32</sup> This guaranteed that competition for the succession occurred solely between half-brothers. Though scholars have emphasised the male lineage,<sup>33</sup> this interpretation does not explain the one mother-one son rule, which suggests that importance was also attached to the female line.

Abducted girls or women reached the palace through slave traders, who had to remit one fifth of the women to the sultan, a tax called the *pencik*.<sup>34</sup> Another possibility was for the women to be offered by dignitaries as a kind of a gift for the sultan or the sultan's mother. Examples also exist of women being purchased from the slave market by eunuchs,<sup>35</sup> who acted as brokers between the Imperial harem and the city.<sup>36</sup>

A strict protocol, supervised by the sultan's mother or a lady steward, was observed when presenting potential concubines to the ruler.<sup>37</sup> Those chosen for intercourse with the sultan attained the status of concubine (*gözde*), a position that could be superseded only by that of a *haseki*, acquired by giving birth to a boy. According to the normative Islamic-Hanafi rule, the birth of a boy secured the eventual manumission of the mother, now designated as *ümm-i veled*.<sup>38</sup> Practice within the Imperial harem differed, insofar as a concubine who had given birth to a boy then belonged to the Imperial family and could become a life-long member of the harem.<sup>39</sup> Moreover, she spent her entire life at the side of this prince – at least until his maturity.<sup>40</sup> The birth of a son also brought an end to the intimate relationship between the sultan and his concubine. However, if a concubine bore the sultan no child, she was eventually bound to be married off to a senior Ottoman state official. Since the reign of Mehmed II or even earlier, once several sons had reached maturity, the sultan refrained from reproduction.<sup>41</sup>

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31 Peirce, *The Imperial Harem*: 39, 41.

32 Clarence-Smith, *Islam and the Abolition of Slavery*: 89.

33 Peirce, *The Imperial Harem*: 41.

34 Faroqhi, *Women in the Ottoman Empire*: 20.

35 Faroqhi, *Women in the Ottoman Empire*: 20.

36 Jane Hathaway, *The Chief Eunuch of the Ottoman Harem: From African Slave to Power-Broker* (Cambridge: Cambridge University Press, 2018): 43, 47–49.

37 Leslie Peirce, *Empress of the East. How a European Slave Girl Became Queen of the Ottoman Empire* (New York: Basic Books, 2017): 35; Peirce, *The Imperial Harem*: 6.

38 Stephan Conermann and Gül Şen, “Introduction”: 15.

39 Reindl-Kiel, “Mord an einer Haremsdame”: 175.

40 Colin Imber, *The Ottoman Empire, 1300–1650. The Structure of Power*, 2nd ed. (New York: Palgrave Macmillan, 2009): 77–78.

41 İpşirli-Argıt, *Harem-i Hümayun Cariyeleri*: 17; Peirce, *The Imperial Harem*: 53.

From the sixteenth to the eighteenth century, sultans' mothers, called *valide sultan*, acquired such power that they partook in ruling the empire – via their sons.<sup>42</sup> In the nineteenth century, the sixteenth and seventeenth centuries were first lent a misogynistic undertone as *kadınlar sultanatı* (sultanate of women),<sup>43</sup> which is perhaps significant for the loss of plurality in the later period. Madeline Zilfi revealed that, at least since the eighteenth century, a distinction existed between the two terms for woman: *kadın* and *hanım*. While the latter term referred to a freed or free woman, the former described an enslaved woman.<sup>44</sup> Whether noble or otherwise, these women had in common their enslavement and their perilous transport to Istanbul. However pernicious the individual situation, the binary between victimization and agency, often noted in Mediterranean slavery,<sup>45</sup> scarcely reflects the ambiguous settings that determined the lives of both domestic female slaves and those within the Imperial harem. While concubinage did not affect reputation or power, all slave women had in common the obligation to comply with intercourse whether wanted or not.<sup>46</sup>

### 3 Hurrem's Life

Hurrem was most likely abducted in Lithuania around the age of 15. In European texts she was named Roxelane or Roxolana; both names suggest a Ruthenian origin.<sup>47</sup> As family ties were completely cut upon entering the Imperial harem, knowledge of her religious origin remains speculative. Details of her entry to the Imperial harem and her initial acquaintance with the young sultan are unclear. When she gave birth to her son Mehmed in 1521, tradition would have demanded her separation from the sultan.<sup>48</sup> However, Sultan Süleyman returned to her. The reasons for this breach of tradition have never been revealed, but reproductive factors may have been relevant, as Leslie Peirce has argued.<sup>49</sup> Specifically, the death of several of Süleyman's children

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42 Zilfi, *Women and Slavery*: 89; Peirce, *The Imperial Harem*: 105–6; İpsirli-Argıt, “A Queen Mother”: 207–8.

43 Ahmet Refik Altınay, *Kadınlar Saltanatı*, ed. İbrahim Delioğlu et al. (İstanbul: Tarih Vakfı Yurt Yayınları, 2000): 30–59; Peirce, *The Imperial Harem*: VII; Klaus Kreiser and Christoph K. Neumann, *Kleine Geschichte der Türkei*, 2nd ed. (Stuttgart: Philipp Reclam, 2008): 198.

44 Zilfi, *Women and Slavery*: 165.

45 Zilfi, *Women and Slavery*: 97; Conermann and Şen, “Introduction”: 17.

46 Gender studies have started to articulate harsh criticism, which has also reverberated through the paradigm of the so-called “good East.” Toledano, *As If Silent and Absent*: 19–20.

47 Galina Yermolenko, “Introduction,” in *Roxolana in European Literature, History and Culture*, ed. Galina I. Yermolenko (Farnham: Ashgate, 2010): 2.

48 Imber, *The Ottoman Empire*: 78.

49 Peirce, *Empress of the East*: 53–55.

in 1521 and Hurrem's proven ability to bear healthy offspring may have played a role.<sup>50</sup> Between 1521 and 1531, Hurrem gave birth to one daughter (Mihrumah in 1522) and four sons (Selim in 1524, Abdullah in 1525, Bayezid in 1527 and Cihangir in 1531).<sup>51</sup>

When Süleyman's mother, Hafsa hanım, died in June 1534, Hurrem was the closest person to the bereaved sultan. It can be assumed that she used this period for her own aims and consolidated her position through marriage.<sup>52</sup> Though the wedding took place in 1534, details of the public celebration of the event remain contentious.<sup>53</sup>

Before Süleyman's urgent departure from Istanbul for the Iran campaign in the fall of 1534, he ordered that Hurrem be moved from the Old Palace to the New Palace. The Old Palace had been abandoned by Mehmed II, who preferred the New (*Topkapı*) Palace as his imperial residence. Since then, the Old Palace, located on the grounds of today's Istanbul University, had housed the Imperial harem. In modern research, Süleyman's return to Hurrem and their marriage are regarded as less significant than Hurrem's move with her children to the New Palace, which enhanced her proximity to power in an unprecedented way.<sup>54</sup>

Though tradition demanded that the sultan's intimates refrain from using power,<sup>55</sup> Hurrem participated actively in state affairs. This transgression of boundaries alongside her ongoing presence in the capital – another breach of tradition – are said to have made her the target of animosity, and contemporary diplomats emphasised her notoriety among Istanbulites.<sup>56</sup> It should be highlighted, however, that this notoriety was recorded only by diplomats, who pursued their own agendas and may have had their own informants. No comparable evidence exists from Istanbulites themselves, which puts this long-standing hypothesis in question. Moreover, from the late 1530s, Hurrem engaged in benevolent activities. Her building of a mosque complex close to Istanbul's *Avrat* market<sup>57</sup> must have affected those who benefitted from its school, healthcare and

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50 Peirce, *The Imperial Harem*: 60.

51 Peirce, *Empress of the East*: 72; Peirce, *The Imperial Harem*: 53–58.

52 Christiane Czygan, "Depicting Imperial Love: Love Songs and Letters between Sultan Süleyman (Muhibbi) and Hürrem," in *Kanûni Sultan Süleyman ve Dönemi. Yeni Kaynaklar, Yeni Yaklaşımlar*, ed. M. Fatih Çalışır, Suraiya Faroqhi and M. Şakir Yılmaz (İstanbul: İbn Haldun Yayınları, 2020): 251.

53 Peirce, *Empress of the East*: 116, 146; Peirce, *The Imperial Harem*: 62; Suraiya Faroqhi, "Introduction," in *Kanûni Sultân Süleymân ve Dönemi. Yeni Kaynaklar, Yeni Yaklaşımlar*, ed. Fath M. Çalışır, Suraiya Faroqhi and Şakir M. Yılmaz (İstanbul: İbn Haldun Üniversitesi Yayınları, 2020): 34; Czygan, "Depicting Imperial Love": 251.

54 Peirce, *Empress of the East*: 46, 116, 120, 128, 137–39.

55 Peirce, *The Imperial Harem*: 75, 87. Peirce mentions 1536 as the date for a public festivity, while Alan Fisher dates the wedding to 1534. See Alan Fisher, "The Life and Family of Sultan Süleyman I," in *Süleyman the Second and His Time*, ed. Halil Inalcık and Cemal Kafadar (İstanbul: ISIS Press, 1993): 10–11.

56 Oghier Ghiselon de Busbecq, *The Turkish Letters. Imperial Ambassador at Constantinople 1554–1562*, trans. Edward Seynour (Oxford: Clarendon Press, 1986): 31; Peirce, *The Imperial Harem*: 75.

57 The *Avrat Market* (Women Market) was sometimes confused with the slave market, but it was simply a market within in a quarter of the city. Yermolenko, "Introduction": 2; Peirce, *Empress of the*

soup kitchen as well as the opportunity it offered for gatherings and prayer. Thus, a variety of perceptions must have existed at different times, while diplomatic reports probably pointed to a single moment that was subsequently perpetuated. Moreover, it has to be asked whether there existed any continuity in her notoriety – if it existed at all – and whether this narrative of notoriety fit conveniently with the restrictive turn of the late nineteenth and early twentieth centuries and was thus promoted further.<sup>58</sup> Neither Hurrem's positive reputation in recent decades nor her vilification in the nineteenth/twentieth centuries have yielded a deeper understanding of her role within her own time, and both attitudes hide more than they reveal.

From the late 1530s, Hurrem struggled and schemed on behalf of her male children in the ultimate quest for the throne. When Mustafa, the only prince who was not Hurrem's son, was strangled in 1553, people were shocked.<sup>59</sup> Mustafa's execution was a watershed moment; the sultan's killing of his own son violated a hitherto unchallenged taboo and provoked outrage.<sup>60</sup> It was popularly perceived as the result of plotting by Hurrem's faction – by her, her daughter Mihrimah, and her son-in-law, the grand vizier Rustem Paşa (d. 1561).<sup>61</sup>

Hurrem's many philanthropic activities must be understood in the context of Islamic piety. Her strong religiosity corresponds with Sultan Süleyman's increased reliance on Sunni Islam after the execution of his boon-companion and grand vizier, İbrahim Paşa, in 1536 at his own command.<sup>62</sup> As argued above, Hurrem's notoriety is a matter of contention, and her piety must have found some resonance in Istanbul as well, while her prestige grew in the provinces, such as in Jerusalem.<sup>63</sup>

When Hurrem died in April 1558 after a period of illness, the sultan lost not only his beloved wife but also his closest political partner.

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East: 170–94; on Hurrem's piety see also Amy Singer, *Constructing Ottoman Beneficence: An Imperial Soup Kitchen in Jerusalem* (Albany, NY: State University of New York Press, 2002): 71–98.

58 Czygan, "Depicting Imperial Love": 252–53.

59 Peirce, *Empress of the East*: 272–79; Zahit Atçıl, "Why Did Süleyman the Magnificent Execute his Son Şehzade Mustafa in 1553?" *Osmanlı Araştırmaları* 48 (2016): 77.

60 Peirce, *The Imperial Harem*: 85.

61 Peirce, *The Imperial Harem*: 78; Ahmet Refik Altınay, *Kadınlar Saltanatı*: 41–49; Susan A. Skilliter, "Khurrem," *Encyclopaedia of Islam*, vol. 5 (Leiden: Brill, 1986): 67; Joseph v. Hammer-Purgstall, *Geschichte des Osmanischen Reichs*, vol. 3 (Graz: Akademische Druck- und Verlagsgesellschaft, 1963): 317.

62 Hammer-Purgstall, *Geschichte des Osmanischen Reichs*: 282–83; Altınay, *Kadınlar Saltanatı*: 40; Czygan, "Depicting Imperial Love": 250.

63 Amy Singer, *Constructing Ottoman Beneficence*: 71–98.

## 4 Hurrem's Love Letters

In total, seven long letters by Hurrem have been published,<sup>64</sup> and further examples have been found and await publication.<sup>65</sup> The otherwise undated letters were dated by Çağatay Uluçay as follows:

- 1526: letters 1 and 2<sup>66</sup>
- 1534–1536: letters 3 and 4<sup>67</sup>
- 1541 or 1549: letter 5<sup>68</sup>
- 1548: letters 6 and 7<sup>69</sup>

The Hungary campaign of 1526 aimed to prevent the alliance of Walachia, Moldova and Hungary with the Safavids.<sup>70</sup> The campaign started on March 19, and on November 14 the sultan celebrated his return to Istanbul. On August 29, the conquest of Mohác marked one of the most prominent victories of his age.<sup>71</sup> Mohác was the gate to Vienna and its capture enabled the siege of the latter.

The latent crisis with the Safavids gained immediacy after the new Safavid ruler Tahmasp (r. 1524–1576) marched towards Baghdad. On 11 June 1534, Sultan Süleyman set out with his army over the Bosphorus. This campaign, also called the first Iraq campaign, took more than a year, and only in January 1536 did Sultan Süleyman make his grand return to Istanbul.<sup>72</sup> Tabriz was not easily taken by the Ottomans, and

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64 M. Çağatay Uluçay, *Osmanlı Sultanlarına Aşk Mektupları* (Istanbul: Şaka Matbaası, 1950): 29–45. An interesting extract of an eighth missive was also published by Uluçay, Topkapı Sarayı Müzesi Arşivi. No. E. 10704 in M. Çağatay Uluçay, *Harem'den Mektuplar* (Istanbul: Vakit Matbbası, 1956): 84.

65 A research group at the Topkapı Palace Archive has prepared additional letters for publication. As the pandemic precluded further contact and correspondence, this fresh material has not been considered here.

66 See letter 1: Topkapı Sarayı Müzesi Arşivi. No. E. 5662 in Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 31; see letter 2: Topkapı Sarayı Müzesi Arşivi. No. E. 5426 in Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 36.

67 See letter 3: Topkapı Sarayı Müzesi Arşivi. No. E.5038 in Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 39; see letter 4: Topkapı Sarayı Müzesi Arşivi. No. E. 6056 in Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 40.

68 Topkapı Sarayı Müzesi Arşivi. No. E. 11480 in Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 42.

69 See letter 6: Topkapı Sarayı Müzesi Arşivi. No. E. 5038 in Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 43. The archive number for either letter 3 or letter 6 is wrong as both letters cannot have the same archive number. A revision would be desirable; see Topkapı Sarayı Müzesi Arşivi. No. E. 5859 in Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 45.

70 İsmail Hami Danişmend, *İzahlı Osmanlı Tarihi Kronolijisi, 1513–1573*, vol. 2 (Istanbul: Türkiye Basımevi, n.d.): 112.

71 Danişmend, *İzahlı Osmanlı Tarihi Kronolijisi*: 112–20.

72 Danişmend, *İzahlı Osmanlı Tarihi Kronolijisi*: 158–81.



only the conquest of Baghdad followed by a second siege of Tabriz forced Shah Tahmasp to ask for peace.<sup>73</sup>

The fifth missive could have been written either during the siege of Buda in late summer 1541 or after the siege of Tabriz during the second Iran campaign from 1548–1550, while missives 6 and 7 date to the period before or after Tabriz' conquest in August 1548.<sup>74</sup>

Interestingly, encomia appear only in the first two letters, which were written by a ghostwriter.<sup>75</sup> In contrast, in the subsequent missives, the expressions in praise of the sultan are more intimate and laced with a personal touch, e.g. “Part of my soul, my exalted sultan, after having prostrated my ugly face in front of your feet [ . . . ]”<sup>76</sup>

Expressions of longing and affection are interwoven in all Hurrem's letters. Invariably, they conclude with greetings from her individual children and to the son accompanying the sultan. Beside these commonalities, the topics can be divided into five categories, each of which will be discussed in turn:

1. Family and persons who merged into family life
2. Gifts from and to the sultan
3. Finances
4. The situation in Istanbul
5. The actual campaign

1. The missives provide little information about individual family members.<sup>77</sup> However, Hurrem's greetings at the conclusion of each letter identify persons who were either important enough to Hurrem that she thought them worthy of inclusion in her greetings, or whose importance to the sultan she recognised. Thus, it is revealing that she mentions “the pasha” and “her brother pasha” in letters 1, 2 and 4.<sup>78</sup> This likely refers to İbrahim Paşa, who had been invested with the grand vizierate since 1523 and whose spectacular diplomatic successes through agreements with France and the Habsburgs had been recognised by the time of Hurrem's fourth missive in the years 1534–1536. In the 1520s and early 1530s, İbrahim Paşa's influence on the sultan must have been enormous, and it can be assumed that there was competition for the sultan's affection between him and Hurrem. While Hurrem was still conceiving children at the time of her first missives (at least in 1524–1526), by 1534 she had consolidated

73 Danişmend, *İzahlı Osmanlı Tarihi Kronolijisi*: 158–81, 176.

74 Danişmend, *İzahlı Osmanlı Tarihi Kronolijisi*: 222–31, 255–62.

75 Czygan, “Depicting Imperial Love”: 258; Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 11.

76 Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 39.

77 Only in letter 4 is it mentioned that the sultan had asked about Cihangir, who was a toddler and held the sultan's special affection. Peirce, *Empress of the East*: 111.

Topkapı Sarayı Müzesi Arşivi. No. E 6056 in Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 40.

78 Topkapı Sarayı Müzesi Arşivi. No. E.5662; No. E 5426, No. E 6056; in Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 31, 36, 40.

her power through marriage. Hurrem's greetings may have been an attempt to remain on good terms with this important figure and suggest a strategy of embracing someone she was unable to vanquish. Strikingly, letter 3 includes no greetings to the Pasha. Alongside the probably erratic manuscript numbering, this raises doubts about Uluçay's order. Most likely, Uluçay's chronological order for letters 3 and 4 should be reversed, as the conquest alluded to therein occurred not at the beginning of the campaign but at the end. Thus, letter 3 must have been written *after* letter 4, with letter 4 probably written in 1534 and letter 3 at the end of 1535. Only in the second missive from 1526 did she also submit greetings from Prince Mustafa, who must by then have reached maturity and was thus approaching the traditional time for his departure to a residence city to practice ruling.<sup>79</sup> Thus, the greetings reveal which of Hurrem's children were at her side at the moment of writing and also show that, in the 1520s, she was carefully consolidating her power.

2. Gifts from the sultan are mentioned in letters 2 and 3 from 1526 and the period 1534–1536, respectively.<sup>80</sup> The first gift was a bottle of perfume, the second a hair from the sultan's beard.<sup>81</sup> Both gifts provoked effusive appreciation and an emphasis on their preciousness and the delight they created. Though other gifts may have followed, these are the only two missives to mention them.

3. Hurrem touched on financial issues in letters 2 to 4 during the period from 1526 to 1536. Leslie Peirce convincingly explained the absence of financial topics in Hurrem's later missives as a consequence of her growing wealth.<sup>82</sup> By the end of the 1540s, Hurrem must have acquired a fortune, and the Imperial apanage and incomes from her various endowments had surely made her a self-confident entrepreneur in her own right. Wealth in the Ottoman Empire was often unstable, as it could be stripped away by the sultan (*muşâdere*) at any time. Nonetheless, it is noteworthy that Hurrem seems to have acquired a certain degree of financial independence, which made references to finance superfluous. In letter 2 (1526), Hurrem mentions 60 florins sent by the sultan,<sup>83</sup> and in letter 3 (4), 5,000 florins.<sup>84</sup> Moreover, in letter 4 (3), redated to 1534, Hurrem mentions having strained the 50,000 florin budget for the kitchen and refers to the building of a bath.<sup>85</sup> This information coincides with Hurrem's move to

79 Petra Kappert, *Die osmanischen Prinzen und ihre Residenz Amasya im 15. und 16. Jahrhundert* (Istanbul: Nederlands Historisch-Archaeologisch Instituut, 1976): 5–9, 95–102.

80 Topkapı Sarayı Müzesi Arşivi. No. E 5426, No. E 5038; in Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 36, 37.

81 Topkapı Sarayı Müzesi Arşivi. No. E 5038; in Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 36, 37.

82 Peirce, *Empress of the East*: 242.

83 Topkapı Sarayı Müzesi Arşivi. No. E 5426 in Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 36.

84 Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 37.

85 Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 40.

the 'New' Topkapı Palace, which necessitated some changes for hosting females, and indicates her new duty as manager of the kitchen.

4. Whether Hurrem refers to actual questions from the sultan or invokes a rhetorical technique to introduce what she wants to convey remains opaque. Nonetheless, it can be assumed that the topics she deemed worthy of writing about were highly important to her. In letters 3 (4), 5 and 6, she reported on the mood in the city, cases of pestilence and rebels (*kızılbaş*) who had not been caught.<sup>86</sup> Though Leslie Peirce argues that the sultan must have been pleased by these pieces of information,<sup>87</sup> they seem too imprecise to have been useful to him. Moreover, spies certainly brought more detailed information to the sultan. It is thus more likely that Hurrem selected aspects of city life that were of concern to her. It is striking that, especially in her reports about Istanbul, she legitimised her observations by framing them as responses to the sultan's questions. Though her words cannot be verified or falsified, it is abundantly clear that women from the Imperial harem were not excluded from city life but completely submerged in it.

5. Hurrem makes little reference to particular campaigns but offers wishes for victory as well as congratulations.<sup>88</sup> While news of a specific victory might not have coincided with the moment of her writing, there is a general lack of enthusiasm: Hurrem did not take to writing after a victory. The same is true of her wishes for victory. Both reveal an astounding nonchalance that contradicts her effusive expressions of longing and love.

The structure of each letter seems spontaneous rather than following a tight formula. Uniting all the letters, however, is Hurrem's insistence on her love for the sultan, as the following example illustrates:

My exalted sultan, I prostrate myself on the ground and I kiss the fortunate dust under your protective feet, the sun of my happiness, basis of my felicity, my sultan. The fire of this separation roasts my heart, [which dissolves] into shreds. My chest is compressed, and my eyes have become a well of tears. Without knowing the [difference between] day and night, I drown in a sea of affliction. With my wretched love for you [I am] worse than Ferhad and Mecnun in the lunacy of love. If you ask about [me], your slave, since my separation from [you] my sultan, my state is such that even my nightingale-like moans and cries are hushed. [Beyond] the separation from you, may God not burden me, the unworthy [one, any] further. My happiness, my sultan, it is one and a half months since I have received any message from my sultan. By the omniscient God, I cry from dawn till dusk and from dusk till dawn because I cannot see your face, which gives me so much comfort [ . . . ]<sup>89</sup>

<sup>86</sup> Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 37, 40, 43.

<sup>87</sup> Peirce, *Empress of the East*: 138.

<sup>88</sup> There is one congratulation and one wish for victory in total. Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 36, 37.

<sup>89</sup> See Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 37; my translation.

Hurrem's repeated and varied evocations of Allah, together with allusions to the mythical character of Hızır and the prophet Joseph,<sup>90</sup> demonstrate her religious and social assimilation.

In a letter to Sultan Süleyman written in 1548, she states:

Part of my soul, my exalted sultan, from the depths of my soul [. . .] with thousands and thousands of kinds of longing, my praises and prayers for you are a thousand-fold. I prostrate myself on the ground and I kiss your illustrious munificent hand. My fortunate Padishah for whom my two eyes have the sole purpose of waiting to see you. It is my hope that your helpless slave's tremendous longing will be accepted. My happiness, my felicity, my sultan, may your eminence be kept well, from your exalted head and all your limbs to your exalted feet. My fortunate one, my sultan, may your well-being be complete. My two eyes, my exalted sultan, with the glorious God, it is my desire to protect your illustrious body from all blemishes and ills.<sup>91</sup>

One has to ask how her effusive exclamations of love and her claim to protect the sultan could be taken seriously when the actual state of affairs has been excluded. This passage and many others appear more like templates and reveal that the sultan's actual situation was not her concern. Instead, Hurrem's sole aim seems to be to convince the sultan of her love.

Even as the tone grew more intimate over the course of 20 years of correspondence, Hurrem was always mindful of her status as *cariye* (female slave) vis-à-vis the sultan. The quote below illustrates one of the very rare examples in which Hurrem allows a glimpse into her own considerations, describing a seemingly realistic situation. However, it is not the sultan who is her concern but the arrival of brigands in Istanbul. It becomes clear that she knew about the winter camp, but it is of concern to her only as it relates to the situation in Istanbul. Her attitude is ambiguous: She seems to fear the brigands and was planning to take refuge in her son's residence in Manisa; conversely, she offers her help to the city. This ambiguity reveals an authenticity otherwise rarely found in her assertions of love. The text in question is from 1548:

My fortune, my sultan, there are rumours in the city that the *muştucus* (those with knuckle-dusters)<sup>92</sup> are coming, and the whole city is preparing to welcome them. It is said that two or three days remain only until the *muştucus'* arrival, and the city is being decorated for them. I do not know if this is true. My fortune, my sultan, if the *muştucus* really come, will be strange because my sultan will stay with his army at the winter camp in Aleppo. What is more, my sultan, the men and women of the *Kızılbaş*<sup>93</sup> were not caught. In the meantime, everything is calm

<sup>90</sup> See letter 1, Topkapı Sarayı Müzesi Arşivi. No. E. 5662 in Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 31.

<sup>91</sup> Topkapı Sarayı Müzesi Arşivi. No. E. 5038 in Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 42; my translation.

<sup>92</sup> It must be a part of the military, perhaps a group within the *akıncıs*, the cruel advance party, meant to spread terror among the enemies. For *muştuc*, see Mehmed Zeki Pakalın, *Tarih Deyimleri ve Terimleri*, vol. 2 (Istanbul: Milli Eğitim Basımevi, 1993): 586.

<sup>93</sup> Redheats is a sect strongly inspired by Shiism, many of whom were opposed to the Sunnite Ottoman government. See Markus Dressler, "Inventing Orthodoxy: Competing Claims for Authority and

[there was nothing]. If the *muştucus* arrive, their behaviour will please no one. My sultan, my fortune, if you allow your slave to depart, I would travel to Bayezid [to Manisa]. Before departing, may the Almighty God show me your blessed perfection. My sultan, my desire, may God command that I prostrate my face whole-heartedly before your exalted feet. What is more, my sultan, my exalted padishah, [wherever the rumours came from] all the people are [nervously] excited by the arrival of the *muştucus*. There are rumours that you, my sublime Padishah, sent the *muştucus* because of the winter camp in Aleppo. If you command me, my sultan, your slave will go into the city to carry out your wishes.<sup>94</sup>

At least in her later missives, as above, Hurrem's self-designation as a slave coincided with a wish from the sultan. The evocation of slavery with a particular wish seems to have been an effective device for getting what she particularly wanted. However, it should be remembered that the evocation of *cariyelik*, female slavery, was a conventional topos. Although she referred to the image of paramount obedience, and certainly employed it for her purposes, this does not necessarily mean that her affection for the sultan was false. Here too, the binary between agenda and power seems ill-suited. Rather, Hurrem's writings might reflect the coexistence of aims and affection.

## 5 Conclusion

Hurrem's letters constituted a means to bridge the long periods of separation and created proximity to the sultan, which was essential for the acquisition and maintenance of power. She was a strategic mastermind who succeeded by making the sultan believe in her total submission and extraordinary affection. Words were a strong device and an effective means of remaining in the heart and mind of the sultan. If necessary, however, she seems to have been capable of going to extremes, as the strangulation of Prince Mustafa in 1553 suggests. Hurrem used sweet talk, the creation of precedents and deadly scheming as tools in her agenda to acquire power. As this case study shows, while Hurrem effusively asserted her affection for the sultan, his campaigns were of little concern to her. Moreover, in the course of their 20-year-long correspondence, expressions of longing and absence also disappeared. In fact, in the final missives from 1548, Hurrem played the 'slave card' when she wanted something. The systematic reading of her missives reveals developments and inconsistencies that question the narrative of submissive love and reveal a woman who had a strong personal agenda of her own, though this did not exclude her strong affection for the sultan. In contrast, behind a veil of strong dependency, a rather autonomous personality takes shape.

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Legitimacy in the Ottoman-Safavid Conflict," in *Legitimizing the Order. The Ottoman Rhetoric of State Power*, ed. Hakan T. Karateke and Maurus Reinkowski (Leiden: Brill, 2005): 151–73.

<sup>94</sup> Topkapı Sarayı Müzesi Arşivi, No. E 5038 in Uluçay, *Osmanlı Sultanlarına Aşk Mektupları*: 42–43; my translation.

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Caroline Laske

# Women in the *Sachsenspiegel*: Gender and Asymmetrical Dependencies

## 1 Introduction

In the development of the key concept of ‘strong asymmetrical dependency’<sup>1</sup> lies the intention of going beyond the dichotomy between the Enlightenment idea of ‘liberty’, as a fundamental freedom of humankind, and its supposed opposite of ‘slavery’ that epitomises a multitude of unmatched and unjust power relations. The concept of ‘strong asymmetrical dependency’ offers the possibility of including a continuum of coercive dependencies,<sup>2</sup> which can be observed in specific scenarios, such as debt bondage, convict labour, servitude, domestic work, etc. The concept can, however, also be specifically associated with particular groups or sectors of society. Gender, for instance, tends to be associated with structures that include inherent asymmetrical dependency constructs.

This paper discusses the concept of women’s legal capacity during the later Middle Ages, thereby highlighting it as an inherent asymmetrical dependency construct, with particular reference to the customary law in the *Sachsenspiegel Landrecht*. The aim is to enhance our understanding of asymmetrical dependencies linked to gender during a historical period when society, hierarchies and power were conceived and structured very differently from the modern and post-modern periods. In that respect, the paper illustrates why theories of gender should go beyond the usual conceptualisations rooted in modern society and also include medieval studies.

Structured into six parts, the paper initially focuses on a discussion about how to define asymmetrical dependencies. The second part examines how gender can be relevant in tipping the balance of mutual dependence towards an imbalance of power generating asymmetrical dependencies; it also presents the gender construction adopted here. According to Rudolf Stichweh, control over resources, action and experiences are the three main areas in which exercise of power and dominance can generate asymmetries. Each area of control is discussed in the three following sections and in relation to

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1 <https://www.dependency.uni-bonn.de/en/research> [accessed 21.09.2022].

2 David Eltis and Stanley L. Engerman, “Dependence, Servility and Coerced Labor in Time and Space,” in *The Cambridge World History of Slavery*, vol. 3, *AD 1420–AD 1804*, ed. David Eltis and Stanley L. Engerman (Cambridge: Cambridge University Press, 2011): 3.

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the customary law provisions of the *Sachsenspiegel Landrecht*. The conclusions are summarised in the last part.

## 2 Defining Asymmetrical Dependencies

In his lecture at the opening conference of the Bonn Center for Dependency and Slavery Studies in October 2019, Rudolf Stichweh<sup>3</sup> noted that, so far, established theories of asymmetrical dependencies are still in the making, though the subject has been discussed extensively in academic literature across many fields.<sup>4</sup> Stichweh suggests that strong asymmetrical dependencies or relations are not accidental errors of human history; rather, they form a constitutive building block of all human social systems and must be recognised as such. With the advent of modern society comes a value preference for equality and symmetrical social relations within society's dependence structure, favouring mutual dependencies over power imbalances.

Dependence, as the core concept at issue here, is defined by Kuhn as: "A is dependent on B to the extent that communicational, transactional or organisational relations between the two are advantageous to A."<sup>5</sup> Social relations usually entail ties of mutual dependence between the interacting parties. Emerson translated the power-dependence relation into equations.<sup>6</sup> The power (P) of A over B is equal to, and based upon, the dependence (D) of B upon A:

$$P_{ab} = D_{ba}$$

Recognising the reciprocity of social relations, the power-dependence relation should actually be expressed as a pair of equations:

$$P_{ab} = D_{ba}$$

$$P_{ba} = D_{ab}$$

<sup>3</sup> Rudolf Stichweh, "How Do Divided Societies Come About? Persistent Inequalities, Pervasive Asymmetrical Dependencies, and Sociocultural Polarization as Divisive Forces in Contemporary Society," *Global Perspectives* 2, no. 1 (2021): 1–9.

<sup>4</sup> For example, Richard M. Emerson, "Power-Dependence Relations," *American Sociological Review* 27, no. 1 (1962): 31–41; James S. Coleman, *Foundations of Social Theory* (Cambridge, MA: Belknap Press, 1990); Marcel Mauss, *Essai sur le don* (Paris: Presses Universitaires de France, 1923/24); Albert O. Hirschman, *Exit, Voice, and Loyalty: Responses to Decline in Forms, Organizations, and States* (Cambridge, MA: Harvard University Press, 1970).

<sup>5</sup> Alfred Kuhn, *The Logic of Social Systems* (San Francisco: Jossey Bass, 1974): 490.

<sup>6</sup> Emerson, "Power-Dependence Relations": 33–34. Emerson considered what appear to be simplified equations of complex relations in the hopes that they would apply to a wide range of social situations.

Inherent in reciprocity is the notion of interdependence, which is a basic building block of society, whether on a local or global level. Mutual dependence can potentially be symmetrical, and Emerson represents it as follows:

$$\begin{array}{ccc} P_{ab} = D_{ba} & & \\ | & & | \\ P_{ba} = D_{ab} & & \end{array}$$

Stichweh contends that the genesis of asymmetrical dependencies and relations can be found where power imbalances upset the equilibrium of mutual dependence, represented by Emerson as follows:

$$\begin{array}{ccc} P_{ab} = D_{ba} & & \\ \Upsilon & & \Upsilon \\ P_{ba} = D_{ab} & & \end{array}$$

These two aspects should not be seen as mutually exclusive but as possibly embedded in the same relation, which may be based on mutual dependence, while power imbalances arise in some of its aspects.

According to Stichweh, there are three main areas in which the exercise of control in the sense of power and dominance can generate asymmetries. First of all, the unequal distribution of resources (property, usage) and the control to maintain this inequality leads to power imbalances. While this is often the main point in the literature on dependency, the control of resources tends to lead to social inequality but does not *per se* give rise to asymmetrical dependencies as understood by the work of the BCDSS. Secondly, Coleman<sup>7</sup> distinguishes control of actions from control over resources, and Stichweh argues that control of actions is probably the most important type of control in the context of asymmetrical relations even though it is rarely discussed as such in theories on dependencies. Legitimising control of actions are forms of asymmetrical control over actions. The third area of control is that of experience in the sense of control over a person's perception of the world. This lies at the heart of many aspects of social control attempting to create a uniform worldview, particularly in totalitarian societies.<sup>8</sup>

<sup>7</sup> Coleman, *Foundations of Social Theory*.

<sup>8</sup> Niklas Luhman has theorised the distinction between experience and action; see Niklas Luhman, *Soziale Systeme. Grundriss einer allgemeinen Theorie*, 2nd ed. (Frankfurt am Main: Suhrkamp, 1988): 124.

### 3 Asymmetrical Dependencies and Gender in Late Medieval Times

Starting from the premises in the basic theory of asymmetrical dependencies discussed above, this section examines how gender can be relevant in tipping the balance of mutual dependence towards an imbalance of power, generating asymmetrical dependencies. However, in the first instance, it is important to point out that the gender terminology and concepts adopted in this paper align with the gender construction in the legal or customary law sources used for this study. Therefore, a fundamentally binary construction of gender and the relevant *discriptios* found in those texts were followed. This is not to be understood as endorsing essentialism but aims to establish working uses in order to avoid misunderstandings, rather than to claim generally and prescriptively how definitions and concepts should be understood. A 2020 study of the Norman *Coutumier*<sup>9</sup> has shown that multiple ‘femininities’ can be found in these types of texts, but these usually relate to family relationships and marital/sexual status, rather than to anything that may reveal the socio-political power of action and influence or to non-binary constructs.

The primarily binary construct of thirteenth- and fourteenth-century customary law texts, such as the *Sachsenspiegel*,<sup>10</sup> forms part of the hegemonic divisions that govern the relevant societies. The procreation imperative is the basis for marriage and the distinction between legitimate and illegitimate children for the purposes of inheritance.<sup>11</sup> In turn, this is a key element of territorial controls, ownership within families, and feudal organisation of the land-owning classes and their vassals.<sup>12</sup> Binary and heterosexual constructs are concrete historical realities, “a set of social institutions and practices defined and regulated by patriarchal kinship systems, by both civil and religious law, and by strenuously enforced mores and deeply entrenched values and taboos.”<sup>13</sup> In the Rhymed Preface of the *Sachsenspiegel*, a reference to the book’s title reflects, so to speak, binary gender divisions:

9 Caroline Laske, *Medieval Women in the Très Ancien Coutumier de Normandie. Textual Representation of Asymmetrical Dependencies*, Joseph C. Miller Memorial Lecture Series 3 (Berlin: EB-Verlag, 2020).

10 The *Sachsenspiegel* (original title: *Sassen Speyghel* or *Sassenspegel*), attributed to Eike von Repgow (c. 1180–1235), was compiled after 1220 in eastern Saxony. Whether he was the sole author is still a moot point. It comprises the regional customary laws, the so-called *Landrecht* (SSp. Ldr) often divided into books I–III, and the feudal laws affecting the gentry, the so-called *Lehnrecht* (SSp. Lnr), sometimes cited as book IV. See [www.sachsenspiegel-online.de](http://www.sachsenspiegel-online.de), also <https://www.wdl.org/en/item/11620/> [both accessed 21.09.2022].

11 Madeline H. Caviness and Charles G. Nelson, *Women and Jews in the Sachsenspiegel Picture-Books* (Turnhout: Brepols, 2018): 140.

12 Caviness and Nelson, *Women and Jews in the Sachsenspiegel Picture-Books*: 172.

13 Marilyn Frye, “Virgin Women,” in *Feminist Frameworks: Alternative Theoretical Accounts of the Relations between Women and Men*, ed. Alison M. Jaggar, and Paula S. Rothenberg (New York: McGraw-Hill, 1993): 493.

“Spegel der Sassen”  
 Scal dit buk sin genant,  
 went Sassen recht is hir an bekant,  
 Also an eneme spegele de vrowen  
 er antlite scowen.<sup>14</sup>

The symbolism of the mirror has different associations for men than it has for women. The law book is described as a mirror that reflects the familiar and in which Saxons see their laws and customs, with which they identify as Saxons. For a woman, the mirror reflects just her own image, which arguably refers to her vanity rather than to more high-minded matters such as Saxon laws. It also emphasises that the law book is addressed to men; it may deal with women at times, but they were not really in a position to speak for themselves, and doing so could have long-term consequences (see Calefurnia, discussed below). In this way, the binary opposition is compounded with male dominance inherent in the hegemonic structure. To that extent, the *Sachsenspiegel* and other customary law books codify and maintain this ‘otherness’ and the unequal rights inherent in its construction and in asymmetrical dependencies.

In the discussion of how gender relates to the imbalance of power generating asymmetrical dependencies during the late Middle Ages, we approach the topic with particular references to the lack of legal capacity which are, in the eyes of the law and in society, quintessential markers of asymmetrical dependencies relevant not only to the Middle Ages but throughout history. Legal capacity is to be understood in the sense of the German concept of *Rechtsfähigkeit*, which in the Middle Ages depended on elements such as birth and social status. It is a prerequisite for the neighbouring legal capacity to act in the sense of the German *Handlungs-* or *Geschäftsfähigkeit*. Married women frequently represented the family unit and were engaged in public business, either on their own behalf and in their own name or on behalf of absent spouses (knightly duties, crusades, etc.).<sup>15</sup> Following Stichweh’s definition of asymmetrical dependencies, legal capacity is relevant to control of both resources and actions, and, to a certain extent, also to control of experiences.

In the medieval era, legal capacity (*Rechtsfähigkeit*) depended on birth, family status, age and gender. In the *Sachsenspiegel*, we find references to the *rechtlos*, translated by Dobozy as, for instance, “diminished legal capacity”, “without legal rights”

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14 “The Mirror of the Saxons/ Shall this book be called/ because with it the Saxon laws will come to be known/ like a mirror in which women can see their countenance”. The printed edition used for this study is the Middle German version edited by Karl August Eckhardt, *Sachsenspiegel Landrecht* (Göttingen: Musterschmidt, 1933/1955) and *Sachsenspiegel Lehnrecht* (Göttingen: Musterschmidt, 1933/1956). English passages cited are the author’s translations, unless otherwise specified.

15 Martha C. Howell, *The Marriage Exchange: Property, Social Place, and Gender in Cities of the Low Countries, 1300–1550* (Chicago: University of Chicago Press, 1998); Shennan Hutton, *Women and Economic Activities in Ghent* (New York: Palgrave Macmillan, 2011); Ellen E. Kittell, “Testaments of Two Cities: A Comparative Analysis of the Wills of Medieval Genoa and Douai,” *European Review of History* 5, no. 1 (1998): 47–82.

and “losing legal rights and privileges”.<sup>16</sup> The potential for the legal capacity to inherit begins at birth but is restricted to legitimate children and, in case of birth to a widow, it must be confirmed by two women as eyewitnesses and four men as earwitnesses.<sup>17</sup> Legal capacity does not necessarily end with death,<sup>18</sup> and a number of provisions relate to coming of age, each with their level of legal capacity and need for a guardian. The lack/loss of legal capacity occurs in a number of scenarios: paid champions, minstrels, illegitimate children, convicted robbers and thieves, etc.<sup>19</sup> The impaired are also excluded.<sup>20</sup> Because in the *Sachsenspiegel*, married women are particularly subject to male guardianship, many provisions related to legal capacity apply only to men/male children.<sup>21</sup> Restrictions imposed on women by all-pervasive guardianship limit their legal capacity to act in the sense of *Handlungs- or Geschäftsfähigkeit*.

The question of legal capacity is particularly poignant in relation to holding land, disposing of property, running a business, appearing in a court of law, etc. As suggested above, legal and customary law texts reflect a binary conception of gender, yet the narrative told of women is not only less substantial due to considerably lower textual presence but also contextually poorer and much less varied in terms of roles (*descriptios*) represented. Women were categorised according to criteria specific to them, and the resulting categories and subcategories were governed by specific laws, rules and restrictions, some with no equivalent for men. This might be in terms of their socio-economic categories: nuns, laywomen, noble ladies, (wealthy) bourgeois, (poor) countrywomen, maidservants, whores, etc. (e.g. separate chapters for each in manuals for preachers<sup>22</sup>) or according to their marital status: maidens, married women, widows, etc. (e.g. separate chapters for each in manuals for conduct<sup>23</sup>); or according to various familial, biological, sexual phases: virgin, beloved, bride, newly-married, pregnant; or according to faults and sins specifically attributed to women. References to women predominantly relate to their family situation or marital status but rarely to anything that may reveal socio-political or legal power of action and influence or professional activities.<sup>24</sup> In other words, in legal and customary law (and other) sources, the continuum of definition is found within the binary category rather than across categories.

16 *The Saxon Mirror. A Sachsenspiegel of the Fourteenth Century*, trans. Maria Dobozy (Philadelphia: University of Pennsylvania Press, 1999): 80.

17 SSp. Ldr. I: 33.

18 SSp. Ldr. I: 64; II: 31 §3; III: 10 §§1, 2.

19 SSp. Ldr. I: 38 §1.

20 SSp. Ldr. I: 4.

21 See for example SSp. Ldr. I: 45.

22 See for example: *De Eruditione Praedicatorum* by Dominique Humbert de Romans (thirteenth century).

23 See for example: *Livre de Manières* by Etienne Fourgères (1168–1178). A printed edition edited by F. Talbert can be found on <https://archive.org/details/LeLivreDesManieres> [accessed 08.11.2022].

24 Laske, *Medieval Women in the Très Ancien Coutumier de Normandie. Textual Representation of Asymmetrical Dependencies*: 9–10, 48–54.

The scenarios of control of power and dominance theorised by Stichweh as generating asymmetrical dependencies can be identified in relation to women's lack of legal status, legal capacity or legal competence during the late Middle Ages. Within the judicial system, procedures, rules and (customary) laws, women were frequently classified in a specific category. Legal capacity was less curtailed through blanket bans but took the form of specific restrictions, varying from region to region. In this paper, particular references are made to the *Sachsenspiegel Landrecht*. However, reference is also made to illustrated manuscripts, in which pictures are of similar prominence to the text. Manuwald coined the phrase “*zweisprachige Ausgabe*”<sup>25</sup> rather than illustrated book,<sup>26</sup> and that applied very appropriately to the four extant picture books.<sup>27</sup> Starting from the premises that these manuscripts are akin to bilingual editions, reference is thus made to visual discourse as expressed in the pictures.

## 4 Control over Resources

As far as control over resources is concerned, the common scenario during the Middle Ages is that men commonly had control, to the detriment of ‘non-men’, mainly women or children but especially married women. Marriage went hand in hand with particularly weak legal capacity, the status of wife putting a woman under her husband's ‘guardianship’, a legal principle known as *feme covert*.<sup>28</sup> The matrimonial guardianship ended with divorce or the husband's death.<sup>29</sup> In the case of divorce, guardianship reverted to the woman's family, while widows remained under guardianship of the deceased husband's family.

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<sup>25</sup> “Bilingual recension.”

<sup>26</sup> Henrike Manuwald, “Die Große Bilderhandschrift des Willehalm: Kommentierter Text oder ‘zweisprachige’ Ausgabe?” in *Übertragungen: Formen und Konzepte von Reproduktion in Mittelalter und früher Neuzeit*, ed. Britta Bußmann, Albrecht Hausmann, Annelie Kreft and Cornelia Logemann, Trends in Medieval Philology (Berlin/New York: De Gruyter, 2005): 377–94.

<sup>27</sup> These manuscripts are commonly named after the towns where they are preserved: Heidelberg (H) 1294–1304, patronage unknown (<http://digi.ub.uni-heidelberg.de/diglit/cpg164>); Oldenburg (O) 1336, made in Rastede Abbey for John III, Duke of Oldenburg (<http://digital.lb-oldenburg.de/urn/urn:nbn:de:gbv:45:1-3571>); Dresden (D) 1347–1363, made probably in Meissen for Margrave Friedrich III (<http://digital.slub-dresden.de/werkansicht/dlf/6439/1>); Wolfenbüttel (W) 1348–62/71, made probably near Meissen for Heinrich Burgrave of Leisnig (<https://www.sachsenspiegel-online.de/cms/> [all accessed 21.09.2022]).

<sup>28</sup> See for example: Frederick Pollock and Frederic William Maitland, *The History of English Law before the Time of Edward I* (Cambridge: Cambridge University Press, 1968), vol. 2, bk. 2, ch. 7, §2: 406; Philippe de Beaumanoir, *Coutumes de Beauvaisis* (Paris: Alphonse Picard et Fils, 1899), Tome II, at §1054; Ellen E. Kittell, “Guardianship over Women in Medieval Flanders: A Reappraisal,” *Journal of Social History* 31, no. 4 (1998): 899, 902–3.

<sup>29</sup> SSp.Ldr. III: 45§3.

Women's property rights, particularly for immovable property, diminished on marriage, including property she brought into the marriage although the exact manner in which property was handled in a marriage differed among various European regions. In accordance with the Roman law tradition, a dowry to be provided by the bride could be found alongside the customary tradition that the husband paid bride-money, particularly in so-called lesser marriages. Subject to regional diversities, immovable property and income from assets would normally be considered as jointly shared for the marriage's duration. The husband was vested with great power over the entire mass of property, usually with the limitation only that he could not alienate his wife's property without her consent. This might amount to the assets she brought into the marriage, those she inherited during the marriage or the dower promised by her husband. The concept of 'community of goods' between spouses appeared in many European regions, but what was included in the common stock differed: the whole property independent of its acquisition before or during marriage or just what was added during the marriage, should it include movables as well as immovables, etc. While the general tradition usually excluded women from inheriting land on the basis that land was the family's property and should not be lost by women marrying into another family, exceptions to strict adherence to such rules occurred, mainly driven by specific considerations such as the absence of a male heir in a feudal context. Fiefs were usually governed by feudal law and (more or less strict) primogeniture rules and were thus excluded from such customs and arrangements.<sup>30</sup>

The implementation of twelfth- and thirteenth-century customary laws should not be considered rigidly prescriptive legal rules and laws, structured into a coherent system, as we understand the nature of law today. To some extent, customs written down in texts such as the *Sachsenspiegel* or the *Très Ancien Coutumier de Normandie* were considered by their authors as sufficiently important to fix them in writing. However, they do not necessarily reflect the extent of adherence to the rules in practice. Nor can one conclude that the absence of a customary rule in the written texts meant that the rules were not important or did not exist. Similarly, if a custom were not included in the customary law text, this did not mean it did not exist or was not followed. Some such customs were so established that authors of customary law texts did not find it necessary to include them.

In general, resources in the form of land holding and assets, including the income these generated, were under men's control, and, when women were legal owners, the power of management and exploitation was vested in their menfolk on their behalf. The *Sachsenspiegel*, like other thirteenth- and fourteenth-century customary law texts reinforced the heterosexual imperative and binary construct of society's hegemonic

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<sup>30</sup> For example, in the Duchy of Bourgogne, women succeeded to fiefs on two occasions in the tenth century, in the County of Marche and of Carcassonne twice during the eleventh century and, of course, in Aquitaine in 1137, when Eleanor became Duchess of Aquitaine in her own right, adding the Duchy to the Anglo-Norman territories on her marriage to King Henry II of England.

divisions. That context was particularly poignant in women's all-pervasive guardianship running throughout the law book. Guardianship interfered with women's control over resources as well as over the possibility to act.<sup>31</sup>

Like children and minors, women were subject to general guardianship provisions set forth in the *Sachsenspiegel*, that is, SSp. Ldr. I, 41–45. From these, men were released in prescribed stages,<sup>32</sup> while women became subject to guardianship provisions based on their gender, and a male family member was assigned as the guardian.<sup>33</sup> On marriage, such guardianship transferred to the husband:

De man is ok vormunde sines wives, to hant also se eme getruwet is. Dat wif is ok des mannes notinne, to hant also se in sin bedde trit . . .<sup>34</sup>

Al ne si en man sime wive nicht evenbordich he is doch er vormunde unde se is sin genotinne, unde trit in sin recht, swen se in sin bedde geit<sup>35</sup>

Swen en man wif nimt, so nimt he in sine were al er gut to rechter vormuntschap<sup>36</sup>

In the last provision cited above, the suggestion that the husband took into his possession the wife's property in lawful guardianship implied that, akin to the Roman law *possessio*, use, enjoyment and management of property was vested with the husband, while the actual property remained with the wife. Yet, due to the strict guardianship principle, the wife had no *de facto* control of her property.

On marriage, properties of husband and wife were combined into a unit limited in time to the marriage's duration. In theory, each part remained earmarked as belonging to the spouse who brought it into the marriage and as remaining with the relevant family in the case of death or dissolution of the marriage.<sup>37</sup> Within the unit of combined property, its components remained distinguishable as belonging to the husband or wife, but that distinction was not made in the properties' management or exploitation.

Although women remained under some sort of guardianship, provisions governing their specific life stages varied, but the strictest related to married women. In a society structured on a system of affiliation, marriage played an important structural

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31 The aim of this section is not to discuss in detail all provisions relating to women holding immovables (real property) or movables (chattels). See Mariella Rummel, *Die rechtliche Stellung der Frau im Sachsenspiegel-Landrecht* (Frankfurt am Main: Peter Lang, 1987); this work also includes a comprehensive bibliography.

32 SSp. Ldr. I: 42§1.

33 Mainly SSp. Ldr. I: 23§2, 31§2, 41, 42§2, 43, 44, 45, 46, 47, 63§1; III: 45§3; also Lnr. 56/2.

34 SSp. Ldr. III: 45§3: "A man is the guardian of his wife, as soon as she is entrusted to him. The wife is also the husband's peer, as soon as she enters his bed".

35 SSp. Ldr. I: 45§1: "When a man is not of equal birth to his wife, he is nevertheless her guardian and she is his peer and enters his legal status when she goes into his bed".

36 SSp. Ldr. I: 31§2: "When a man takes a woman as wife, he takes into his possession all her property in lawful guardianship".

37 SSp. Ldr. I: 31§§ 1, 2.



role because it regulated patriarchal kinship and the structure of property rights. In that arrangement, women became the connecting element between families, therefore requiring married women's stricter guardianship. A typical example of this is SSp. Ldr. I, 45§2, which stipulated that a woman could not alienate or sell her property/land, nor transfer land held in life estate without her husband's consent. Girls or unmarried women, on the other hand, could sell their land without their guardian's permission, unless he was heir to it. The rationale was that the husband had a right of possession in his wife's property, whereas the guardian usually did not. However, this does not mean that an unmarried woman could fully manage her property because the provisions in Ssp. Ldr. I, 46 excluded all women from a court of law.<sup>38</sup> Therefore, despite unmarried women having some legal leeway over their property (resources), they did not necessarily have the freedom to act upon this legal capacity (see the section below on control of action).

While according to the procedural provisions, all women were denied the legal capacity to speak or act (*spreket oder dut*) in judicial proceedings – although they, rather than their guardians, still had to swear the oath – unmarried women and widows could bring a complaint against a guardian in the case of misappropriation of allodial or feudal land or life estate.<sup>39</sup> Although the woman would be assigned another guardian by the court, this gave her (together with SSp. Ldr. I, 45§2) some, albeit very limited, possibility of intervening and controlling her affairs relating to property and ownership. Importantly, however, this represents very restricted legal capacity rather than anything resembling full capacity. Even this, however, was denied to married women: all three provisions specifically use the terms *maget* (girl), *ungemannede wif* (unmarried woman) and *wedewe* (widow) rather than *wif* (wife) or *vrowen* (women). The logic was that a married woman could not bring an action in court against her guardian because that would position her husband as representing the accuser and being the accused. Unlike the unmarried woman and widow, the wife, with her property in her husband's rightful possession and lawful guardianship, could not initiate legal action against her husband's misappropriation of that property. Therefore, she had no control over such resources.

For women, property inheritance was also restricted. By the time the *Sachsenspiegel* was compiled, the principle of the order of succession was well established, although a multitude of possibilities existed. Eike von Repgow set forth his vision in SSp. Ldr. I, 3§3 by using an analogy of the human body, the head representing the man and wife legally joined in marriage. The general consensus was that women were excluded from the rules of inheritance or at least that these were severely

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<sup>38</sup> SSp. Ldr. I: 46: *Maget unde wif moten vormunde hebben an iewelker klage, dorch dat men se nicht vertugen ne mach, des se vor gerichte spreket oder dut.*

<sup>39</sup> SSp.Ldr. I: 41.

restricted with regard to the possibilities of women's inheritance.<sup>40</sup> Kroeschell argued that under early Germanic customs, brothers and sisters had equal standing in inheritance, but he conceded that women's position was overshadowed and thus restricted by the fact that they were placed under male guardianship.<sup>41</sup> The *Sachsenspiegel* gave priority to sons before daughters and to brothers before sisters although that did not generally extend to male over female heirs. Interestingly, SSp. Ldr. I, 17§1 did not distinguish between men and women when an inheritance went to more distant relatives. However, as a penalty for some ancestral transgression by Swabian women, Saxon women married to Swabians were excluded from inheritance altogether.<sup>42</sup>

As previously mentioned, spouses' property was combined into a unit upon marriage but only during their lifetime. On either spouse's death, the marriage ceased, and real property no longer represented a unit; the wife's contribution was returned to her family,<sup>43</sup> and the husband's to his. Chattels were also divided, including the wife's morning gift (*morgengave*) and dowry (*gerade*),<sup>44</sup> and the remaining chattels came to the husband. On the husband's death, the widow had to share the remaining food supplies with the heir(s) of the deceased's estate. If the chattels she received included military equipment (sword), a riding horse (including saddle) and field gear (army bed, pillow, linen, washbasins, towels, etc.), these had to be handed over to the heirs.<sup>45</sup> Women always had a right to the dowry of their mothers or other female relatives, the only prerequisite being that the inheritance came from a female.<sup>46</sup> Unmarried daughters had priority over married ones who had already received their dowry, but they had to share that inheritance in equal proportions with any brothers who were lay-priests.<sup>47</sup>

Although women's all-pervasive guardianship prevented them from managing their resources and from holding public office or powers of government, the *Sachsenspiegel Lehnrecht*<sup>48</sup> contains rules relating to feudal land/property held by women, implying the possibility of exercising powers of governance inherent in the fief. For our modern perception of laws, this may appear a contradictory situation, and it must be stressed that very few women found themselves in such a position. The *Lehnrecht*

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40 See, for example, Jacob Grimm, *Deutsche Rechtsalterthümer*, vol. 1 (Göttingen: Dieterichs, 1899/1974): 562; Karl von Amira, and Karl August Eckhardt, *Germanisches Recht / Rechtsdenkmäler*, vol. 2 (Berlin: de Gruyter, 1967): 69.

41 Karl Kroeschell, "Söhne und Töchter im germanischen Erbrecht," in *Studien zu den germanischen Volksrechten, Gedächtnisschrift für Wilhelm Ebel*, ed. Götz Landwehr (Frankfurt am Main/Bern: Peter Lang, 1982): 89.

42 SSp. Ldr. I: 17§2.

43 This is not specifically stipulated but can be deduced from SSp. Ldr. I: 31.

44 SSp. Ldr. I: 24.

45 SSp. Ldr. I: 22§4; SSp. Ldr.: 38§5.

46 SSp. Ldr. I: 27§1; SSp. Ldr. III: 15§4.

47 SSp. Ldr. I: 5§3.

48 *Sachsenspiegel Lehnrecht*, ed. Karl August Eckhardt (Göttingen: Musterschmidt, 1933/1956).

states at its beginning that women are excluded from feudal law,<sup>49</sup> yet two paragraphs further, we find the possibility that a woman may be invested with a fief. Provisions in SSp. Lnr. 2, 56, 75 list rights related to a woman's fief and how it should be managed. She could hold a fief for her lifetime and beyond the death of the lord. She could not, however, bequeath it to her heirs. But elsewhere there is a warning that a woman's fief could be cancelled in several ways.<sup>50</sup> Notably, she needed a guardian to represent her, for example, for the fief's renewal following the lord's death. Although she had the right to renew the fief, she could not represent herself because she had no military shield.

Women's control of property resources had not only a link with marriage but also with sex. Sexual activity outside marriage, whether forced (rape, abduction) or consensual (adultery) raised concerns about controlling property. Dunn has shown that in thirteenth- and fourteenth-century England, "the Westminster Statutes and the legislation of 1382 that contributed to chronological patterns of ravishment prosecutions had as much to do with protecting property as protecting women [ . . . ] although we should not infer that the authorities felt no sympathy for rape victims [ . . . ]."<sup>51</sup> Dunn conducted a detailed study of legal provisions relating to rape, abduction, and elopement, how these were, at times, conflated in a continuum under the umbrella of *raptus* or *rapuit et abduxit* and did not necessarily include sexual violence because in some cases abduction was consensual. Dunn's analysis showed that whether a woman was a willing participant or not was irrelevant in light of the consequences of losing a marriageable daughter, a wife, or worse, a wife's landed property. "The laws, therefore, do not consider the emotional or personal consequences for the woman, and have no need to distinguish between rape and abduction because they focus on familial consequences rather than the individual female perspective."<sup>52</sup> In other words, control over resources also implied control over women's bodies and sexuality because they could, in turn, be linked to (landed) property essential to the family patrimony. From that perspective, women were also seen as 'property' that needed to be controlled so as to retain control of other property resources.

## 5 Control of Action

Second in the exercise of control to generate asymmetries is control of action. A common restriction imposed on women, whether expressed or implied in canon law, customary law or legal treatises, was exclusion from exercise of governance and public

49 [ . . . ] *wif* [ . . . ] *de scolen lenrechtes darven*. Ssp. Lnr.: 2§1.

50 SSp. Ldr. III: 75§1.

51 Caroline Dunn, *Stolen Women in Medieval England: Rape, Abduction, and Adultery, 1100–1500* (Cambridge: Cambridge University Press, 2013): 193.

52 Dunn, *Stolen Women in Medieval England: Rape, Abduction, and Adultery, 1100–1500*: 42.

office at any level. Women could not participate in institutions of government, public office, manorial courts, municipal institutions, royal councils, representative assemblies, etc. They could not hold political office, serve as military commanders, judges, lawyers, etc. The result of this type of restriction was twofold. On the one hand, women were excluded from the exercise of governance and public/political office. They could not be seen as actively raising their voices to partake in decision-making or any form of governance. This also meant that their interests as individuals or within groups were not represented, and their actions in public life were therefore severely curtailed. On the other hand, such restrictions also meant that in certain scenarios they could not act or represent themselves and, consequently, that they had to rely on others – their menfolk – to do so on their behalf. This control of women's possible action created situations of asymmetrical dependency *par excellence*.

Before exploring specific provisions in the *Sachsenspiegel*, we must remember that these texts do not necessarily reflect women's actual contributions and activities in managing family property, business or trade. In practice and in particular, when women inherited fiefs involving powers of governance due to the lack of a male heir, they may have been able to partake in feudal assemblies of lords alongside other vassals, head feudal assemblies of their own vassals, and discuss or legislate political and economic issues. Moreover, women could exercise some limited power of governance and of management of property or businesses, even if only on a temporary basis, while their menfolk were away on crusades, tied up with feudal duties or fighting wars.<sup>53</sup> In fact, married women frequently represented the family unit and were engaged in public and commercial business, either on their own behalf and in their own name or on behalf of absent spouses.<sup>54</sup> An evaluation of their real contribution and influence in the management of the family unit would require a comprehensive analysis of a variety of legal, administrative and private records.

Legal capacity (*Rechtsfähigkeit*) is a prerequisite to the capacity to act (*Handlungs- oder Geschäftsfähigkeit*). The former was severely restricted for women by gender,

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53 Katherine J. Lewis, "Women, Testamentary Discourse and Life-Writing in Later Medieval England," in *Medieval Women and the Law*, ed. Noël James Menuge (Woodbridge: Boydell Press, 2000): 57–75; Victoria Thompson, "Women, Power and Protection in Tenth- and Eleventh-Century England," in *Medieval Women and the Law*, ed. Noël James Menuge (Woodbridge: Boydell Press, 2000): 1–17; Kittell, "Guardianship over Women in Medieval Flanders: A Reappraisal: 897–930; Pauline Stafford, "Women and the Norman Conquest," *Transactions of the Royal Historical Society* 4 (1994): 221–49; Pauline Stafford, "Women in Domesday," *Reading Medieval Studies* 15 (1989): 75–94; Eleanor Searle, "Women and the Legitimation of Succession at the Norman Conquest," *Proceedings of the Battle Conference on Anglo-Norman Studies* 3 (1980): 159–70; John, Gilissen, "Le statut de la femme dans l'ancien droit belge," in *La femme, Recueils de la Société Jean Bodin pour l'histoire comparative des institutions* (Brussels: Les Editions de la Librairie Encyclopédique, 1958): 255–321.

54 Howell, *The Marriage Exchange: Property, Social Place, and Gender in Cities of the Low Countries, 1300–1550*; Hutton, *Women and Economic Activities in Ghent*; Kittell, "Testaments of Two Cities: A Comparative Analysis of the Wills of Medieval Genoa and Douai": 47–82.

particularly in property and inheritance law; the latter was curtailed by the guardianship imposed on women. As discussed above, a wife's property was absorbed into guardianship by the husband,<sup>55</sup> and she could neither alienate her property/land, nor transfer land held in life estate without her husband's consent. Whether she actually had a say in transactions of alienation may be inferred from the phrase *dorch dat he mit er in den weren sit* (because he shares the right of possession with her). If they shared the right of possession, it could be argued they shared the right to manage the possession. But that possibility was cancelled by the provisions of guardianship.<sup>56</sup> While a married woman's legal capacity to manage her property was curtailed in at least two provisions (SSp. Ldr. I, 31 & 45§2), no equivalent restrictions were imposed on men. In addition, through the guardianship provision, the husband was given full capacity to manage his wife's possessions, the only condition being that he must consider any interests her heirs might have in her real property (chattels were not submitted to that condition). When the husband alienated his wife's property to the detriment of her heirs, it gave them, not her, a right of action against the husband. If the heirs' legal action was successful, the wife did not recuperate the property but lost it to said heirs.<sup>57</sup> A wife's legal incapacity to act can further be inferred from SSp. Ldr. I, 52§4. When, during illness, a husband gave away or pledged his property, his wife could not contradict him even if the transaction(s) were disadvantageous. This also meant she could not be held responsible.

Unmarried women could alienate their property/land and transfer land held in life estate without their guardian's permission,<sup>58</sup> but they were *de facto* prevented from fully managing their property because they were excluded from acting in a court of law.<sup>59</sup> In other words, they had the legal capacity to act, but their actions' legal effectiveness was not guaranteed over time because they had to rely on a guardian to enforce these actions in a court of law.

As far as the capacity to act within the judicial process is concerned, women were usually excluded from the judicial system. In the *Sachsenspiegel*, a blanket restriction is set out barring girls and women from starting 'any kind of' legal action (*iewelker klage*) in a court of law unless they were represented by a legal guardian because what they said or did (*spreket oder dut*) before a court of law could not be held against them.<sup>60</sup> However, a woman was expected to swear an oath herself even though her legal guardian would "swear security for her and accept and execute it."<sup>61</sup> In general and whatever her role in legal proceedings, whether she wanted to bring an action or

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<sup>55</sup> SSp. Ldr. I: 31§2.

<sup>56</sup> Mainly SSp. Ldr. I: 23§2, 31§2, 41, 42§2, 43, 44, 45, 46, 47, 63§1; III: 45§3; also Lhr. 56/2.

<sup>57</sup> SSp. Ldr. I: 52§§ 1, 2, 3.

<sup>58</sup> SSp. Ldr. I: 45§2.

<sup>59</sup> SSp. Ldr. I: 46.

<sup>60</sup> SSp. Ldr. 46.

<sup>61</sup> SSp. Ldr. 47/1 (Dobozý translation).

speak as a defendant, a woman's own voice could not be heard without her guardian's representation. In other words, she could not act independently before a court of law.

Denying women the legal right to plead or to bring an action in court was underlined by references to Calefurnia's ancestral transgression: she supposedly forfeited that right for generations of women because in a fit of rage, she complained to the emperor that her request could not proceed without a guardian.<sup>62</sup> A similar reference was made to an ancestral transgression by Swabian women: it penalised Saxon women married to Swabians by excluding them from all inheritance.<sup>63</sup> The mention of Calefurnia's action as justification for denying women a direct voice in a court of law has its origin in Roman law,<sup>64</sup> although the fact that Eike von Repgow transformed the name from Carfania to Calefurnia may well indicate that he had only second-hand knowledge of the text. The role of this 'Eve of legal discourse'<sup>65</sup> is discussed further in the following section in relation to intervisuality between the law text and the pictorial representation. Significantly, inequalities ascribed to women on the basis of their gender were also presented as self-inflicted through unforgiveable past transgressions; the parallel with original sin and all that implies is never far away.

The married woman was further restricted in her power to act: she could not file legal action against her guardian because her husband, filing such a claim on behalf of his wife, would bring an action against himself. Although the *Sachsenspiegel* does not specifically address this scenario, on the one hand, it can be inferred from reading the blanket ban of women in court together with the provision that prescribed husbands' guardianship over wives, on the other. The text provided for two exceptions. In cases of rape and other crimes, when the perpetrator was caught red-handed and when the legal guardian was not immediately available, a judge could assign a guardian to the woman in question.<sup>66</sup> Similarly, if a guardian took the property of a girl or widow (i.e. not a married woman), the court became her guardian when she initiated legal action.<sup>67</sup>

Besides restrictions imposed by guardianship on a woman's capacity to file legal actions in relation to her property, she was also barred from serving as a judge or as

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62 SSp. Ldr. II: 63§1. On research about who Calefurnia was, see B.H.D. Hermesdorf, "Op zoek naar Calefurnia," *Tijdschrift voor Rechtsgeschiedenis* 29, no. 2 (1961): 306–12.

63 SSp. Ldr. I: 17§2.

64 *Corpus iuris civilis*, Ulpianus (Book VI), Dig. III.1.1.5 (Ulp.): "On the ground of sex, he [the Praetor] forbids women to appear for others, and the reason for this prohibition is to prevent them from interfering in the cases of others, contrary to what is becoming the modesty of their sex, and in order that women may not perform duties which belong to men. The origin of this restriction was derived from the case of a certain Carfania, an extremely shameless woman, whose effrontery and annoyance of the magistrate gave rise to this Edict."

65 Caviness and Nelson, *Women and Jews in the Sachsenspiegel Picture-Books*: 59.

66 SSp. Ldr. I: 43.

67 SSp. Ldr. I: 44.

an advocate for herself or for her children/family.<sup>68</sup> Nor could she serve as a juror, as *de sicum saunc de homme ne peut, ne deit, estre tryé par femmes*.<sup>69</sup> Women's testimonies were generally not admissible in court. However, in certain matters relating specifically to women and in which a man could not give evidence effectively, the court recognised the testimony of women appointed by the court for that specific purpose. This would be in cases dealing with a separation from the husband, rape, infanticide, etc. Although a relatively rare occurrence, women could also be found among witnesses of charters.<sup>70</sup>

A slightly more pro-active legal capacity existed for a woman as a victim of rape.<sup>71</sup> While some customary law texts set forth punishments for a convicted rapist (e.g. blinding, castrations, flogging and hanging),<sup>72</sup> they do not indicate actual practice. In reality, punishments often came down to a monetary fine, or the court even pardoned the rapist if he agreed to marry the woman in question.<sup>73</sup> Similarly, provisions for rape offer a glimpse of legal possibilities open to victims of rape, but only a study of court records would reveal how they were implemented. Strikingly, the language in some customary rape provisions represented women in more active roles. In the *Très Ancien Coutumier de Normandie*, a girl/maiden taken by force (*de prandre fame a force*) should shout if she could (*elle crit se elle puet*), seek justice and be examined for injuries by women witnesses on behalf of the legal process.<sup>74</sup> Thus the woman should sound a hue and cry, and it is suggested the perpetrator should be caught red-handed. Women alleging rape appeared in that chapter's first paragraph as a subject,

68 See, for example, Philippe de Beaumanoir, *Coutumes de Beauvaisis* (Paris: Alphonse Picard et Fils, 1899), Tome II: §1287.

69 Britton (Oxford: Clarendon Press, 1865), vol. 1, bk. 1, ch. 32: 207: the blood of a man shall not be tried by a woman.

70 Frederick Pollock and Frederic William Maitland, *The History of English Law before the Time of Edward I* (Cambridge: Cambridge University Press, 1968), vol. 1, bk. 2, ch. 2, §11: 484–85.

71 Rape in the Middle Ages should not be understood in modern terms of sexual agency. It was governed by notions of possession and chastity, following the increasing importance of church law. Kümper has shown that by the thirteenth century, the legal definition of rape throughout Europe had shifted from a previous concept that focused on abduction without consent of a parent or guardian towards one based on lack of consent by the victim: Hiram Kümper, "Did Medieval Canon Marriage Law Invent our Modern Notion of Rape? Revisiting the Idea of Consent before and after 1200," in *Law and Marriage in Medieval and Early Modern Times: Proceedings of the Eighth Carlsberg Academy Conference on Medieval Legal History 2011*, ed. Per Andersen (Copenhagen: Portland, 2012): 127–38.

72 For example: de Beaumanoir, *Coutumes de Beauvaisis*, Tome I: §824, 429.

73 Frederick Pollock and Frederic William Maitland, *The History of English Law before the Time of Edward I* (Cambridge: Cambridge University Press, 1968), vol. 2, bk. 2, ch. 8, §2: 490–91.

74 *Coutumiers de Normandie*, ed. E.J. Tardif, 2 tomes, 3 volumes, tome I, 2<sup>e</sup> partie, *Le Très Ancien Coutumier de Normandie*, texte français et normand (Rouen/Paris: Lestringant/Picard, 1903), Chapitre L; in particular Chapitre L, 1, 37 "[. . .] elle doit aler a la premiere justice le duc que elle porra trover, e la justice fera veoir la meschine e sa bleceure par preude[s] fames e leaus, qui sachent quenoitre se elle a esté prise a force."

rather than an object, associated with processes in the form of direct and active verbs. However, she had to prove her allegation and remained entirely dependent on a man if the complaint went to trial by combat.

Provisions in the *Sachsenspiegel* tell a similar story.<sup>75</sup> The woman had to attract attention by raising a hue and cry to catch the perpetrator red-handed. The victim was bound to prove the allegation.<sup>76</sup> She also needed a guardian to represent her in a court of law, and he could be assigned by a judge if her guardian was not immediately available.<sup>77</sup> In this instance, and like the Norman *Coutumier* provisions, we also observe women as subjects in the clause (*de not vor gerichte klaget, de scolen klagen mit geruchte*), while most of the remaining text did not represent women as acting subjects.<sup>78</sup> In the pictorial representation (see Figure 1, last reg. below), however, the rape victim was depicted as passive.

Customary law provisions were not necessarily comprehensive reflections of women's actual legal capacity, but the overarching guardianship imposed, particularly on married women, a systemic structure to legitimise asymmetrical controls over her actions. The discussion above reveals some limited room for manoeuvre, but the extent of control women had in everyday life, especially during their menfolk's absence is not reflected in these customary law provisions. Instead, laws were more concerned with fixing in written form the customs generally accepted over time by the community at large. That women needed a guardian to act on their behalf, and hence controlled their actions, was such a custom. However, the extent of space for manoeuvre within that custom can be fully evaluated only by studying other sources, such as court records and/or administrative (business) records.

## 6 Control of Experiences

Along with control of resources and of actions as markers for asymmetrical dependencies, control of experience is just as important despite differing in nature. In many respects, medieval western societies were based on systemic, ascriptive inequalities by virtue of birth, of belonging to a particular estate, of gender or category of persons, etc. Generalised, dominant discourse explicitly taught inequality and reminded people of their station in life, thus forging people's experience. Customary law texts, the written form of what was grounded in oral traditions,<sup>79</sup> reflected and reinforced systemic

<sup>75</sup> SSp. Ldr. I: 43; II: 13§5; II: 64§1; III: 1§1; III: 45§11; III: 46§1.

<sup>76</sup> SSp. Ldr. II: 64§1.

<sup>77</sup> SSp. Ldr. I: 43.

<sup>78</sup> The main exception is the instruction for her to hand over her deceased husband's property and possessions.

<sup>79</sup> Marco Mostert and Paul Barnwell, eds., *Medieval Legal Process. Physical, Spoken and Written Performances in the Middle Ages* (Turnhout: Brepols, 2011).





Figure 1: SSp. Ldr. II, 62–64 in H 10v, Heidelberg library digital archive, <https://digi.ub.uni-heidelberg.de/diglit/cpg164/0034/image.info>.

inequalities intrinsic to medieval society. Because these texts were often compiled during (geo)political turmoil, it appeared essential to fix in writing a communal memory of customs that was in danger of annihilation. To that extent, the written text had

a performative function.<sup>80</sup> As the basic fabric of these medieval societies, systemic inequalities were an essential part of what needed to be remembered and upheld.<sup>81</sup> In the *Sachsenspiegel*, ideological and political discourse was occasionally strengthened through references to higher authorities (and implied validation): a link was made with the Holy Spirit as Eike von Rebekow's divine inspiration,<sup>82</sup> followed by the often cited phrase that God is law itself.<sup>83</sup> Images reinforced the message that Eike was not just inspired by the Holy Spirit,<sup>84</sup> but also validated by secular rulers<sup>85</sup> and that his book had divine authority.<sup>86</sup>

In addition to the *Sachsenspiegel* as a customary law text, images in the four extant picture manuscripts represented the underlying discourse and the attitudes, biases and values held by the male landed classes. These manuscripts were all produced later<sup>87</sup> than Eike's work and can therefore not be attributed to his direct influence; indeed, we have no evidence of what any picture manuscript contemporary with Eike might have looked like. But the fact that from 70 to 150 years later such richly decorated manuscripts were still being commissioned and produced is a good indication that the text remained authoritative.

The pictures in these manuscripts were juxtaposed and arranged in a way that gave similar prominence to the text and the pictures. In this way, the book's ideological content was also driven home by intervisuality with a visual discourse, the pictures being "in dialogue with the text rather than as literal illustrations of it and capable of inflecting as well as reflecting its reception in the time and place of their iteration."<sup>88</sup> In the pictures, legal meanings were encoded in gestures and

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**80** For example, the texts that made up the *Très Ancien Coutumier de Normandie* were compiled just before and following the French king's invasion and control of Normandy (beginning of thirteenth century).

**81** Heiner Lück, *Der Sachsenspiegel. Das berühmteste deutsche Rechtsbuch des Mittelalters* (Darmstadt: Wissenschaftliche Buchgesellschaft, 2017): 32.

**82** See Oldenburg manuscript, folio 6r, reg.1 (<https://digital.lb-oldenburg.de/ssp/nav/classification/137692>), showing Eike with his book, the Holy Spirit and the ducal arms of Oldenburg (secular power).

**83** SSp. Prologus: *Des hiligen geistes minne, diu sterke mine sinne, [ . . . ] Got is selve recht*. See Wolfenbüttel manuscript folio 85r, reg.1 (<https://www.sachsenspiegel-online.de/cms/>), showing the law book having divine authority, despite being under attack by critics.

**84** See Oldenburg manuscript, folio 6r, reg.1 (<https://digital.lb-oldenburg.de/ssp/nav/classification/137692>), showing Eike with his book, the Holy Spirit and the ducal arms of Oldenburg (secular power).

**85** See Wolfenbüttel manuscript folio 9v, reg.1 (<https://www.sachsenspiegel-online.de/cms/>), showing Eike, the Holy Spirit and the approbation of the Emperors Constantine and Charlemagne.

**86** See Wolfenbüttel manuscript folio 85r, reg.1 (<https://www.sachsenspiegel-online.de/cms/>), showing the law book having divine authority, despite being under attack by critics.

**87** These manuscripts are commonly named after the towns where they are preserved: Heidelberg (H) 1294–1304, Dresden (D) 1295–1363, Oldenburg (O) 1336, Wolfenbüttel (W) 1348–62/71; see also footnote 27.

**88** Caviness and Nelson, *Women and Jews in the Sachsenspiegel Picture-Books*: 43.

body language.<sup>89</sup> Control of women's experience in relation to asymmetrical dependencies can be observed in some of the visual discourse of the four picture manuscripts.

A particularly interesting example concerns Calefurnia's misbehaviour: she addressed the emperor directly and furiously, thus supposedly providing justification for denying women a direct voice in a court of law. The textual references are discussed above, but what is of interest here is how the visual discourse mirrored the text.<sup>90</sup> For the discussion, we refer to the Heidelberg manuscript, reproduced below.

The medieval conception of women as sedentary and typically associated with phlegm, the cold and moist humour, predisposed them to become angry slowly but violently.<sup>91</sup> In that case, guardianship was necessary to control them rather than to protect them.<sup>92</sup> This was encoded in the pictorial representation of Calefurnia. According to Karl von Amira's study of hand (arm) gestures in the *Sachsenspiegel*, Calefurnia's finger points<sup>93</sup> at the emperor: the dispute is *with* him rather than a referral *before* him. The emperor's hand also points at Calefurnia: this indicates her disrespectful behaviour, an element further emphasised by a kind of brush protruding from her behind, as though she were exposing her private parts to him.<sup>94</sup> This implication was recounted in some versions of the *Schwabenspiegel*, compiled half a century after the *Sachsenspiegel*, but about two decades before the Heidelberg manuscript.<sup>95</sup>

Here, intertextuality and intervisuality embody a powerful message. A woman audacious enough to address the emperor directly, without representation by her guardian, had to bear the consequences of being excluded from a court of law, not only for herself but also for generations of women to follow. Calefurnia's act was not only contrary to customary law but further sullied by reference to her private parts. The textual provision did not invoke this circumstance, which was added later in the pictorial representation.

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89 Karl von Amira, *Die Handgebärden in den Bilderhandschriften des Sachsenspiegels*, 1909; <https://digi.ub.uni-heidelberg.de/diglit/amira1905> [accessed 21.09.2022].

90 Downloaded from: Charles G. Nelson and Madeline H. Caviness, eds., *Women's Bodies, Women's Property, Limited Ownership under the Law. German Customary Law Books Illustrated in the Fourteenth Century*, 1999, <http://dca.lib.tufts.edu/features/law/index.html> [accessed 21.09.2022].

91 Joan Cadden, *Meanings of Sex Difference in the Middle Ages. Medicine, Science and Culture* (Cambridge: Cambridge University Press, 2003): 183–86.

92 Sarah Westphal, "Bad Girls in the Middle Ages: Gender, Law, and German Literature," *Essays in Medieval Studies* 19, no. 1 (2002): 106.

93 Karl von Amira, *Die Handgebärden in den Bilderhandschriften des Sachsenspiegels*: 264 gesture 5a and b.

94 Karl von Amira, *Die Handgebärden in den Bilderhandschriften des Sachsenspiegels*: 206, 264 gesture 5b.

95 Walter Koschorreck, *Der Sachsenspiegel in Bildern aus der Heidelberger Bilderhandschrift: Ausgewählt und Erläutert von Walter Koschorreck* (Frankfurt am Main: Insel Verlag, 1976): 80.

A further intervisual element of Calefurnia's protruding brush lies in its similarity to an animal tail. In the text, the passage about Calefurnia was preceded by seemingly unrelated provisions on keeping and controlling animals, such as dogs, wolves, deer, bears or monkeys, and on damages for which a keeper was liable if such animals caused any harm.<sup>96</sup> In the scan from the Heidelberg manuscript (Figure 1), the pictorial narrative can be clearly followed from the dangerous animals mentioned in the text attacking a person (at the top of the page) through to Calefurnia with her bushy tail. A further association is made with the scruffy rape victim at the very bottom of the pictures, related to the rape provision of SSp. Ldr. II, 64, 1.

Systemic inequalities by virtue of factors such as birth, of belonging to a particular estate, of gender or category of persons were perpetuated by *Sachsenspiegel's* legal text. But experience was further forged and controlled by the generalised and dominant discourse that explicitly taught inequality and reminded people of their station in life. This was embedded in the visual discourse by juxtaposing dangerous animals in need of control and Calefurnia's transgression with what looks like a bushy tail. This exemplifies how asymmetrical dependency was generated by control of action – women cannot act without a guardian – and control of experience – transgression of the guardian principle had grave long-term consequences, and women represented in action were visually linked to dangerous animals that needed to be controlled.

## 7 Conclusions

Customary law texts, such as the *Sachsenspiegel*, fixed in writing usages that a community had accepted over time. Yet, the extent to which the written provisions corresponded to actual behaviours should not be overestimated during a period when legal pluralism meant that the coexistence of more than one source and body of laws was a reality not considered unusual. Nevertheless, such texts well reflect a community's values and also its biases. Customary law was essential in maintaining the heterosexual gender construct, including marriage and the procreation imperative that were key to questions of ownership, inheritance and the feudal organisation of the land-owning classes and their vassals. Baudrillard described the masculine–feminine structure as being “pegged to the grandiose cultural models whose function it is to separate the sexes in order to establish the absolute privilege of one over the other.”<sup>97</sup> The hegemonic structures during the Middle Ages needed to be maintained to stabilise ownership and feudal arrangements. Systemic inequalities were forged and controlled by the generalised and dominant discourse that reminded people of alterity

<sup>96</sup> SSp. Ldr. II: 62.

<sup>97</sup> Jean Baudrillard, *For a Critique of the Political Economy of the Sign*, trans. Charles Levin (St. Louis: Telos Press, 1981): 90.

and of their particular position within that construct. Medieval customary law texts, like the *Sachsenspiegel*, take us “to the heart of alterity because [. . .] their main function is to codify and maintain unequal rights within society.”<sup>98</sup>

Asymmetrical dependencies were part and parcel of the hegemonic structure of medieval societies, incidentally not just in relation to gender. Following Stichweh’s explanations of how to define asymmetrical dependencies and what areas need to be controlled to generate such dependencies, we have discussed how the control of resources, of actions and of experience in relation to women were set forth in the *Sachsenspiegel*.

Control of resources was key in a system where affiliation and marriage played an important structural part in regulating the patriarchal kinship and property rights. The husband was vested with very great powers over the entire mass of property, usually with the limitation only that he could not alienate his wife’s property without her consent. Women represented the connecting element between families, and to keep family property intact, customary law text stipulated that women could not alienate or sell their property/land, nor transfer land held in life estate without their husbands’ consent. To the extent that marriage was a key element in the possession and management of resources, this also implied control over women’s bodies and sexuality. From that perspective, women were akin to ‘property’ that needed to be controlled so as to maintain also the control of family property. The key legal mechanism in this context was the imposition of an all-pervasive guardianship, particularly over married women, that made it impossible for them to act independently.

Guardianship was also pivotal in control of actions because it restricted women’s ability to act on their own behalf. They were usually excluded from direct intervention in the judicial process and in the *Sachsenspiegel*, a blanket restriction barred girls and women from initiating ‘any kind of’ legal action in a court of law, unless they were represented by a legal guardian because what they said or did before a court of law could not be held against them. Furthermore, women were also excluded from exercise of governance and public office at any level. They could not participate in institutions of government, public office, manorial courts, municipal institutions, royal councils, representative assemblies, nor serve as military commanders, judges, lawyers, or even as witnesses in a legal action. All this meant they could not actively raise their voices to partake in public life, in decision-making or any form of governance, nor could they represent their interests as individuals or within groups.

The control over experience is particularly relevant in the *Sachsenspiegel* in relation to the intervisuality and intertextuality, that is, to the juxtaposition of text and pictures in four extant picture manuscripts. Experiences of ascriptive inequalities, systemic by virtue of birth, of belonging to a particular estate, gender or category of persons, were further forged and controlled by generalised, dominant discourse that

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<sup>98</sup> Caviness and Nelson, *Women and Jews in the Sachsenspiegel Picture-Books*: 182.

explicitly taught inequality and reminded people of their station in life. The pictorial narrative not only mirrors but reinforces that discourse.

Application of customary law may be less strictly prescriptive and more conditioned by the ultimate outcome of application or non-application of rules, customs and laws. To that extent, written provisions did not necessarily reflect actual behaviours. The narrative of the everyday reality of women's legal capacity needs to be cross-checked by research in court records and administrative sources.

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Ulrike Schmieder

# Differing Narratives of the Case of the Jaham Brothers and its Aftermath: Enslavement, Emancipation and their Legacies in Martinique

## 1 Contextualization of the Research

This article summarizes the results of two research projects, one about historical slavery and post-emancipation in Martinique (as part of a comparative work referring also to Cuba<sup>1</sup>) and one about sites of memory of enslavement on the same island (as part of a study about such sites in France and Spain, Martinique and Cuba). The first project led to the latter. Travelling from archive to archive and town to town on both sides of the Atlantic, I came across many sites connected with the history of the enslavement of Africans where this past was silenced completely or narrated in a distorted version. For instance, tourist sites on former plantations in Cuba, such as Manaca near Trinidad, marginalize enslavement, omit the enslaved as subjects of history and sell dolls representing Afro-Cubans in a racist, caricatured manner. This happens even though the official discourse on Cuban national history defines rebellions of the enslaved as precursors of independence and the socialist revolution (which is, moreover, itself a simplified narrative of a complex history) and the socialist regime pretends to have overcome racism. In the municipal museum of Colón, the museum's guide told me that Chinese labourers had been introduced to Cuba "because they were more intelligent than Africans". In Martinique a *Musée de la canne* presents sugar production as a technological process in the language used by enslavers and colonial state authorities without focusing on the agency and resistance of the enslaved.<sup>2</sup> Spanish museums such as the Museo de América in Madrid or the Museo de

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1 See: Ulrike Schmieder, *Nach der Sklaverei – Martinique und Kuba im Vergleich*, 2nd ed. (Berlin: LIT, 2017). Summary in English: Ulrike Schmieder, "Martinique and Cuba Grande: Commonalities and Differences during the Periods of Slavery, Abolition and Post-Emancipation," *Review. A Journal of the Fernand Braudel Center for the Study of Economies, Historical Systems, and Civilizations* 36, no. 1 (2013): 83–112 (Project funded by the DFG, project no. 574489).

2 About Martinican museums and the enslaved: Dominique Rogers, "La Martinique face à son passé esclavagiste et servile: initiatives individuelles et silences institutionnels," in *Des Patrimoines transatlantiques en miroir. Mémoires du premier empire colonial français*, ed. Mickael Augeron (Presses universitaires de Nouvelle Aquitaine/Geste éditions, forthcoming 2023). I have delivered an article for a French academic

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Història de Catalunya in Barcelona dedicate only one display case to the trade in African captives, in Madrid under the heading of “African emigration”, as if Africans had come voluntarily to the Americas. Not a single museum in Spain mentions the role of the illegal trade in Africans to Cuba in the nineteenth century except the *Museu Marítim* in Barcelona. The latter presents African captives as commodities and visualizes them by chains and by the racist icon of the kneeling slave. There is no memorial to enslavement or the enslaved in the whole of Spain, and at one monument to a white abolitionist in Madrid (the Glorieta Emilio Castelar, established in 1908) the naked freedmen appear at the back of it with the inscription “Stand up slaves as you have a fatherland” (to which they had to be grateful?).

Once my eyes were opened for signs of the oblivion or the rare forms of remembrance of enslavement, I started to look for those sites in every town to which I travelled for professional and private reasons, and the list of strange sites became longer and longer. There is a small monument in the Jardin du Luxembourg in Paris which nobody will find unless they are looking for it and which can be confused from a distance with a climbing frame. The “Gilt of Cain” memorial to slavery in London is hidden away in a small courtyard in the middle of the very tall business towers of the City and no tourist will find this place by chance.

In Britain and Spain, many statues have honoured enslavers as benefactors of their hometowns until very recently.<sup>3</sup> Many Portuguese towns have a monument to Henry the Navigator, the owner of the monopoly of the trade in enslaved Africans in the fifteenth century. Spain and France dedicate many memorials to enslavist monarchs and politicians: Carlos III, the owner of 20,000 enslaved Africans in 1767, María Cristina, the queen involved in trafficking Africans to Cuba, Louis XIV and his minister Jean-Baptiste Colbert, colonialists, initiators of the *Code Noir*, founders and shareholders of monopolist companies trading in Africans, Napoléon Bonaparte, who re-introduced slavery in 1802 after the first abolition,<sup>4</sup> and so forth. Thus, the second

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journal titled “L’absence des esclavisés et de leurs descendants dans les musées de Martinique et de Cuba: deux îles très différentes – mais un même déni?”

3 Ulrike Schmieder, “Sites of Memory of Atlantic Slavery in European Towns with an Excursus on the Caribbean,” *Cuadernos Inter.c.a.mbio sobre Centroamérica y el Caribe* 15, no. 1 (2018): 29–75, <https://revistas.ucr.ac.cr/index.php/intercambio/issue/view/2632> [accessed 21.09.2022].

4 Cf. Arlindo Manoel Caldeira, *Escravos e traficantes no império português. O comércio negreiro português no Atlântico durante os séculos XV a XIX* (Lisbon: A Esfera dos Livros, 2013): 219–24 (about Henry the Navigator); José Miguel López García, “Rebeldes con causa. Los esclavos incorregibles en el Madrid borbónico,” in *Esclavitud, mestizaje y abolicionismo en los mundos hispánicos*, ed. Aurelia Martín Casares (Granada: Universidad de Granada, 2015): 285–306, esp. 301 (about Carlos III); José Antonio Piqueras, “La reina, los esclavos y Cuba,” in *Isabel II: los espejos de la reina*, ed. Juan S. Pérez Garzón (Madrid: Marcial Pons, 2004): 91–110 (about María Cristina); Philip P. Boucher, *France and the American Tropics to 1700, Tropics of Discontent?* (Baltimore: Johns Hopkins University Press, 2008): 112–13, 173–78, 188 (about Louis XIV and Colbert); Marcel Dorigny, *Les abolitions de l’esclavage* (Paris: Presses universitaires de France, 2018): 48–61 (about Napoléon).

project relates to sites of memory.<sup>5</sup> In the middle of research on those memorial sites in 2019 and 2020, the toppling of statues of enslavers and colonialists around the globe confirmed the relevance of this topic. African Europeans, African Americans, Native Americans, People of Colour around the Atlantic, and their white allies in post-colonial movements in Europe and the Americas have had their fill of public representations of history which neglect or even still glorify colonialism and enslavement.<sup>6</sup> 205 years after the Congress of Vienna condemned the trade in African captives (their exploitation in sugar cane, coffee, and cotton fields was not banned then and traffickers were not prosecuted),<sup>7</sup> the European Union “in its resolution on the anti-racism protests following the death of George Floyd”, “calls for the EU institutions and the Member States to officially acknowledge past injustices and crimes against humanity committed against black people, people of colour and Roma; declares slavery a crime against humanity and calls for 2 December to be designated the European Day commemorating the Abolition of the Slave Trade; encourages the Member States to make the history of black people, people of colour and Roma part of their school curricula”.<sup>8</sup>

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5 The results of the current research will be published in Ulrike Schmieder, *Versklavung im Atlantischen Raum: Orte des Gedenkens – Orte des Vergessens. Frankreich und Spanien, der französischen Karibik und Kuba* (Berlin: De Gruyter, forthcoming). Already published/accepted: Ulrike Schmieder, “Lugares de memoria, lugares de silencio: la esclavitud atlántica en museos españoles y cubanos desde una perspectiva comparada internacional,” *Jangwa Pana* 20, no. 1 (2021): 52–80, <http://revistas.unimagdalena.edu.co/index.php/jangwapana/article/view/3913/2840> [accessed 21.09.2022]. Ulrike Schmieder, “Lieux de mémoire et lieux d’oubli de la traite des Africains et l’esclavage: une comparaison entre les villes portuaires espagnoles et françaises” in *Des patrimoines transatlantiques en miroir. Mémoires du premier empire colonial français*, ed. Mickaël Augeron (Presses universitaires de Nouvelle Aquitaine/Geste éditions, forthcoming 2023). Ulrike Schmieder, “Memories of Slavery in France and its French Afro-Antillean Diaspora: Overview of Sites of Memory and their Entanglements with British and US-American Images of Slavery and Debates on Reparations,” in *Cherishing the Past, Envisioning the Future: Entangled Practices of Heritage and Utopia in the Americas*, ed. Olaf Kaltmeier, Mirko Petersen, Wilfried Raussert and Julia Roth (Trier: Wissenschaftlicher Verlag, 2021): 31–57. Ulrike Schmieder “¿Museos marítimos europeos y esclavitud: memoria u olvido deliberado? Barcelona, Londres (Greenwich), Lisboa (Belém) y Flensburg,” in *Del Olvido a la memoria. La esclavitud en la España contemporánea*, ed. Rodrigo y Alharilla (Barcelona: Ariel, 2022): 283–316. Ulrike Schmieder, “Dealing with Dissonant Cultural Heritage: Traces of Enslavers in European Cityscapes,” in print for: *Cultural Heritage and Slavery: Perspectives from Europe*, ed. Stephan Conermann, Claudia Rauhut, Ulrike Schmieder and Michael Zeuske (Berlin: DeGruyter, 2023).

6 Ulrike Schmieder and Michael Zeuske, eds., *Falling Statues around the Atlantic* [= *Comparativ. Zeitschrift für Globalgeschichte und vergleichende Gesellschaftsforschung*, 31, no. 3–4 (2021)]; Audrey Célestine, Nicolas Martin-Breteau and Charlotte Recoquillon, eds., *Black Lives Matter, A Mouvement Transnational?* [= *Esclavages & Post-esclavages/Slaveries & Post-Slaveries* 6 (2022)].

7 Ulrike Schmieder, “Spain and Spanish America in the System of the Holy Alliance: The Importance of Interconnected Historical Events on the Congresses of the Holy Alliance,” *Review. A Journal of the Fernand Braudel Center for the Study of Economies, Historical Systems and Civilizations* 38, no. 1–2 (2015): 147–69, esp. 149–50.

8 Resolution 2020/2685(RSP), 19 June 2020, [https://www.europarl.europa.eu/doceo/document/TA-9-2020-0173\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2020-0173_EN.html) [accessed 21.09.2022].

International projects and debates about the memories of slavery and possible reparations are connected with the UNESCO “Routes of Enslaved Peoples: Resistance, Liberty and Heritage” Project inaugurated in Ouidah, Benin, in 1994 (the establishment of sites of memory of enslavement, trade and exploitation of Africans around the Atlantic due to the initiative of Haiti), the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban in 2001 (which declared the slave trade and slavery a crime against humanity), the UNESCO International Year to commemorate the Struggle against Slavery and its Abolition in 2004 (Bicentenary of the Haitian Revolution), the 2007/2008 bicentenaries of the prohibition of trafficking Africans to British colonies/the United States, the International Year for People of African Descent 2011, and the International Decade for People of African Descent 2015–2024.<sup>9</sup> This international background is important and gives politicians and activists in favour of a critical politics of memory with respect to the slavery past a strong argument for promoting sites of memory, but the politics of memory follow above all national and local rhythms. The situation may vary even from town to town, because the decisions about building or removing a monument are made by municipal councils under varying degrees of pressure from local activists. Some Caribbean islands where the most terrible forms of racialized plantation slavery dominated, where death rates of enslaved Africans were well above their birth rates for centuries, were pioneers of remembering slavery in the public space and honouring enslaved rebels and maroons as agents of history (the “Slave in Revolt” statue, Bridgetown, Barbados, 1985; for Martinican monuments see below).

As this contribution belongs to a conference volume about *Slavery and Other Forms of Strong Asymmetrical Dependencies: Semantics, Lexical Fields and Narratives*, the focus will not be on physical *lieux de mémoire*,<sup>10</sup> but on an analysis of historical narratives about enslavement and the enslaved, and narratives of the last ten years produced by the descendants of the enslavers and the enslaved as well as by politicians in France and Martinique. Before referring to a notorious case of mistreatment of the enslaved in Martinique which was engraved in Martinican memories of slavery, forgotten

<sup>9</sup> <https://en.unesco.org/themes/fostering-rights-inclusion/slave-route>, [https://www.ohchr.org/Documents/Publications/Durban\\_text\\_en.pdf](https://www.ohchr.org/Documents/Publications/Durban_text_en.pdf), [http://www.unesco.org/new/en/member-states/single-view/news/launch\\_of\\_international\\_year\\_commemorating\\_the\\_struggle\\_agai/](http://www.unesco.org/new/en/member-states/single-view/news/launch_of_international_year_commemorating_the_struggle_agai/), <https://www.un.org/en/observances/decade-people-african-descent/background> [all accessed 21.09.2022].

<sup>10</sup> Pierre Nora excluded sites in Overseas France from the sites of memory, which he defined as constitutive of the French nation in Pierre Nora, ed., *Les lieux de mémoire*, 3 vols. (Paris: Gallimard, 1984–1992). I apply his idea that something only becomes a *lieu de mémoire* if it has symbolic meaning for the society which remembers and if rituals of commemoration regularly take place there (Pierre Nora, *Zwischen Geschichte und Gedächtnis* (Berlin: Klaus Wagenbach, 1990): 26–27). Nora has a very broad notion of what can be a *lieu de mémoire*. According to his concept, *Victor Schœlcher* himself would be a site of memory. I have chosen physical sites of memory as objects of study (monuments, museums, remnants of the past of enslavement).

sometimes, and revived on various occasions, it is necessary to consider the past and present of this small Antillean island, which is doubtlessly not known to everybody.

## 2 Historical Introduction

The first French abolition of slavery in 1794 was decreed during the French Revolution of 1789 as a consequence of the revolution in Saint-Domingue initiated by the enslaved in 1791. It provoked liberation wars of the enslaved in Martinique, which had been a French colony since 1635, but it did not end slavery. The colony was occupied by English troops who maintained servitude. The liberation of the formerly enslaved in Guadeloupe and Guyana ended with the decree of Napoleon Bonaparte of 16 February 1802 which re-established slavery, in Guadeloupe after a terrible war against resisting Guadeloupeans of African descent.<sup>11</sup> The French intent to regain control over Saint-Domingue and to re-enslave the population, a crucial part of Napoleon Bonaparte's plan to create a big American Empire, ended with the French defeat in the battle of Vertières (1803) and the Independence of Haiti (1804). The genocidal warfare of Napoleon's generals Leclerc (his brother-in-law) and Rochambeau became the object of a controversy in 2021, the bicentenary of the Emperor's death. This conflict over memories showed the irreconcilability of the memories of the descendants of the colonizers and the colonized.<sup>12</sup>

The French governments of the July Monarchy (1830–1848) ended the transatlantic trade in enslaved Africans, but followed a policy of “amelioration of slavery” instead of immediate abolition. Since 1830, a series of laws was promulgated which

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<sup>11</sup> For two important books about the Haitian Revolution from a very vast historiography, see Carolyn Fick, *The Making of Haiti: The Saint-Domingue Revolution from Below* (Knoxville, TN: University of Tennessee Press, 1990); Jeremy Popkin, *You Are All Free: The Haitian Revolution and the Abolition of Slavery* (Cambridge: Cambridge University Press, 2010). On rebellions in Martinique, see David Geggus, “Esclaves et gens de couleur libres de la Martinique pendant l'époque révolutionnaire et napoléonienne: Trois instants de résistance,” *Revue historique* 295, no. 1 (1996): 105–32. For more about the first abolition and its ending by Napoleon Bonaparte, see Suzanne Dracius et al., *La faute à Bonaparte? Monographie collective* (Fort-de-France: Idem éditions, 2021). On enslavement in Martinique, see Dale Tomich, *Slavery in the Circuit of Sugar: Martinique and the World Economy, 1830–1848* (Baltimore: Johns Hopkins University Press, 1990); Dominique Rogers, *Voix d'esclaves. Antilles, Guyane et Louisiane françaises, XVIII–XIXe siècles* (Paris: Karthala, 2015).

<sup>12</sup> On French warfare and defeat in Haiti: Jean-Pierre Le Glaunec, *L'armée indigène. La défaite de Napoléon en Haïti* (Montreal: Lux, 2020). On the conflict over memories: Ulrike Schmieder, “Monuments and Street Names: Conflicts about the Traces of Enslavers and Defenders of Slavery in French Cities,” in *Falling Statues around the Atlantic*, ed. Michael Zeuske and Ulrike Schmieder [= *Comparativ. Zeitschrift für Globalgeschichte und vergleichende Gesellschaftsforschung* 31, no. 3–4 (2021)]: 335–55, esp. 349–55.

prohibited certain punishments, set out rules about feeding, housing and educating the enslaved (by religious orders). “SéVICES”, mistreatments, could be denounced and brought to court more easily. The problem was that local authorities hesitated to prosecute enslavers and the jury courts, composed of local planters, which meant the very owners of enslaved Africans, acquitted most of those accused of torturing their enslaved. In a very few cases they sentenced them to derisory fines or a few months in prison. These punishments were never carried out as enslavers fled to neighbouring islands under the eye of the colonial authorities.<sup>13</sup> Limited freedom of the press during the rule of the constitutional monarchy allowed the publication of the proceedings of public trials and their discussion.

With the appointment of the conservative Ange René Armand de Mackau as Minister of the Navy and Colonies in 1843, abolitionists lost hope that slavery would end soon and launched a campaign to show that the fate of the enslaved could not be improved under slavery, only by ending it. Their chance to abolish slavery came with the revolution of February 1848 in France. The white abolitionist Victor Schœlcher was named Undersecretary in the Ministry of the Navy and Colonies. The abolition decree of 27 April 1848 stated that slavery should end two months after the arrival of a republican commissioner at every colony concerned. But the enslaved on Martinique, to whom abolition had been announced on 5 April, were not willing to wait and forced Governor Rostoland by means of a rebellion on 22 May to abolish slavery immediately, meaning on 23 May. The republican commissioner Auguste Perrinon arrived only on 4 June, bringing with him a series of laws which forced the landless freedmen to continue fieldwork for the enslavers, preferably, but not necessarily, for their former masters. The enslavers should be indemnified, which they were by a law of 1849. They received approximately 44% of the market price for the formerly enslaved, now called *nouveaux affranchis*, and they retained landownership.<sup>14</sup>

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13 On the politics of the July Monarchy, see Lawrence Jennings, *French Anti-Slavery: The Movement for the Abolition of Slavery in France 1802–1848* (Cambridge: Cambridge University Press, 2000); Ulrike Schmieder, *Nach der Sklaverei*: 135–46; Bernard Moitt, *Women and Slavery in the French Antilles 1635–1848* (Bloomington, IN: Indiana University Press, 2001): 101–24.

14 This paragraph summarizes Schmieder, *Nach der Sklaverei*: 147–55. For a description of what happened daily on the island from the beginnings of the February Revolution of 1848, see Gilbert Pago, *1848: Chronique de l'abolition de l'esclavage* (Fort-de-France: Desnel, 2006). On the self-liberation of 22 May 1848, see Armand Nicolas, *La Révolution antiesclavagiste de mai 1848 à la Martinique* (Fort-de-France: Imp. Populaire 1967); Marie-Hélène Léotin, *La révolution antiesclavagiste de mai 1848 en Martinique* (Fort-de-France: Apal Production, 1991). On the (under-researched) subject of the indemnification of enslavers, see Cécile Ernatus: “L’indemnité coloniale de 1849, logique de solidarité ou logique coloniale?” *Bulletin de la Société d’Histoire de la Guadeloupe* 152 (2009): 61–77, <https://doi.org/10.7202/1036869ar>; Frédérique Beauvois, *Between Blood and Gold. The Debates over Compensation for Slavery in the Americas* (New York: Berghahn, 2017): 208 (percentages of “Slave’s value” paid as indemnification in American colonies of different European states).

Vagrancy laws and the labour code were harshened in 1852, under the Second Empire of Napoléon III: freedmen worked as poorly paid day labourers or tenants who had to give two-thirds of the harvest as rent to the landowner. Tenancy contracts forbade them from participating in economic activities such as the breeding of horses and cows and continued the master-servant relationship by allowing the expulsion from house and land of tenants who did not behave obediently towards their landlord. The introduction of African, East-Indian and Chinese contract labourers, semi-enslaved people without freedom of movement, allowed wages to be lowered even more. Only very few freedmen managed to buy a small piece of land, normally on the hills around urban settlements, and become small farmers. Social advancement through education was only possible for a petty urban bourgeoisie consisting mostly of people of colour who had already acquired their freedom before 1848. The high fees that had to be paid for school attendance after the end of free primary schooling during the Second Republic blocked social advancement through education. The discontent with continued socio-economic dependency led to the ‘insurrection of the South’ in 1870, a war of liberation by Afro-descendant labourers on the occasion of the declaration of the Third Republic, put down by the French army, navy and local militia with a massacre of insurgents.<sup>15</sup> The level of labour coercion in Martinique was comparable to the situation in the British and Danish Caribbean, particularly the small islands, where ‘flight from the estates’ was as difficult as in Martinique and in Guadeloupe. The particular situation of Cuba, namely, the entanglements of emancipation of enslaved Africans and of Cubans from Spanish colonial rule, led to less coercion by the colonial state and the early Republic. The introduction of cheap labourers from rural Spain, Jamaica and Haiti and the indebtedness to sugar centrals and their shops through payment in “plantation money” instead of national currency were used to lower wages and to bind the workers to the centrals.<sup>16</sup>

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15 From my own findings in Schmieder, *Nach der Sklaverei*: 239–72, 333–52. See also Oruno D. Lara, *La liberté assassinée: Guadeloupe, Guyane, Martinique et la Réunion en 1848–1856* (Paris: L’Harmattan, 2005); Nelly Schmidt, *La France a-t-elle aboli l’esclavage? Guadeloupe – Martinique – Guyane (1830–1935)* (Paris: Perrin, 2009); Myriam Cottias, “Droit, justice et dépendance dans les Antilles françaises (1848–1852),” *Annales, Histoire, Sciences Sociales* 59, no. 3 (2004): 547–67; Juliette Sméralda-Amon, *La question de l’immigration indienne dans son environnement socio-économique martiniquais 1848–1900* (Paris/Montreal: L’Harmattan, 1996); Céline Flory, *De l’esclavage à la liberté forcée. Histoire des travailleurs africains engagés dans la Caraïbe française au XIXe siècle* (Paris: Karthala, 2015); Christine Chivallon, “Recompositions sociales à l’abolition de l’esclavage: l’expérience des mornes à la Martinique,” in *Esclavage, résistances et abolitions*, ed. Marcel Dorigny (Paris: Éd. du CTHS, 1999): 417–31. On the war of 1870, see Armand Nicolas, *L’insurrection du Sud à la Martinique (septembre 1870)* (Fort-de-France: Action, 1971); Gilbert Pago, *L’insurrection de Martinique 1870–1871* (Paris: Syllepse, 2011).

16 For details of the comparison between the transition from labour of the enslaved to forced labour or precarious free labour in the Caribbean, see Schmieder, *Nach der Sklaverei*: 239–97, 394–97; Claus Füllberg-Stolberg, “Britisch- und Dänisch-Westindien nach der Sklaverei,” *Comparativ. Zeitschrift für Globalgeschichte und vergleichende Gesellschaftsforschung* 17, no. 1 (2007): 38–78.



Although the Republic of 1870 repealed some especially harsh provisions of the labour codes and re-introduced franchise to the freedmen, Martinique remained a colony where the descendants of the enslavers held economic dominance; the administration was dominated by white French functionaries and strikes were put down through colonial violence, including the killing of protesters. The particular form of decolonization in Martinique (as in Guadeloupe and French Guyana), that of becoming *départements d'outremer* in 1946 instead of independent states as the British Antilles, disappointed its protagonists. Although local political power now lay in the hands of local Martinican politicians, some of them People of Colour, and islanders had the right to vote for representatives in the National Assembly, economic power remained with the *békés* (the descendants of planter-enslavers) and (to an extent) with French or international enterprises. The post of prefect, the higher administration and judiciary remained with whites from mainland France. The French army (*Forces armées aux Antilles*<sup>17</sup>) and the *gendarmérie mobile* from metropolitan France were there to control social unrest and political protest. Martinicans speak of 'colonialcratie' when they describe political rule in their country.

French social legislation only became valid in the DOM-TOMs (as the Overseas Departments and Territories are called in France for short) decades after its promulgation in mainland France. Social equality was declared as an aim – one which was not attained – only in 1996, fifty years after departmentalization. Lack of socio-economic prospects led to an exodus of young people, encouraged by the French state, to metropolitan France. There, particularly in the Île de France, 365,000 Antilleans live, employed mostly in manual labour (the men, in construction and transport) and the lower strata of public service (the women, in administration and public medical services). Even today, Martinicans are poorer, less educated, more often unemployed than white French people in Europe. Wages are lower, but prices exorbitantly higher than in Europe, a consequence of the trade monopolies of companies in the hands of the *békés*, e.g. the Hayot group. In addition, the whole island is contaminated by chlordane, a pesticide used in the production of bananas on *béké* land, prohibited in the US in 1977, but used in Martinique until 1993, which is now to be found everywhere – in the soil, plants, animals, food, human bodies and even mothers' milk. This leads to high rates of cancer, harm to unborn children and other illnesses. Whereas bananas for export are not contaminated, vegetables and yams for local consumption are, and thus many small farmers have had to give up their small businesses and the dependency of the island on imports of food rose. All this has heightened tensions in Martinican society, aggravating the racialized socio-economic conflict by an ecological dimension.<sup>18</sup>

<sup>17</sup> <https://www.facebook.com/FAAofficiel/> [accessed 21.09.2022].

<sup>18</sup> This paragraph summarizes very briefly information from the following publications: Kristen Stromberg Childers, *Seeking Imperialism's Embrace. National Identity, Decolonization, and Assimilation in the French Caribbean* (New York: Oxford University Press, 2016): 124–50, 151–74; Justin Daniel,

### 3 The Historical Narrative: The Case of the Jaham Brothers in 1845–1847

The following account draws upon Victor Schœlcher's *Histoire de l'esclavage pendant les deux dernières années*.<sup>19</sup> Charles and Octave de Jaham, inhabitants of Champ-Flore near Fort-Royal, owners of a small plantation for food production bought from a M. Desfontaines in 1844 with six enslaved, then in good health, notoriously ill-treated their enslaved. To mention only some details, Octave de Jaham (1822–1903) whipped the pregnant enslaved woman Hortense dite Rosette, stripped half naked and pinned to the ground and exposed to the burning sun, and then rubbed lemon and pepper into her wounds. After a second flogging, she miscarried. The brothers had also let her three children starve and forced the three boys to eat human and animal excrement. Rosette's son Gustave, who was already ill, was exposed to the cold and forced to work in chains; at night, he had to stay in a cowshed and was chained in a position in which he could neither lie down nor sleep. The magistrates found him still alive, but in a terrible state and emaciated, after Rosette had alerted them about the torture; he died soon afterwards in hospital. His little brother Vincent, six years old, was so badly beaten that he fell seriously ill but recovered in hospital. Rosette's third son, Jean-Baptiste, was chained, too, and forced by Charles de Jaham to eat a part of his own ear, which Charles had cut off, and mixed with yam and blood. He died as a result of the torture.

Despite the appalling nature of their crimes, which were testified to not only by the victims and other enslaved, but also by a neighbouring planter, the Jaham brothers were acquitted. The reports of the medical doctors played an important role in their impunity. For example, a M. Desportes found many scars on Rosette's back but assessed the punishment as 'not excessive'; the doctors Martineau and Lafaye-Deguerre did not strip Jean-Baptiste completely during the so-called autopsy and declared meteorism to be the cause of death; another doctor, M. Fazeuille, who repeated the investigation five weeks later, did not find new marks at the already decomposed corps of Jean-Baptiste.

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"La crise sociale aux Antilles françaises. Retour de la question sociale et reflux du politique," *EchoGéo*, 30.03.2009, <https://doi.org/10.4000/echogeo.11117>. Marc-Emmanuel Paquet, *Regard sur l'économie martiniquaise. Essai* (Fort-de-France: K. Éditions, 2009): 89–90; Michel Giraud et al., "La Guadeloupe et la Martinique dans l'histoire française des migrations en régions de 1848 à nos jours," *Hommes et Migrations. Revue française de référence sur les dynamiques migratoires* 1278 (2009): 74–197. Sarah Abdouni and Édouard Fabrem, "365,000 Dominiens vivent en métropole," 01.02.2012, <https://www.insee.fr/fr/statistiques/1281122> [accessed 21.09.2022]. Interview Justin Daniel, 10.09.2020. On chlordecone and its consequences see Malcolm Ferdinand, *Une écologie décoloniale: Penser l'écologie depuis le monde caribéen* (Paris: Édition du Seuil, 2019): 184–89.

<sup>19</sup> Victor Schœlcher, *Histoire de l'esclavage pendant les deux dernières années* (Paris: Pagnerre, 1847): 297–323. The historical documents are to be found in: CAOM, FM, SG, MAR, box 33, dossier 286, Esclavage – Sévices. Affaires Dispagne et de Jaham. 1845–47.

He acknowledged many flagellation scars in the body of Gustave but claimed dysentery to have been the cause of death<sup>20</sup> (which had nothing to do with being forced to eat excrement?).

Rosette and her surviving child were freed, but by *rachat*, redemption, by the state and only really emancipated after public protests in parliament; before, they had been state-owned. The murderers and torturers were paid 1,700 francs for the mistreated enslaved (1,100 francs for a 40-year-old woman and 600 francs for a child), a sum well above the market price.<sup>21</sup> Their other enslaved were sold, not manumitted. Charles de Jaham died of an illness in 1846; his brother was not expelled from the island, although the Minister of the Navy and Colonies had ordered it.

This story was narrated by Victor Schœlcher in his book *Histoire de l'esclavage pendant les deux dernières années* (1847). The explicit aim of this publication was to prove that improvement policies had failed and that slavery ought to be abolished immediately. The book contains different narratives on various levels or strata. Schœlcher speaks about the case in the introduction as well as in a published letter to the editor of the newspaper *La Réforme* written on February 15, 1846, after the acquittal. The book's introduction, originally published in *La Réforme* as an introduction to the court report that followed, is titled "The Case of the Jaham Brothers: the settlers display their sympathy for the guilty parties". Inside the reprinted newspaper report, the accounts by the journalists, the testimonies of the victims and the perpetrators, the witnesses, enslaved and enslavers, and the medical doctors are all to be found.

Which crucial words appear in the different narratives? Which notions were used to refer to the enslaved, enslavers and freedmen of African origin? Which vocabulary was used to describe and to judge what happened? For the purposes of this article, I have translated the sources, since a dual text in French and English would be long and difficult to read. Those who read French are recommended to read the documents in the original, most of which are accessible online.<sup>22</sup> Translation is always problematic because of the different meanings and connotations of the same word in different languages, at different epochs, and even in the different regions of one empire. Notes will indicate where the translation might produce misunderstandings.

We start with Victor Schœlcher. In the introduction to his *Histoire de l'esclavage*<sup>23</sup> and the letter to the journal,<sup>24</sup> he often refers to enslavers, the accused and the judges,

<sup>20</sup> Schœlcher, *Histoire de l'esclavage*: 301, 305–06.

<sup>21</sup> CAOM, FM, GEN, box 139 dossiers 1188, *Correspondance et rapports relatifs à des affranchissements à la Martinique (1846–1847)*, with the governor's decree on the manumission of mother and son, 12.06.1846.

<sup>22</sup> Schœlcher, *Histoire de l'esclavage* can be downloaded at <https://gallica.bnf.fr/ark:/12148/hpt6k84502n/f2.item.texteImage> [accessed 21.09.2022].

<sup>23</sup> Schœlcher, *Histoire de l'esclavage*: 297–98.

<sup>24</sup> Neuilly, 15.02.1846, to the editor-in-chief of *La Réforme*, *Histoire de l'esclavage*: 322–23.

as *créoles*, creoles, Antillean-born planters<sup>25</sup> who always owned enslaved people themselves (five of the members of the court were Martinican creoles, the sixth was European, but married to a creole woman). On other occasions, he writes about *planteurs* ('planters') and *colons* ('settlers'), referring to long-resident upper-class inhabitants of the islands. Enslavers, by contrast, are referred to with their full names and claim nobility, the perpetrators being named Charles de Jaham and Octave de Jaham.

In the introduction, the following negative qualifiers appear: "hardened creoles" and "evil natures", produced by "the exercise of absolute power".<sup>26</sup> In the letter, Schœlcher comments that "Those who know the settlers are distressed to see their culpable stubbornness in defending bad masters".<sup>27</sup>

The acquittal is mentioned as a "scandal"; the case is described as one that "will live on in the monstrous annals of servitude". Schœlcher criticizes "the shameful partiality of judges".<sup>28</sup> Torture is called torture, and a murdered child is described as a murdered child. There is no belittling of the crimes. The self-definition of the abolitionists in Schœlcher's text is "philanthropists".<sup>29</sup>

Schœlcher refers to enslaved people as a group as a "servile population", to individuals as "*esclaves*", "slaves", and, as a synonym in a skin-colour based slavery society, "*nègres*",<sup>30</sup> a pejorative term appropriated by Africans and their descendants as a self-description also in situations of resistance<sup>31</sup> but rejected when used by whites.

When the enslaved are referred to, only a first name is given. It is not Schœlcher who is to blame for this but the colonialist-enslavist system in which enslaved people only received a forename, as if they were eternal children. The names were given by their owners, not their parents, and the African names of African captives brought to Martinique were erased.

Rosette is quoted in the introduction as shouting out on the streets of the Martinican capital Fort-Royal, "My master has killed my son."<sup>32</sup> Her accusation is expressed

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<sup>25</sup> In mainland Spanish America, a *criollo* was a descendant of Spaniards born in the colonies, while in Cuba a *criollo* was a descendant of enslaved Africans born on the island. *Criollo* was even used as a second name. In the British West Indies "Creole" referred to white people born on the islands; people of African descent born in the Caribbean were named "Creole Blacks" (still used today alongside "Afro-creoles") or "Creole Negroes". Another use of the term was and is "Creole language", "*Langage Créole*", referring to island-specific languages with European and African roots.

<sup>26</sup> Schœlcher, *Histoire de l'esclavage*: 297–98.

<sup>27</sup> Schœlcher, *Histoire de l'esclavage*: 323.

<sup>28</sup> Schœlcher, *Histoire de l'esclavage*: 322, 298.

<sup>29</sup> Schœlcher, *Histoire de l'esclavage*: 323.

<sup>30</sup> Schœlcher, *Histoire de l'esclavage*: 296–97. "*Nègre*" is as pejorative as "negro" in English, whereas "negro" in Spanish does not have that connotation and should be translated as "black".

<sup>31</sup> CAOM, DPPC, Greffes, Cour d'Assises, St. Pierre, vol. 924, 22.09.1849. "Cultivateur", rural labourer, Pierre-Marie Louise from Trinité is quoted with using the phrase spoken during a revolt in May 1849 against forced labour practices: "I want the head of a gendarme or a captain, I do. I'm a negro (*nègre*), capable of setting fire to anybody's plantation."

<sup>32</sup> Schœlcher, *Histoire de l'esclavage*: 298.

very clearly. Enslaved people like Rosette spoke in public always of their ‘master’, not of the ‘proprietor’/ ‘owner’, focusing more on the power relation than on the ownership. They seemed to accept the dominance of the ‘masters’ and their own status of ‘slave’. Of course, we do not know how they referred to cruel enslavers in their huts. Presumably, Rosette found harsher words for the murderer of her child when she was conversing in confidence with other enslaved.

The report of the trial in the republican journal *La Réforme* and in the book reproduces the proceedings published in the *Journal Officiel de la Martinique*, the official newspaper of this colony. This explains differences in language. When the Jaham brothers are referred to here as “two young creoles”, “these young owners”,<sup>33</sup> they appear innocuous.

The report repeats verbatim the accusations against Octave and Charles de Jaham:

- 1° to have inflicted with the whip on the pregnant Rosette, holding her down on the ground [. . .], stripped naked, [. . .] blows that caused wounds to the skin and bleeding and to have rubbed lemon and pepper into the bleeding wounds, [. . .];
- 2° [. . .];
- 3° to have held in irons the sick Gustave in a calf stall, exposed to the elements [. . .];
- 4° to have held tied by the same chain, Gustave and the twelve-year old Jean-Baptiste, forcing them, under the threat of being beaten, to sing about the type of work they were doing [. . .];
- 5° to have kept Gustave in irons, at night and for several weeks in so uncomfortable a position so that he could neither lie down nor sleep;
- 6° to have fettered and chained little Jean-Baptiste, aged twelve years;
- 7° to have caused the death, without premeditation, of Jean-Baptiste and Gustave;
- 8° to have struck and let others strike the six-year-old Vincent, to an excessive degree, and to have caused him an illness lasting more than twenty days.<sup>34</sup>

Both brothers were accused of “having completely neglected their nourishment and upkeep” and of having “made their slaves eat a mixture of human and animal excrement”; the strongest charge was levelled against Charles de Jaham: to have cut off with a small knife part of the ear of the small boy Jean-Baptiste and to have forced him to swallow it with a piece of yam dripping with blood from the mutilated ear.<sup>35</sup>

This detailed description shocked the French public. In court, “*les noirs et les mulâtres*” in the room expressed their indignation, the whites their incredulity.<sup>36</sup> The accused Octave de Jaham, the younger brother, did not deny the facts about the punishment of Rosette but justified it by Rosette’s “bad behaviour”; he denied the torture of the children. Charles de Jaham, by contrast, rejected every accusation and denied even his participation in the administration of the plantation.<sup>37</sup> The jurors simply threw out every accusation even though the enslaved Édouard, Mondésir,

<sup>33</sup> Schœlcher, *Histoire de l’esclavage*: 290, 291.

<sup>34</sup> Schœlcher, *Histoire de l’esclavage*: 301–2.

<sup>35</sup> Schœlcher, *Histoire de l’esclavage*: 302–3.

<sup>36</sup> Schœlcher, *Histoire de l’esclavage*: 303, 312.

<sup>37</sup> Schœlcher, *Histoire de l’esclavage*: 304.

Héloïse, Solitude, Angela, Williams and other enslaved men of their neighbours testified to the facts. The free woman of colour, a nurse, also called Rosette, reported that she had not received her wages for caring for Octave and that the Jahams refused to pay for medicines; she took the boy some food in secret. Only ten-year-old Toussaint admitted to having flogged the enslaved victim Rosette, which not even the defenders of the Jahams believed. The white neighbour Monlouis-Lecouvreur, who had brought the boys to the Jahams because they had stolen yams from his garden, witnessed the cutting of Jean-Baptiste's ear and the forced swallowing of excrement by both children.<sup>38</sup> Defense counsel Robillard did everything to discredit this sole white witness who confirmed the accusation. After the enslaved woman Héloïse admitted that Rosette had been late coming from town the day she was flogged, Robillard commented, "Well, Rosette was in the wrong and deserved the whipping inflicted on her by Octave Jaham."<sup>39</sup> Obviously, enslavers thought that being late was a reason for flogging a pregnant woman until she miscarried.

The testimonies of the enslaved were re-narrated by journalists so that we hear their voices in a mediated manner. According to them, Rosette "speaks loudly and vehemently" and repeated the accusation that Jean-Baptiste died as a result of ill-treatment by his masters and that Vincent would have died without the intervention of the law. She emphasized that she did not deserve the punishment; she had stolen nothing, she had not run away, and she had never been beaten by her former master. Her sons had only taken food because they were not being fed, and she had told them to steal food, if necessary, from their master, not their neighbours.<sup>40</sup>

The saddest testimony came from Vincent, the surviving child of five or six years. He admitted to having "stolen" food from his master "because he does not give me enough food". He pointed to the chain and weights with which he was tortured and showed the public how he was put in chains and irons. He told the public that he saw how the enslaved boy Toussaint, under the orders of Octave de Jaham, forced Gustave and Jean-Baptiste to eat excrement.<sup>41</sup> The enslaved woman Angela added the detail that the elder brother laughed much when seeing the children swallow excrement.<sup>42</sup>

This newspaper report used the discriminatory terms "*nègre*" and "*les mulâtres*" (for which at the time "*gens de couleur*" would have been a more friendly designation), but also the more neutral "*les noirs*" (still used today by Black French people as a self-description<sup>43</sup>). The description of the victims also included discriminatory

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38 Schœlcher, *Histoire de l'esclavage*: 309–15.

39 Schœlcher, *Histoire de l'esclavage*: 310.

40 Schœlcher, *Histoire de l'esclavage*: 306–08.

41 Schœlcher, *Histoire de l'esclavage*: 308–09.

42 Schœlcher, *Histoire de l'esclavage*: 311.

43 In politics, see Patrick Lozès, *Nous les noirs de France* (Paris: Ed. Danger, 2007) (Manifesto of the founder of the *Conseil Représentatif des Associations Noires de France*). In the academy, see Abdoulaye

notions such as “Rosette is a negress of the African coast, wholly African in type”.<sup>44</sup> What had the phenotype of Rosette to do with her testimony? Given the prejudices of the period about Africa and Africans, this description could lessen her credibility. On the other hand, the report spoke of the “remarkable intelligence” with which her son Vincent answered questions.<sup>45</sup> (An ambivalent compliment: remarkable intelligence was not be expected from the child of an African woman?)

The newspaper report sums up at the end:

Let us sum up the facts.

On one side, the accusation of the master: the theft of some yams, maroonage, insolence;

On the other, a pregnant woman, flogged until the poor creature inside her is killed, tortured before being born, three children so cruelly treated that two lose their lives [ . . . ]

And a sentence of acquittal!<sup>46</sup>

This summary is a clear indictment of the enslavers and the impunity of the mistreatment and murder of the enslaved. Yet one should not overlook the limits of republican thinking in the mid-nineteenth century. We would think today that enslaved people could not have been ‘insolent’, because they did not have to work because they were not paid; they could not ‘run away’, because their enslavement was a crime in the first place; and they could not steal food because the yam was grown by them and thus should have belonged to them, not to their insolent enslavers. This thinking is retrograde when compared with the ideas of the Enlightenment philosopher Condorcet who, as early as 1781, harshly condemned slavery and demanded its abolition without compensation for the owners.<sup>47</sup>

This means that the Republicans questioned ownership of human beings (though not as profoundly as the protagonists of the first abolition), but they did not challenge big land ownership and exploitation of the landless. Moreover, they did not demand the redistribution of land, which the enslaved expected from a revolutionary government. It is important to keep in mind these ideological differences which existed even

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Gueye, “De la diaspora noire: enseignements du contexte français: Figures et expériences diasporiques,” *Revue européenne des migrations internationales* 22, no. 1 (2006): 11–33.

44 Schœlcher, *Histoire de l’esclavage*: 308.

45 Schœlcher, *Histoire de l’esclavage*, 308.

46 Schœlcher, *Histoire de l’esclavage*: 318. The acquittal is to be found in: CAOM, DPPC, Greffes, Cour d’Assises, St. Pierre, volume 923, 26.12.1845.

47 Nicolas de Condorcet, *Réflexions sur l’esclavage des Nègres* (Neufchâtel: La Société typographique, 1781), [http://classiques.uqac.ca/classiques/condorcet/reflexions\\_esclavage\\_negres/reflexions\\_esclavage\\_negres.html](http://classiques.uqac.ca/classiques/condorcet/reflexions_esclavage_negres/reflexions_esclavage_negres.html) [accessed 21.09.2022]: 9 “To reduce a man to slavery, to buy him, sell him and keep him in servitude, these are true crimes, and crimes worse than theft, [ . . . ]”. 22: “We have shown that the master had no right over his slave, that the action of keeping him in servitude is not the enjoyment of property but a crime; that in freeing a slave the law is not attacking property, but is ceasing to tolerate an action that it should have punished by a sentence of death. The Sovereign therefore owes no compensation to the slave’s master, in the same way as he owes none to a thief, who has been deprived by a legal decision of the possession of something stolen.”

between the most radical white abolitionists and the enslaved when analyzing post-slavery conflicts.

At the end of the *Histoire de l'Esclavage*, Schœlcher sharply criticizes the partiality and the colonial prejudices of the slaveholding jurors and judges. The Jaham case is mentioned once more in the context that the Minister of the Navy and Colonies, Mackau, tried to prevent the deputy Ternaux-Campans from speaking about the acquittal of the Jahams. The case, which Schœlcher calls “one of the biggest insults which the perjury of judges had thrown in the face of humanity”,<sup>48</sup> should not be subject to parliamentary discussion because the Minister knew very well that the judgement was unacceptable for most French people and would renew the debate about the need for immediate abolition.

Schœlcher accused the Minister of the Navy and the Colonies of prolonging slavery instead of ending it because he did not comprehend the essential point, summarized in the final sentences: “Servitude being in principle an iniquity can only be maintained by iniquity. There is only one remedy against the evil and that is the destruction of that very evil, the abolition of slavery.”<sup>49</sup>

## 4 The *béké* Roger de Jaham, De-Colonialist Activists, and the Impossibility of a Narrative and Remembrance of Enslavement Common to the Descendants of Enslavers and Enslaved

The case of the Jaham brothers would have remained just one of many examples of enslaver-torturers in the counter-memories of the descendants of the enslaved with African roots if a descendant of the Jahams, Roger de Jaham, had not appeared as an actor on the stage of the politics of memory in 1998. To understand this story, a short excursus on the silences and remembrances about slavery after 1848 is necessary. Myriam Cottias has demonstrated that the French Republic demanded gratitude and forgetting enslavement as the price of the citizenship given to the *affranchis*.<sup>50</sup> For more than 100 years slavery was a taboo subject in Martinique, mentioned only at anniversaries of the abolition. For instance, in 1948, on the centenary of abolition, the resistance of the enslaved was mentioned briefly in a speech by Aimé Césaire during the act of commemoration at the Sorbonne, but otherwise it was absent from the

<sup>48</sup> Schœlcher, *Histoire de l'esclavage*: 423.

<sup>49</sup> Schœlcher, *Histoire de l'esclavage*: 425.

<sup>50</sup> Myriam Cottias, “L’oubli du passé’ contre la ‘citoyenneté’: troc et ressentiment à la Martinique (1848–1946),” in *1946–1996. Cinquante ans de départementalisation outre-mer*, ed. Fred Constant and Justin Daniel (Paris: L’Harmattan, 1997): 293–313.



celebrations. Two years after departmentalization, the reference to the republican abolitionist hero Victor Schœlcher and the bond with France was used to demand equality inside the French Republic.<sup>51</sup> In school, Afro-Antilleans learnt French history following the discourse about ‘our ancestors the Gauls’ and the Republic as the birthplace of human rights. In most families, enslavement was also a taboo topic, seen as a stigma and a reason to be ashamed.<sup>52</sup> Only in some families did counter-memories exist, remembering enslaved ancestors.<sup>53</sup>

Antillean schoolchildren heard nothing about the harshness of enslavement and the resistance of the enslaved, and they learnt only a little bit about Victor Schœlcher, the white abolitionist who gave freedom to people who supposedly should have been grateful for this gift and forget what had happened during the three centuries before. Schœlcher’s birthday (21 July) was a festive commemorative day.<sup>54</sup> Streets, places, schools and a whole town were named after him, a phenomenon that came to be known as *schœlcherisme*.<sup>55</sup> A slow change came with *négritude*, the Francophone anti-colonial literary theory and political movement of positive reassessment of African culture and roots, the encounter with Africa and its diaspora. These ideas were expressed, for instance, in Aimé Césaire’s poem “Cahier d’un retour au pays natal” (1939, republished 1947). For more than thirty years, the poet had been a Martinican deputy in the National Assembly for the *Parti progressiste martiniquais* (founded by him and Pierre Alikier in 1958 after having left the Communist Party in 1956) and mayor of Fort-de-France (1945–2001).<sup>56</sup> Literature played an important role in the

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51 Jacques Dumont, Benoît Bérard, Richard Château-Degat, and Béatrice Béral, “La place du marronage et du ‘nèg mawon’ dans les commémorations de l’esclavage aux Antilles depuis 1948,” in *Société marronne des Amériques: Mémoires, patrimoines, identités et histoire du XVIIe au XXe siècles. Actes du colloque Saint-Laurent-du-Maroni, Guyane française (18–23 novembre 2013)*, ed. Jean Moomou (Matoury: Ibis rouge, 2015): 663–77, esp. 666–71.

52 Antillean interviewees who went to school in the 1960s confirmed this (e.g. Octave Cestor, who fought for the big memorial for the abolition of slavery in Nantes, interviewed 25.10.2019, Justin Daniel, interviewed 10.09.2020).

53 For instance, in the family of Emmanuel Gordien, President of the NGO Comité March 98 (CM 98), interviewed 25.05.2018; see also the documentary by Franck Salins, *Citoyen bois d’ébène*, 2016. Testimonies collected by Serge Bilé, Alain Roman, and Daniel Sainte-Rose, *Paroles d’esclavage. Les derniers témoignages* (Saint-Malo: Pascal Galodé, 2011).

54 According to the historian (an expert on 22 May), local politician and memorial activist Edouard de Lépine, the decision about a commemorative day on 27 April (when the decree about emancipation was published) and 21 July was based not on politics, but on the fact that the harvest was over by then, and the Communist Party and labour unions wanted this day to be more convenient as a public holiday (Béatrice Béral, *La commémoration de l’abolition de l’esclavage en Martinique de 1998 à 2010* (2013): 4–5, 28–29, 26) (I thank Benoît Bérard for drawing my attention to the theses of Béatrice Béral and her for the friendly consent to my quoting them).

55 Marie-José Jolivet, “La construction d’une mémoire historique à la Martinique: du schœlchérisme au marronisme,” *Cahiers d’études africaines* 27, no. 107 (1987): 287–309.

56 Assemblée nationale, Aimé Césaire, <http://www.assemblee-nationale.fr/histoire/aime-cesaire/biographie.asp> [accessed 21.09.2022].

counter-memory of African roots, slavery and resistance, e.g. the novels of Guadeloupean writer Maryse Condé.<sup>57</sup>

Leftist movements with aspirations for the autonomy of the island or even independence began in the 1970s to mark 22 May as the day of self-liberation of the enslaved, *marronnage* and the resistance of the enslaved, in general.<sup>58</sup> In 1983, under François Mitterrand, President of the French Republic, who was the first socialist to hold the position since 1954, this day became an official local festive and commemorative day. Since 1984, the Komité Popilé 22 Mé has organized a march/ convoy/ pilgrimage to Prêcheur, the community where the self-liberation started on 22 May 1848 after the arrest of the enslaved Romain for playing a drum, which had been prohibited. In 1991, the statue of Joséphine de Beauharnais, a gift of Napoléon III's to the Regional Council of Martinique established in 1859, was decapitated for the first time.<sup>59</sup> The Empress from the Martinican enslaver family of Tascher de la Pagerie is said to have influenced Napoléon Bonaparte's decision to re-establish slavery in Guadeloupe and Guyana and to maintain it in Martinique.<sup>60</sup> In 1992, on the occasion of the 500th anniversary of the 'discovery' of America there was a demonstration by Antilleans in Paris against the celebrations, and in Martinique activists staged a trial of Christopher Columbus.<sup>61</sup> Some teachers of history and geography, who

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57 Maryse Condé, *Ségou*, 2 vols. (Paris: Ed. Robert Laffont, 1984–1985), Maryse Condé, *Moi, Tituba sorcière noire de Salem* (Paris: Mercure de France, 1986).

58 A book by the historian and general secretary of the *Parti Communiste Martiniquais*, PCM (which was not in favour of Independence), Armand Nicolas, was the pioneering study about the event (earlier studies by Gabriel Henry had not been published). See his *La Révolution antiesclavagiste*. The day of 22 May was requested by the communists, the moderate socialist and pro-autonomy party of Aimé Césaire (*Parti Progressiste Martiniquais*, PPM), and the pro-independence parties/groups *La Parole au Peuple* founded in 1973 (since 1978 renamed *Mouvement Indépendantiste Martiniquais*, MIM), the trotskyst *Groupe Révolutionnaire Socialiste* (GSR) and *Parti du Combat Ouvrier*, the labour unions CDMT, CGMT and UEAG, the *cercle Victor Schœlcher*, the communist youth organization *Jeunesse d'avant garde*, JAG, and the *Union des Femmes de la Martinique*, UFM. These parties and associations also organized the first island-wide celebration of 22 May in 1982 (Béral, *La commémoration*, 4–5, 28–29).

59 Catherine A. Reinhardt, *Claims to Memory, Beyond Slavery and Emancipation in the French Caribbean* (New York/Oxford: Berghahn Books, 2006): 150, 172. On the origins of the statue, see Béral, *La commémoration*: 65.

60 How much she really influenced her husband in the re-establishment of slavery is controversial. Napoléon Bonaparte probably would have taken that decision under the pressure of lobbyists from the port towns and colonies, too, without this marriage, although Joséphine de Beauharnais acquainted him with many *colons* (cf. Pierre Branda and Thierry Lentz, *Napoléon, l'esclavage et les colonies* (Paris: Fayard, 2006): 55). This does not alter the fact that Martinicans must feel strongly insulted by a big memorial for a prominent member of a planter-enslaver family who was a defender of slavery and not an abolitionist, established in 1859 as an expression of continuing white and colonial rule. The first monument to Victor Schœlcher in 1904 was the answer of Martinican Republicans to that insult. It is less discussed that Joséphine Beauharnais owned 123 enslaved persons on the plantation inherited by her mother (information given in the Musée de la Pagerie reformed in 2020 and reopened in 2021, based on the research of Jessica Pierre-Louis, visited 08.04., 24.05.2022).

61 Béral, *La commémoration*: 57–78, 73, 76, 97.

were members of Martinican memorial associations, said that at least in the towns, local history including that of enslavement had been taught before the official school curricula and manuals were changed by the central French government, starting in the 1970s, when socialist and de-colonial thinking was very common.<sup>62</sup> Some Martinican towns and villages had already inaugurated memorials to the resistance and liberation of the enslaved.<sup>63</sup> Others, such as Rivière-Pilote, have renamed their streets since 1984, e.g. “Rue du Marronnage”, “Rue des Insurrections anti-esclavagistes”, “Rue Toussaint Louverture”, “Rue Delgrès & Ignace”, honouring the leaders of the Haitian Revolution and the resistance of Guadeloupeans against re-enslavement.

In the meantime, in France, the politics of remembering abolition and forgetting slavery also prevailed during the celebration of the 150th anniversary of abolition under the government of Lionel Jospin in 1998 with the slogan, “we were all born in 1848”.<sup>64</sup> But by then, more than 300,000 Antilleans were living in France, particularly around Paris. Activists among them organized a silent march on 23 May of 1998 protesting against this historical narrative, pointing out that the descendants of the enslavers and of the enslaved did not commemorate the same event and highlighting the island’s bad socio-economic situation which had forced the Antillean youth to leave their home country. This movement led to the Taubira law condemning slavery as a crime against humanity and requiring the topic to be included in the school curriculum.<sup>65</sup> The conflictive memories in mainland France in the last two decades cannot be explained at length

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62 Interviews with Elisabeth Landi, 18.09.2020, Christian Jean-Etienne, 25.09.2020, and Elsa Juston, 06.11.2020. M. Jean-Etienne explained that the teachers taught the history of slavery, although that was forbidden under the presidency of the conservative Valéry Giscard d’Estaing, who implemented a very repressive policy in Martinique. What might be interesting is that this French president was married to a great-granddaughter (Anne-Aymone Sauvage de Brantes) of the Cuban enslaver Tomás Terry Adán, called the ‘Croesus of Cuba’ for the fortune he made on the backs of enslaved Africans. The family transferred its wealth to Europe and settled in France. Martín Rodrigo y Alharilla, “Introducción,” in *Negreros y esclavos. Barcelona y la esclavitud atlántica (siglo XVI-XIX)*, ed. Martín Rodrigo y Alharilla and Lizbeth Chaviano Pérez (Barcelona: Icaria, 2017): 7–16, esp. 11. Martín Rodrigo y Alharilla, “De la esclavitud al cosmopolitismo. Tomás Terry Adán y su familia,” in *Afroamérica. Espacios e identidades*, ed. Javier Laviña, Ricardo Piqueras and Cristina Mondéjar (Barcelona: Icaria, 2013): 93–119. On enslavement in the classroom, see also: Elsa Juston, “Parlons de l’enseignement de l’histoire et de la géographie de la Martinique!” <https://blogs.mediapart.fr/oliwon-lakarayib/blog/060820/parlons-de-l-enseignement-de-l-histoire-et-de-la-geographie-de-la-martinique> [accessed 21.09.2022].

63 *La liberté* (Joseph René-Corail, Place 22 mai, Trénelles/Fort-de-France, inaugurated by Aimé Césaire in 1971, the site where the PPM has remembered emancipation since then), *Le choc des deux mondes* (ibid., 1983), *Stèle du 22 mai 1848* (Guy Villeronce, 1989), *Les armes de fonte* (François Charles-Edouard, 1996). Béatrice Béral, “*Les œuvres monumentales en Martinique autour de l’esclavage*” (master’s thesis, Université des Antilles et la Guyane, 2011): 17, 28, 60.

64 Johann Michel, *Devenir descendant d’esclave. Enquête sur les régimes mémoriels* (Rennes: Presses Universitaires, 2015): 71–101.

65 Michel, *Devenir descendant d’esclave*: 145–74. For the text of the law see <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000405369> [accessed 21.09.2022].

here,<sup>66</sup> but it should be noted that the change in the politics of memory in metropolitan France also had repercussions in the DOM-TOMs. The school competition *La Flamme de l'Égalité* was set up, in which school classes are given prizes for good projects about the history of slavery and abolition.<sup>67</sup> There was money for new and other sites of memory, the most important being the Mémorial ACTe in Guadeloupe (*Centre caribéen d'expressions et de mémoire de la traite et de l'esclavage*, Pointe-à-Pitre, 2015). The National Committees of Memory of Slavery (2004–2019) and, since November 2019, the Fondation pour la Mémoire de l'Esclavage (FME)<sup>68</sup> have organized commemorative events about slavery and abolition in all French territories.

In Martinique, in 1998, the CAP 110 memorial Mémoire et Fraternité in l'Anse Cafard (Laurent Valère) and the statue Nèg Mawon (Hector Charpentier) were established in the community of Diamant, while Nèg Mawon = L'arbre de la liberté was set up in Lamentin (Khokho Réne-Coraïl / Alberto Lescay), new sites of memory remembering the enslaved as victims (CAP 110) and rebels (the maroons).<sup>69</sup> Since the first decade of the twenty-first century, the inclusion of the history of slavery in the national school curriculum and the additional 'adaptation of school programmes Overseas' has enforced the teaching of this

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66 For a more detailed discussion, see Schmieder, "Lieux de mémoire et lieux d'oubli."

67 <https://www.laflammedeegalite.org/> [accessed 21.09.2022].

68 It is too early to evaluate the work of this institution under the presidency of Jean-Marc Ayraud, the former mayor of Nantes, the pioneer city of the remembrance of slavery. At the time of its establishment, I heard many fears that it would be a new bureaucratic organism not doing very much. However, the Foundation organizes events at frequent intervals and the commemorative days. These include 27 April, the anniversary of the announcement of abolition in Paris; 10 May, the National Day of Remembrance of the Slave Trade, Slavery and their Abolitions; and 23 May, National Day of Remembrance in homage to the Victims of Colonial Slavery. In addition, there are local commemorative days: 22 May in Martinique, 27 May in Guadeloupe and 10 June in Guadeloupe. These commemorations provide a platform for the convergence of leading experts in slavery history, sociology and anthropology of the Caribbean as well as many Antillean or French-Antillean artists, writers, musicians, actors, journalists, activists and athletes. See: <https://www.facebook.com/fondationpourlamemoiredelesclavage/>. The membership lists of the scientific committee show the intention to include the *who's who* of historians and experts in literature and political sciences who work on slavery in Africa and the Caribbean, including many persons with roots in Africa, the Caribbean and La Réunion (<https://memoire-esclavage.org/la-fme-nomme-son-conseil-scientifique>). The committee of support, presided by Christiane Taubira, who launched the abovementioned law as deputy from Guyana, includes also artists, writers and activists, advocates of a critical remembrance of enslavement (<https://memoire-esclavage.org/notre-comite-de-soutien>). Through a *conseil d'orientation* the Foundation organizes its cooperation with Antillean and African associations and human rights organizations such as the umbrella organization Conseil Représentatif des Français d'Outre-mer (CREFOM), represented by Claude Dalin, the Centre d'Information, Formation, Recherche et Développement pour les Originaires d'Outre-mer (CIFERDOM) by José Pentoscrope, important associations in the French provinces such as Mémoire d'Outremer by Octave Cestor (Nantes) and Mémoires et Partages by Karfa Diallo (Bordeaux), as well as the Martinican association Oliwon La Karayib, represented by Stéphanie Belrose (<https://memoire-esclavage.org/le-conseil-dorientation> [all accessed 21.09.2022]).

69 Reinhardt, *Claims to Memory*: 140–46, 164–65, 169. Chivallon, *L'esclavage*: 450.

topic in length whereas some Martinican teachers had dealt with the history of enslavement since the 1980s. A backlash in 2005 was reversed (President Sarkozy had required teachers to convey a positive image of French colonialism, but the stipulation had to be withdrawn after nationwide protests).<sup>70</sup>

The 150th anniversary of the abolition of slavery also forced white Martinicans to take up a position. Until then, the *békés*, the descendants of the 200 white ruling families, had lived as a closed, endogamous, according to their ideas ‘racially pure’ caste. They worshipped and honoured Empress Joséphine de Beauharnais, thus ignoring the feelings of the Afro-Martinican majority, and created plantation museums as sites of memory where a romantic nineteenth century, perceived as the good old days of white supremacy, was recreated and enslavement was silenced.<sup>71</sup>

Roger de Jaham, a descendant of Octave de Jaham, convinced 400 other *békés* to sign a declaration under the title “We do remember” in 1998 which condemned slavery as a crime against humanity even before French law did so.<sup>72</sup> This text was read out on 22 May 2006 on the Abbé Grégoire Square in Fort-de-France during the commemoration ceremony in the presence of Fort-de-France’s new mayor, Serge Letchimy. In 2007, Roger de Jaham created the association Tous Créoles!, which means “All Creoles”.<sup>73</sup>

Roger de Jaham was, of course, condemned for his initiative by other *békés*, who did not want to belong to a Martinican nation with African, European and East Indian roots. However, it was not long before he also became widely hated by advocates of a critical memory of enslavement, especially their most radical branch, the Mouvement International pour la Réparation under Garcin Malsa. Also, more moderate anti-racist Afro-Antillean writers on *antillanité* and *créolisation* (e.g. Édouard Glissant) and *créolité/creoleness*, such as Jean Bernabé, Patrick Chamoiseau and Raphaël Confiant,<sup>74</sup> rejected the distorted appropriation of the term *créole* and the heritage of Aimé Césaire

70 Juston, *Parlons de l'enseignement*. On the ‘war of memories’ in 2005–2006, the Taubira law vs. the *Rapatriés* law (with a paragraph about teaching about the positive effects of colonialization), see Catherine Coquéry-Vidrovitch, *Enjeux politiques de l'histoire coloniale* (Paris: Agone, 2009): 113–14.

71 Christine Chivallon, “Rendre visible l’esclavage. Muséographie et hiatus de la mémoire aux Antilles françaises,” *L’Homme* 180 (2006): 7–42.

72 Patrice Louis, “Roger de Jaham: Le béké dissident,” *Le Monde*, 01.08.2006, [https://www.lemonde.fr/societe/article/2006/08/01/roger-de-jaham-le-beke-dissident\\_800103\\_3224.html](https://www.lemonde.fr/societe/article/2006/08/01/roger-de-jaham-le-beke-dissident_800103_3224.html) [accessed 21.09.2022].

73 Maeve McCusker, “All Creoles Now? *Beke* Identity and the *Eloge de la créolité*,” *Small Axe* 21, no. 1 (2017): 220–32, <https://doi.org/10.1215/07990537-3843974>.

74 Édouard Glissant, *Le discours antillais* (Paris: Ed. du Seuil, 1981). Édouard Glissant, “Creolisation and the Americas,” *Caribbean Quarterly* 57, no. 1 (2011/ 1992): 11–20. Jean Bernabé, Patrick Chamoiseau and Raphaël Confiant, *Éloge de la créolité/ In Praise of Creoleness* (Paris: Gallimard, 1993). Here, creoleness refers to the mixed ethnic origins of Caribbean populations, which led to creole languages and creolized culture with diverse roots. It is no longer used as a synonym for a white man born on the island as in the *Histoire de l’Esclavage*. In the British Caribbean this concept was used earlier. See Kamau Brathwaite, *The Development of Creole Society in Jamaica, 1770–1820* (Oxford: Clarendon Press, 1971).

by Roger de Jaham and his supporters.<sup>75</sup> The authors of “In praise of creoleness” might also be responsible to a certain degree for the misuse of the term. The fundamental focus of their book on ethnicity, by ignoring class, opened the door for such an appropriation. Enslavement was first of all a power relationship between enslavers and enslaved in order to exploit the latter, and it left a profound socio-economic legacy of inequality. Racism as slavery’s legacy was the ideology for justifying the exploitation of People of African descent (during and after slavery); it cannot be vanquished without overcoming its basis, racialized socio-economic inequalities.

Why did Roger de Jaham become an enemy of Afro-Martinican intellectuals despite his attempt at reconciliation? To understand this, we need to look more closely at the very ambivalent and, at least from a de-colonial perspective, problematic, text of the declaration.

The Martinican community was born in the inhumanity of slavery. That dark period has offended the dignity of thousands of men and women and it has caused great suffering which still marks profoundly Martinicans of all origins.<sup>76</sup>

This first paragraph omits the African descent of the enslaved and belittles their number (“thousands” instead of saying that approximately 217,000<sup>77</sup> African captives arrived in Martinique to be exploited). To say that that period marks Martinicans of all origins fails to highlight that it marks them in very different ways. Whites inherited

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75 Hanétha Vété-Congolo, “Créolisation, Créolité, Martinique, and the Dangerous Intellectual Deception of ‘Tous Créoles!’,” *Journal of Black Studies* 45, no. 8 (2014): 769–91, esp. 781, 783. Vété-Congolo reports, after interviews and correspondence with the trio of creoleness, that for a time young Afro-Antillean writers hoped for real exchanges between the different ethnic groups and events organized by the association. Later, they became disappointed by the racism and rejection of multi-ethnicity by the békés. See also: McCusker, “All Creoles now?” (a reference to the document “Petit éloge de notre créolité” on the website of Tous Créoles, referring to and copying the ideas of “Éloge de la créolité” (<http://www.touscreoles.fr/2009/06/30/petit-elogue-de-notre-creolite/> [accessed 21.09.2022])). Confiant condemned the theft of ideas in the strongest terms: “I myself consider that the Tous Créoles association is a perversion of creoleness. In exactly the same way as Duvalierism was a perversion of négritude or the Pol Pot regime is a perversion of Marxism.” (Raphaël Confiant, “La Créolité aujourd’hui,” interview with Hanétha Vété-Congolo, 17.01.2008, <http://ile-en-ile.org/raphael-confiant-la-creolite-aujourd-hui/> [accessed 21.09.2022]).

76 The complete text is available at: <http://www.touscreoles.fr/2008/02/20/nous-nous-souvenons/> [accessed 21.09.2022].

77 *Trans-Atlantic Slave Trade Database*, <https://www.slavevoyages.org/assessment/estimates> [accessed 21.09.2022] (search terms “only disembarked, specific disembarkation regions, Martinique”, 216,911 enslaved Africans arrived alive on the island from the seventeenth to the nineteenth century (search terms: “only embarked”: 261,043 captives had been embarked with Martinique as their destination, which means that more than 44,000 captives had died on board on their way to that colony).

privileges and the *békés* wealth and impunity, while People of Colour inherited discrimination, defenselessness,<sup>78</sup> and poverty. The separate legacies are not mentioned.

The last paragraph contains this sentence: “Today throughout the world several million men, women and children are still held in slavery, despite the fact that officially it has been banned in all countries.” The reference to continuing modern slavery in this context represents a revisionist discourse. This is the language of the perpetrators and their descendants all over the world: others committed crimes, too, so mine counts less. Yes, modern slavery exists, but this does not reduce the guilt of the enslavers or the responsibility of their descendants to do something to reduce the damage, especially when they have inherited fortunes based on the exploitation of enslaved people. More important than what the texts says is what it does not say: there is no apology for enslavement. There is no commitment to reparation for enslavement.

Roger de Jaham did not inherit a fortune (his grandfather split the inheritance), but he did inherit the social capital of his caste and became a successful entrepreneur in computing and printing with 200 employees.<sup>79</sup> Yet others are rich heirs: the Hayot, Despointes, Loret, Barbotteau, Viviès, de Reynal, de Lucy and Aubéry. The *békés* do not own everything any longer (there are investors from France and a local bourgeoisie of various non-white origins), but this less than 1% of the population still possesses 52% of the agricultural land and dominates the production of rum and bananas,<sup>80</sup> for which they receive large subsidies from the European Union.<sup>81</sup> The Bernard Hayot group, for

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78 For an example of the descendant of another family of enslavers who got away with murder in 2004 like the brothers Jaham in 1846 (although the crime was proven, the family of the victim won the civil case in 2007), see Ulrike Schmieder, “Les sévices commis par la famille Desgrottes, histoires de maltraitance d’esclaves et de leur résistance à la Martinique,” *Millars. Espai i història* 42, no. 1 (2017): 193–217, esp. 212.

79 Louis, “Roger de Jaham”.

80 Interview with Caroline Oudin-Bastide, “Les békés des Antilles françaises: une survivance?” *Revue Geste* 6 (2006): 259–75, esp. 261, <https://www.revue-geste.fr/articles/geste6/Geste%2006%20Esclavage%202%20Oudin.pdf> [accessed 21.09.2022]. Martinican interviewees pointed to the fact that the economic power of the Békés is stronger than this percentage suggests, because they own the best lands (for agriculture and tourism) at the coasts, interview with Alex Ferdinand (23.05.2022).

81 For instance, the Huyghes Despointes, Simonet, Viviés and Jaham families, all descendants of enslavers prosecuted for *sevices*: Lisa David, “Tour de Martinique des subventions européennes,” *Blogs. Mediapart*, 03.02.2016, <https://blogs.mediapart.fr/lisadavid/blog/030213/tour-de-martinique-des-subventions-europeennes> [accessed 21.09.2022]. CAOM, FM SG MAR, box 33, dossier 285, Esclavage, sévices. Tableau des affaires de sévices. Affaires. Diverses. Correspondance ministérielle et coloniale, 1844–1848. Extrait des Greffes de la Cour Royale, 01.12.1845, Jean-Louis Simonet from Le Robert was condemned to one month in prison, a derisory fine of 50 francs and payment of the costs of the trial for *sevices* against his enslaved Laurencin (the death of another enslaved Maximin was attributed by the jury to a stomach ailment, not to the severe flogging of the sick man) (On Despointes see note 87). On the trial of Vivié (or Viviés) see Caroline Oudin-Bastide, *Maîtres accusés, esclaves accusateurs: les procès Gosset et Vivié (Martinique, 1848)* (Mont-Saint-Aignan: Presses universitaires de Rouen et du Havre, 2015); Schmieder, *Nach der Sklaverei*: 145–46. Sully (Paul-Germain) Vivié was condemned to 15 months in prison, the longest prison sentence ever pronounced for mistreatment (in his case, a long list of nightmarish tortures which

example, controls the import of cars, while the Despointes family owns the biggest food factories.<sup>82</sup>

In 2009, during mass socio-economic protests by Martinicans and Guadeloupeans, Roger de Jaham gave an interview to journalists of *Le Monde* and appeared shocked by the fact that a man refused to shake his hand and that he was accused of being an exploiter and racist. He said that in his family slavery was not spoken about and “For us, too, it was a burden.” He admitted to having read the files about the crimes of Octave de Jaham only recently. Then, he was 60 years old. There must have been a strong inclination not to know. The interviewers pointed out that “slavery had disappeared, but the masters stayed, from father to son.” The journalists also highlighted the persisting endogamy among the *békés*. Alain Huygues-Despointes, the patriarch of the powerful Despointes family and descendant of an enslaver-torturer<sup>83</sup> like Roger de Jaham, said in a documentary on *Canal+* in 2009 that “we wanted to preserve the race”. He would not like different types and skin colours in one family, which would be the result of mixed marriages. The documentary showed the huts and barracks of labourers and the luxurious big houses hidden away on big estates. It pointed out *béké* landownership as described above, including their control of 40% of the supermarkets and 90% of the food production. Alain Huygues-Despointes said of the slavery past:

Historians exaggerate the problems somewhat. They speak above all about the bad sides of slavery. But there are also good sides. [. . .] There are settlers who were humane with their slaves. They freed them. They gave them the possibility of having an occupation, possessions . . .<sup>84</sup>

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led to the death of a woman and a seven-year-old girl), but he fled to the Danish-Caribbean island of Saint-Thomas.

**82** Béatrice Gurrey and Benoît Hopquin, “Békés: une affaire d’héritage. Derrière les revendications des manifestants guadeloupéens et martiniquais supprime la plaie jamais soignée de l’esclavage” (includes the interview with Roger de Jaham), *Le Monde*, 28.02.2009, [https://www.lemonde.fr/societe/article/2009/02/28/bekes-une-affaire-d-heritage\\_1161662\\_3224.html](https://www.lemonde.fr/societe/article/2009/02/28/bekes-une-affaire-d-heritage_1161662_3224.html) [accessed 21.09.2022].

**83** CAOM, FM SG MAR, box 169, dossier 1538. Comptes rendus d’assises. Jugements de sévices contre les esclaves. 1847–1848, Rapport du Procureur Général au Gouverneur, 26.03.1848: Louis Noël Huyghes Despointes, brother of the great-great-great-grandfather of Alain Huygues-Despointes, was condemned to two months’ imprisonment, a fine of 200 francs and payment of the costs of the trial for mistreatment of Barthélemy and Elise, 09.03.1848. For the family relations see <https://gw.geneanet.org/> [accessed 21.09.2022].

**84** Romain Bolzinger, *Les Derniers Maîtres de la Martinique*, documentary (includes the interview with Alain Huygues-Despointes), 30.01.2009, <https://vimeo.com/3221400> [accessed 21.09.2022]. For this “defense of a crime against humanity” he was sentenced to a fine of 7,500 € in 2010 but absolved in 2013. The plaintiffs had been the Mouvement contre le racisme et pour l’amitié entre les peuples (MRAP), SOS Racisme and the Ligue des droits de l’Homme (LICRA) (Chivallon, *L’esclavage*: 512; Pedro Monnerville, “Alain Hugues-Despointes réhabilité!” 07.12.2013, <https://la1ere.francetvinfo.fr/martini-que/2013/02/06/alain-hugues-despointes-rehabilite-13687.html> [accessed 21.09.2022].



The film also refers to post-emancipation exploitation of black workers and racist segregation. In interviews, banana plantation field workers who were on strike said “we are slaves”, “modern slaves” and named big *békés* as their employers.<sup>85</sup> This expresses a self-perception of remaining subalternity, not a juridical status, but in labour relations the still marked dependency of rural labourers on the descendants of enslavers is a reality in the not fully decolonized society of Martinique.

The statements by Alain Huygues-Despointes, whose father was married to a woman of the Jaham family, showed his racism, his unchanged views on slavery since nineteenth-century colonialism and, lastly, the irreconcilability of memories of the descendants of enslavers and enslaved (and also the discrepancy between the *béké* discourse about enslavement with the results of serious, archive-based academic historiography). It made Roger de Jaham’s intention of rehabilitating the *békés* rather difficult to achieve. In 2009, he published a long text belittling the socio-economic and political power of the *békés*.<sup>86</sup>

In 2010, Roger de Jaham was criticized by a former member of the city council of Fort-de-France, the journalist and caricaturist Camille Chauvet, because the former’s association Tous Créoles! participated in a commemorative ceremony at the above-mentioned CAP 110 monument. Camille Chauvet saw this as “profanation” and “sacrilege”, because the organization had never apologized for slavery, and he quoted at length from the archival records of the Jaham case (thus, the activities of Roger de Jaham contributed very much to publicizing his ancestors’ crime, which was surely not his intention). Chauvet denounced the journalist André Petricien alias Tony Delsham, a member of Tous Créoles!, who attended the ceremony as Roger de Jaham’s “house slave”.<sup>87</sup> The accusatory differentiation between “field negro” = fighters for the rights of blacks, and “house negro” (whose privileges and identification with the

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85 Bolzinger, *Les Derniers Maîtres*. Another topic of the protests and the documentary was the exorbitant price of food (2 to 4 times higher than in metropolitan France; even the bananas are more expensive), unaffordable for people paid the SMIC (minimum wage), as most Martinicans are. The prices are explained by the monopoly of some *béké* families in food production and both external and internal trade. Finally, the documentary reports on the contamination by chlordecone.

86 Roger de Jaham, “La place des békés à la Martinique,” Tous Créoles!, 05.09.2009, <http://www.touscreoles.fr/wp-content/uploads/2010/06/LA-PLACE-DES-BEKES-A-LA-MARTINIQUE2.pdf> [accessed 21.09.2022].

87 Camille Chauvet, “Le béké Roger de Jaham et son nègre domestique André Petricien alias Tony Delsham ont décidé de profaner le CAP 110 au Diamant,” *Le Naïf*, 21.05.2010, [https://www.makacla.com/LE-BEKE-ROGER-DE-JAHAM-ET-SON-NEGRE-DOMESTIQUE-ANDRE-PETRICIEN-ALIAS-TONY-DEL-SHAM-ONT-DECIDE-DE-PROFANER-LE-CAP-110-AU\\_a660.html](https://www.makacla.com/LE-BEKE-ROGER-DE-JAHAM-ET-SON-NEGRE-DOMESTIQUE-ANDRE-PETRICIEN-ALIAS-TONY-DEL-SHAM-ONT-DECIDE-DE-PROFANER-LE-CAP-110-AU_a660.html) [accessed 21.09.2022] (Camille Chauvet is a controversial figure, but very active on Martinican websites. Behind this conflict with Tony Delsham, who was his predecessor on the journal *Le Naïf*, and with Roger de Jaham, who was a friend, there lies obviously a personal dispute, Béral, *La commémoration*: 21, 87).

enslaver are exaggerated) = collaborators of whites, stems from the Afro-American leader Malcolm X,<sup>88</sup> whom Chauvet also quotes at length in his article.

Whereas Afro-Martinicans who collaborated with Roger de Jaham were severely taken to task in the media, the latter explained in a radio interview in 2011 that his forefather, who had come to Martinique as an indentured servant (a contract labourer in the early times of the colony) for 36 months, “was less than nothing, less than a slave”, the latter having at least a market value.<sup>89</sup> This narrative by Roger de Jaham – “my ancestors were the greater victims” – which is surely not an expression of honest regret at the enslavist past of his ancestors in the nineteenth century, provoked Garcin Malsa, the mayor of Sainte-Anne, president of the Mouvement International pour la Réparation (MIR), to take court action with the French NGO Collectif des Fils et Filles d’Africains Déportés (COFFAD) against Tous Créoles! The charge was that of “the offence of justifying crimes against humanity and incitement and provocation of racial hatred”. The MIR lost the case but received much publicity for it.<sup>90</sup>

Most Martinican politicians do not express such radical demands as the MIR and are not followers of Malcolm X. Nevertheless, the local politics of memory in Martinique have changed profoundly since 1998, towards a stronger focus on the agency and resistance of the enslaved.<sup>91</sup> In France, the still-dominant narrative may be summed up thus: French philanthropists and rebellious slaves fought together against slavery. Republican France abolished slavery in 1794 and 1848. Then, the freedmen became happy citizens of the founding nation of universal human rights.<sup>92</sup> In contrast, indemnification

88 For the original text see Malcolm X, “Message to the Grass Roots,” 10.11.1963, <https://www.blackpast.org/african-american-history/speeches-african-american-history/1963-malcolm-x-message-grassroots/> [accessed 21.09.2022].

89 Interview with Harry Eliézer, *L’heure ultramarine*, 15.08.2011, <https://www.franceinter.fr/emissions/l-heure-ultramarine/l-heure-ultramarine-15-aout-2011> [accessed 21.09.2022] (in response to Harry Eliézer’s question by what a “thirty-six month” was), “Le MIR traîne le Martiniquais Roger de Jaham devant la ‘justice coloniale française’,” 08.09.2014, <https://creoleways.com/2014/09/08/roger-de-jaham-le-mir-traîne-un-martiniquais-devant-la-justice-coloniale-francaise/> [accessed 21.09.2022].

90 On the trial, see Liyannaj Kont Pwofitasyon, “COMMUNIQUE du #LKP à propos du procès de DE JAHAM ce lundi 17 à Fort-de-France en #Martinique,” 17.11.2014, <https://www.bondamanjak.com/communique-du-lkp-a-propos-du-proces-de-de-jaham-ce-lundi-17-a-fort-de-france-en-martinique/> [accessed 21.09.2022].

91 Béral counts 18 memorials for maroons, enslaved rebels, resisters and self-liberators, Béral, *Les œuvres*: 17.

92 This narrative is recounted in every French museum featuring exhibits about slavery and abolition that I visited in 2018 and 2019 and in the official ceremonies of 10 May in France (observed on 10 May 2018 and 2019 in Bordeaux, at the Quays, and 10 May 2018 in Paris, in the Jardin du Luxembourg, near the monument “Le cri, l’écrit”, Fabrice Hyber, 2007). The same thinking is found in President Macron’s message on 10 May 2020: “Let us remember the heroes of freedom who turned against slavery,” <https://www.facebook.com/EmmanuelMacron/posts/2750647045167864> [accessed 21.09.2022]. After the 2021 conflicts about Napoleon Bonaparte and re-enslavement of Antilleans, President Macron preferred in 2021 and 2022 to participate in the commemorative event on 10 May without giving a speech. The museum in Nantes prudently chose a more critical approach in its last temporary

of the enslavers instead of the enslaved, post-emancipation colonialism, the persistence of dependency, post-slavery forced labour and racist exclusion and continuing resistance have become the focus of the politics of memory on the islands.

When Christine Chivallon interviewed the descendants of the rebels of 1870 in 2004, the interviewees remembered having been stigmatized as descendants of “the murderers of Codé” in their youth.<sup>93</sup> Louis Cléo Codé, a white supremacist and monarchist, a member of the jury in the racist trial against the Afro-Martinican Léopold Lubin, a catalyst of the liberation war of 22 September 1870 in the south of Martinique, gloated over the harsh punishment of Lubin and hoisted a white flag on his plantation, the symbol of the *ancien régime* and the wish to re-introduce slavery. He was killed by local people on his plantation.<sup>94</sup> For generations, he was presented as a white Christian martyr killed by a savage black mob and was honoured by a Catholic procession passing a cross erected for him, whereas the hundreds of Afro-Martinicans who were shot on site or died in the penal colonies of Guyana were not even counted exactly<sup>95</sup> – Black lives did not matter. Although there has been a re-writing of this history by pro-independence intellectuals and local commemorations<sup>96</sup> since the centenary of the insurrection, it was only in 2013 that Lumina Sophie, Louis Telga and Eugène Lacaille, the leaders of the liberation war, had a monument (by Éliisa Albert and Alain Ozier) erected for them in Rivière-Pilote, where the war had started.

In 2020, the author of a contribution on the TV channel *la1ereFrancetvinfo*, Peggy Pinel-Fereol, spoke about “our Martinican heroes”; the audio-producers Sangha Fagour and François Marlin called them “symbols of the anticolonial fight”. In an interview with them, the memorial and pro-independence activist Alex Ferdinand remembered changes of street names from enslavers to enslaved rebels and the heroes of 1870 as

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exhibition: Ulrike Schmieder, “Exhibition: L’Abîme. Nantes dans la traite atlantique et l’esclavage colonial 1707–1830/The Abyss. Nantes’s Role in the Slave Trade and Colonial Slavery 1707–1830. Château des Ducs de Bretagne/Musée d’Histoire, Nantes, 16 October 2021–19 June 2022. Catalogue: Krystel Gualdé, L’Abîme. Nantes dans la traite atlantique et l’esclavage colonial 1707–1830, Nantes: Presses Universitaires de Rennes, 2021, 321 pp.,” *Comparativ. Zeitschrift für Globalgeschichte und vergleichende Gesellschaftsforschung* 32, no. 1 (2022): 318–23.

<sup>93</sup> Christine Chivallon, *L’esclavage, du souvenir à la mémoire, Contribution à une anthropologie de la Caraïbe* (Paris: Karthala, 2012): 353–55.

<sup>94</sup> Léopold Lubin, an Afro-Martinican, was banished to the penal colony of French Guyana for five years and fined (1,500 francs = 1,500 days’ wages) for inflicting bodily harm on a white man, although an injury this white man had previously done to him had not been prosecuted. For details, see Schmieder, *Nach der Sklaverei*: 348–50. For a day-by day-account of the events of the insurrection, see Pago, *L’insurrection*.

<sup>95</sup> Chivallon, *L’esclavage, du souvenir à la mémoire*: 219–20, 355–59.

<sup>96</sup> Alex Ferdinand et al., *Septembre 1870*, typewritten manuscript, Rivière-Pilote 1970. Nicolas, *L’insurrection du Sud*; Gilbert Pago, “Histoire antillaise. L’insurrection du Sud, contribution à l’étude sociale de la Martinique,” *Groupe Universitaire de Recherches Inter-Caraïbes* 14 (1974). In the 1970s, there were still people living who had known participants of what they called the “revolution of 1870” who could narrate their counter-memories. Interview with Alex Ferdinand, 23.05.2022.

early as 1984 under mayor Alfred Marie-Jeanne,<sup>97</sup> President of the Mouvement Indépendantiste Martiniquais (MIM). The 150th anniversary of the “Insurrection of the South” in 2020 was commemorated with big festivities honouring particularly the rebellious women of 1870 in Martinique.<sup>98</sup> The FME commemorated the event with a livestream titled “Martinique 1870: Martinique 1870: The Insurrection and the Republic – The Unfinished Abolition”. The idea of an unfinished abolition of slavery broke with the above-mentioned discourse about an abolition that had made freedmen equal citizens.<sup>99</sup>

The focus of post-emancipation resistance goes against the reconciliation discourse of *Tous Créoles!*, of course, because the legacy of enslavement becomes visible in social injustice and racism and one does not speak about a slavery past with an end to be commemorated. The debates provoked by Roger de Jaham showed the absolute incompatibility of remembrance of the slavery past among the *békés*, now also perceived as unpunished poisoners, and their colonial nostalgia and the Afro-Martinican majority and their traumas, re-activated by the ecological catastrophe. Martinican interviewees declared that the reconciliation proposed by *Tous Créoles!* had failed and criticized the association’s narrative and politics in harsh terms. Elisabeth Landi, history teacher, a descendant of Italian immigrants as well as a member of the leftist, pro-autonomy Parti Progressiste Martiniquais, believes that *Tous Créoles!* (why not ‘*Tous Martiniquais!*’ according to her?) narrates “the ideology of white creoles, enslavers, the white ideology of domination”. Her colleague and president of this NGO, Elsa Juston, would not cooperate with them and thus support their aspiration to dominance. If the descendants of enslavers wish to do something for historical research and remembrance of slavery, they should open up their private archives, which they refuse to do. She has the same opinion about a new association, founded by the same group of people, *Construire notre vivre-ensemble*, under the presidency of the *béké* Guillaume de Reynal, an old friend of Roger de Jaham.

Christian Jean-Etienne, from the memorial association *Comité Devoir de Mémoire*, said:

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97 Peggy Pinel-Fereol, “À Rivière-Pilote on rend hommage, depuis longtemps aux héros de l’histoire martiniquaise,” includes an interview with Alex Ferdinand, *FranceTVInfo*, 27.05.2020, <https://la1ere.francetvinfo.fr/martinique/riviere-pilote-on-rend-hommage-longtemps-aux-heros-histoire-martiniquaise-836618.html> [accessed 21.09.2022].

98 See the commemoration of the Union des Femmes Martiniquaises on the plantation Le Mauny, Rivière-Pilote, where the war broke out, under the rallying cry: “Fanm limié: léritaj lensireksion lisid,” 19.09.2020, <https://openagenda.com/jep-2020-martinique/events/150degre-anniversaire-de-linsurrection-du-sud-de-1870-fanm-limie-leritaj-lensireksion-lisid?lang=de?lang=en> [accessed 21.09.2022]. The official celebration was organized by the *Collectivité Territoriale de Martinique* in Fort-de-France, Glorisyé Septanm 70: Cent Cinquantenaire de l’Insurrection du Sud 19.09.2020, <https://www.collectivitedemartinique.mq/gloriye-septanm-70> [accessed 21.09.2022].

99 FME, *Martinique 1870: L’insurrection et la république – L’abolition Inachevée*. 19.9.2020, <https://www.facebook.com/fondationpourlamemoiredelesclavage/videos/336532087658664/> [accessed 21.09.2022].

But for us, the Comité Devoir de Mémoire, we did not believe in the sincerity of the creation of this Tous Créoles!. It is not sincere, because it was part of an attempt to conceal the historical truth. [. . .]. We are fighting against forgetting, against amnesia. And they are more in favour of turning the page [. . .].<sup>100</sup>

As Rodolphe Solbiac, a cultural studies specialist and expert on Anglophone literatures, as well as a member of the Comité National pour les Réparations and the Martinican correspondent of the Caribbean Community (CARICOM) Reparation Movement, explained: “I think they deceive fewer and fewer people. [. . .] Tous Créoles! is a strategy of the *bekés* in order to continue to dominate, and to control and hinder the duty of memory [. . .].”<sup>101</sup>

In 2017, Roger de Jaham died. Tous Créoles! took the initiative of creating a commemorative book called *Créoles tout bonnement*. All the testimonies contained in it came from members of the association, who were of different ethnic origins, but did not represent the views on enslavement and its heritage held by the Afro-descendant majority of the Martinican population.<sup>102</sup> Since 2021, the association has a co-presidency of a Person of Colour, Gérard Dorwling-Carter and Dorothee de Reynal from a *béké* family. In the 2000s, the image of a Martinican nation based on African or African and indigenous (Kalinago) roots became more popular than ideas of creoleness. Dominique Monutuka, the ideologue of this movement and a member of the MIR, speaks of “the decreolization as ‘requirement of liberation’.”<sup>103</sup>

The events of 2020 showed that reconciliation is not attainable without apology and reparation for enslavement, agrarian reform and social justice. On 30 April 2020 (the 171st anniversary of the law on the indemnification of enslavers of 30 April 1849), the Mouvement International pour les Réparations (MIR), the Comité International des Peuples Noirs (CIPN) and other Afro-Antillean NGOs wrote a solemn declaration addressed to President Macron. It begins,

We, descendants of Africans reduced to slavery, and whose condition, 172 years after the second abolition of slavery in 1848, remains that of dominated and humiliated men and women [. . .]

**100** Interviews with Elisabeth Landi (18.09.2020), Christian Jean-Etienne (25.09.2020) and Elsa Juston (06.11.2020). Other interlocutors who are opposed to the politics of Tous Créoles! and think that reconciliation is a distant prospect and only possible if socio-economic inequalities can be overcome were Gilbert Pago, interview 19.10.2020, Justin Daniel, interview 10.09.2020, Dominique Rogers, interview 16.09.2020.

**101** Interview 18.12.2020.

**102** Daniel Betis, “Un livre en hommage à Roger De Jaham, l’homme qui a brisé le silence chez les *békés*,” 13.06.2019, <https://la1ere.francetvinfo.fr/martinique/livre-hommage-roger-jaham-homme-qui-brise-silence-bekes-720584.html> [accessed 21.09.2022].

**103** Dominique Monutuka, “Devoir de transmission. ‘La décréolisation condition de la libération’,” 08.05.2020, <https://www.youtube.com/watch?v=qVe44cayMQ8> [accessed 21.09.2022]. *Vété-Congolo, Créolisation: 787*. The focus on African and indigenous roots forming his own identity appeared for instance in the interview with Rodolphe Solbiac, 18.12.2020. Benoît Bérard observed the comeback of a racialized identity in Martinican political thinking (interview 18.10.2021).

The declaration judges the second abolition thus:

Aware that the second abolition of slavery of April 27th 1848, was a hypocritical abolition that did not, under any circumstances, represent a condemnation of the slavery system, but rather a covenant, a financial settlement among friends and thugs, between the French state and the slavers, after harsh negotiations over the cost of buying back each and every head of enslaved African.

It criticizes the Taubira law in these terms:

Realizing that the May 10th 2001, TAUBIRA Law, unanimously voted by the French senate and recognizing slavery and the African slave trade as crimes against Humanity was just another trickery used by the French parliamentarians in their effort to clear the French national conscience, as the French Constitutional Court later declared without any moral concerns that unlike the law condemning the SHOA, this law was only memorial and had no normative force whatsoever.

The manifest describes the current situation of the island thus:

Noting that up to this time, the *Békés* and other descendants of the slavers who benefited from the compensations for the loss of those enslaved people whom they considered to be their ‘cattle’ are far wealthier and more powerful than prior to the second abolition of slavery, the likes of Bernard HAYOT and the *béké* cast in Guadeloupe and Martinique.

Considering that up to this time, our countries are run by prefects, representing the French colonial state, and by a swarm of ‘blanfwans’ all the key administrative, economic and financial positions, who pin us down into the subservient roles of agents or subordinates.

And the MIR defines its political aims as follows:

DECLARE THAT THE SECOND ABOLITION OF SLAVERY WAS IMPERFECT AND UNFINISHED, AND THAT IT DEPENDS ON US, DESCENDANTS OF THE AFRICANS DEPORTED AND REDUCED INTO SLAVERY, TO INITIATE THE TRUE DECOLONIZATION OF OUR PEOPLES, BASED ON OUR RIGHTS TO REPARATION, TO EMANCIPATION, AND TO SOVEREIGNTY. THIS FORTHCOMING DECOLONIZATION WILL FINALLY RESTORE OUR UNCOMPROMISED HUMAN, MATERIAL, MORAL AND POLITICAL RIGHTS, IN OUR ABSOLUTE FREEDOM, AND IN OUR TRUE AND DISTINCT IDENTITY.<sup>104</sup>

The activists define themselves in the quoted text as “descendants of Africans reduced to slavery” and (still) “dominated and humiliated men and women”, a focus on their (inherited) status as victims, the legacy of enslavement, with an explicitly distinct (non-French) identity, stemming from their African ancestors. Their enemies are the *békés*, descendants of enslavers, and the *blanfswans* (Martinican creole for ‘French whites’) in the higher posts of the colonial bureaucracy. Abolition with indemnification of enslavers is seen as hypocritical and unfinished business. The *real* emancipation, the acquisition of

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104 Déclaration solennelle du 30 avril 2020 d’associations afro-caribéennes, 30.04.2020 on Facebook MIR Martinique officiel (French and English version produced by the association): <https://www.facebook.com/mirmartinikofficiel/photos/pcb.2772384316142210/2772384059475569/?type=3&theater> [accessed 21.09.2022].

human and political rights, decolonization, sovereignty are aims to fight for, not achievements. This “*discours victimaire*” by the MIR as well as by French Antillean organizations, such as the Comité Marche 98 (CM98), which fought for May 23 as the National Day of Remembrance in homage to the Victims of Colonial Slavery, is, of course, not shared by all Martinicans of African descent.<sup>105</sup>

The text remains vague about what reparations could be and what political form the wished-for sovereignty should have: should Martinique become an independent state? The vagueness may result from the fact that a referendum in 2010 produced a majority for remaining a *département d'outremer*. For all their hatred of French colonial rule, Martinicans fear the fate of Haiti in the event of independence. The Martinican political scientist Justin Daniel calls that situation a “dead end”: Independence is neither desired nor attainable; the status of overseas department did not overcome the hated coloniality, and nobody knows what autonomy could be. As far as material reparations are concerned, the distribution of *béké* land and reparation funds would only make sense, according to him, with a very precise plan of socio-economic reforms moving away from the export-oriented model of the economy, and strengthening the regional integration into the Caribbean instead of an orientation towards France and Europe.<sup>106</sup> The association Devoir de Mémoire opts for a combination of reparations on different levels: psychology (access to knowledge, funding for libraries, the publication of master and doctoral theses written on the island to combat the feeling of inferiority), education (teaching the history of slavery as a shared history between the Caribbean and Europe, better access to sources), and the economy (promotion of a diversification of agriculture, self-sufficiency in food, access to land through the purchase of unused land by the Société Aménagement Foncier et d'Établissement Rural and selling and renting to young local farmers, and cooperation with other Caribbean islands).<sup>107</sup> Historian Gilbert Pago demands investment in infrastructure, a diversified and sustainable agriculture, in education and health, and a fairer distribution of wealth, resources and income.<sup>108</sup> Elsa Juston has spoken out for a reform of the health care system and the recognition of chlordecone pollution as an occupational disease and corresponding compensation, as well as an agrarian reform in the sense of promoting projects leading to less inequality, not as individual grants, and access to land for young farmers.<sup>109</sup> Those interviewed did not seek individual reparation payments or land grants, as the

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**105** In interviews, this discourse was criticized by Dominique Rogers (16.09.2020) on behalf of the MIR and by Rodolphe Solbiac (18.12.2020) on behalf of the CM98. A published critique by Syliane Larcher, political scientist, philosopher and sociologist with Martinican roots: Syliane Larcher “Les errances de la mémoire de l’esclavage colonial et la démocratie française aujourd’hui,” *Cités* 1 (2006): 153–63. She even speaks of the “abuse of memory” by victim-centred remembrance which should be replaced by a deep knowledge of history and respect for the capacities of the enslaved to resist and survive.

**106** Interview 10.09.2020.

**107** Interview 25.09.2020.

**108** Interview 19.10.2020.

**109** Interview 06.11.2020.

appropriate recipients would be difficult to identify in an ethnically mixed society. Such payments could lead to corruption and would create new social tensions. In contrast, the MIR went to court in 2005 in order to demand 240 billion Euros as reparation for slavery for the people of Martinique. This was an estimate of the compensation paid to enslavers, which should be paid to the victims of slavery, not the perpetrators, and the retroactive payment for the unpaid work of enslaved Africans and their descendants between the seventeenth century and today. The sum should be specified by a commission of experts. Garcin Malsa said in an interview given to the Martinican historian Béatrice Béral who should pay (i.e., the French state and the beneficiaries of the compensation for the loss of the enslaved), but he did not explain to whom exactly the money should be paid, how it would be distributed, for which purposes, and so on.<sup>110</sup> In a conversation with me, his daughter and Vice-President of the MIR, Myriam Malsa, specified that the financial reparations should not lead to individual payments, but be used to develop the island economically as requirement for a de-colonization and Martinique's independence.<sup>111</sup> On 18 January 2022, the Court of Appeals in Fort-de-France rejected the lawsuit of the MIR as time-barred. The Taubira law would exclude the indemnification of the descendants.<sup>112</sup>

Christiane Taubira, the author of the law which recognized slavery as a crime against humanity (and which had originally included a paragraph about reparation that was removed two days before voting by the commission of laws), explained that she had not sought individual or collective payments but cultural reparation and wanted to overcome the legacies of slavery such as the unequal distribution of arable land on the islands through agrarian reform.<sup>113</sup>

Within the context of the global movement of toppling statues after the assassination of George Floyd in Minneapolis on 25 May 2020 and the boom of the global Black Lives Matter movement, the monument for Pierre Belain d'Esnameux (the conqueror of Martinique) in Fort-de-France was toppled together with the statue of Joséphine de Beauharnais on 26 July 2020. Soon afterwards, on 6 August 2020, the monument for the first governor of Martinique, Jacques Du Parquet, was dismantled in Prêcheur.<sup>114</sup> This is perhaps not surprising given the anger of Afro-descendants about racist violence and

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**110** Interview of Béatrice Béral with Garcin Malsa, 5. April 2012. The transcription was published in Béral, *La commémoration*: 109–20.

**111** Interview 22.06.2022.

**112** Hauteville, Jean-Michel, "Aux Antilles, une cascade de procès contre l'Etat sur la question de l'esclavage," *Le Monde*, 26.01.2022, [https://www.lemonde.fr/societe/article/2022/01/26/aux-antilles-une-cascade-de-proces-contre-l-etat-sur-la-question-de-l-esclavage\\_6111042\\_3224.html](https://www.lemonde.fr/societe/article/2022/01/26/aux-antilles-une-cascade-de-proces-contre-l-etat-sur-la-question-de-l-esclavage_6111042_3224.html) [accessed 21.09.2022].

**113** Daniel Maximin, Stéphane Pocrain, and Christiane Taubira, "Quelle mémoire de l'esclavage?" *Esprit*, 02.03.2007: 62–70, esp. 64, 67.

**114** Peggy Pinel-Fereol, "Les statues de Joséphine de Beauharnais et de Pierre Belain D'Esnameux renversées par des activistes en Martinique," 26.07.2020, <https://la1ere.francetvinfo.fr/martinique/fort-france/statues-josephine-pierre-belain-esnameux-renversees-activistes-martinique-856692.html> [accessed 21.09.2022]. Cf. also "Un symbole colonial déplacé au Prêcheur," *Créola*, 06.08.2020, <https://www>.



economic hardship in the pandemic crisis. What might need to be explained is that *before* the global felling of memorials for enslavers and colonialists, in Martinique, two statues of the white abolitionist Victor Schœlcher (in Fort-de-France and Schœlcher) were smashed by two young female activists (Alexane Yva Ozier-Lafontaine and Jay Asani) on the emblematic day of 22 May. Nowhere else in the world had monuments for abolitionists been toppled. Yet the declaration of 30 April gives an idea of why Victor Schœlcher is no longer appreciated as a liberator. Claudette Duhamel, Vice President of the MIR, insists that first and foremost, Schœlcher wanted to preserve the colonial system, not ensure the well-being of Africans reduced to slavery, and that in the 1830s he was against the immediate and total liberation of Black people, because they were not human beings in his opinion, but men who needed to be led to humanity.<sup>115</sup>

The two activists said that they assumed responsibility for the act they committed because “we have had enough, we, young Martinican women, of symbols which insult us”. They would neither be the first nor the only ones who wanted to topple these monuments, but earlier demands had not led to their removal. Monuments should be created to honour persons who performed important, admirable actions in history, but “Schœlcher was completely in favour of the compensation of enslavers”. They doubted that the economic domination of the *békés* today would exist without that compensation.<sup>116</sup> The role of Schœlcher in the indemnification of enslavers was more complex, as explained the activists’ video.<sup>117</sup>

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[martinique.franceantilles.fr/creola/videos/un-symbole-colonial-deplace-au-precheur-558346.php](http://martinique.franceantilles.fr/creola/videos/un-symbole-colonial-deplace-au-precheur-558346.php) [accessed 21.09.2022].

**115** As a historian, I wonder why nobody ever looks at what Victor Schœlcher did after the abolition of slavery. He was the only white abolitionist who criticized the forced labour system and racist exclusion of freedmen (see his book: Victor Schœlcher, *La vérité aux ouvriers et cultivateurs de la Martinique* [Paris: Pagnerre, 1849]: 326–43). Obviously, this is not known. Without any doubt, Victor Schœlcher was an assimilationist colonialist. He wanted to give full citizenship to all people in the French territories on the condition that they accepted the values of the French Republic. For this aim, he fought for access to education for everybody independent of his or her skin colour. This is a far cry from an independent Martinican nation based on African values and culture, but it is not *béké* thinking either.

**116** Bruno Sat, “Statues de Schœlcher brisées en Martinique: réflexion avec deux spécialistes de l’esclavage,” <https://la1ere.francetvinfo.fr/statues-schoelcher-brisees-martinique-reflexion-deux-specialistes-esclavage-838076.html> [accessed 21.09.2022] (the report included the video with the quoted statements of the activists which was later deleted).

**117** After the toppling of the statues, the association Oliwon Lakarayib put together the most important facts and sources in the video available at <https://oliwonlakarayib.com/quel-est-le-role-de-victor-schoelcher-dans-labolition-de-lesclavage/> [accessed 21.09.2022]. Victor Schœlcher developed from a gradualist abolitionist in the 1830s to a radical abolitionist (in favour of immediate abolition) in the 1840s. By 1848, slavery was for him “*un crime de lèse-humanité*” (a crime against humanity). The final report of the commission for the abolition of slavery signed by him and Henri Wallon spoke of “a just remuneration” for the freedmen. He thought that the indemnification of the enslavers was necessary because slavery was not legitimate, but legal, authorized by the state, and because the proprietors would need that compensation to pay wages to their freed workers. However, the planter lobby

The action was welcomed by local reparationists.<sup>118</sup> In contrast, Afro-Martinican writer Patrick Chamoiseau stated that it was not Victor Schœlcher, who fought relentlessly against slavery, who should be the enemy, but rather *schœlcherisme*, which neglected the resistance of the enslaved.<sup>119</sup> In general, Afro-Martinicans are divided about these actions. Municipal memorial commissions have been created to decide on a new toponymy of remembrance for their towns. A small survey among students of history at the Université des Antilles undertaken at the instigation and with the support of Dr Dominique Rogers, a lecturer at the university, showed that only one student out of twelve explicitly welcomed the toppling of the statue, while the others criticized it or refrained from judging it. This does not mean that they were in favour of honouring the personalities represented; six of them expressed the wish that the monuments be used to explain the relevant history.<sup>120</sup>

An analysis of the politics of memory should not ask whether the destruction of the statues of Victor Schœlcher is justified vis-à-vis the historical person, but rather what this act says about the legacy of slavery 172 years after its official final abolition. Obviously, young Afro-Martinican descendants of enslaved people, at least some of them, are profoundly discontent, even desperate about the socio-economic situation and politics, including the politics of memory of slavery and abolition. The immediate condemnations of the toppling of the monuments, as expressed by the President of the Republic, Emmanuel Macron, the Minister of Overseas France, Annick Girardin, the president of the Fondation pour la Mémoire de l'Esclavage, Jean-Marc Ayrault, the mayor of Fort-de-France, Didier Laguerre, or the deputy of Martinique, Serge Letchimy (since 2021 President of the Conseil

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prevented that provision from being included in the decree of 27 April 1848. When the law of indemnification was voted on on 30 April 1849, the Republican left, to which Victor Schœlcher belonged, was in the minority and his proposal for an indemnification of the *affranchis* in the form of wages was not accepted. The report demanding the double indemnification (of owners and freedmen) was published in: Nelly Schmidt, *Victor Schœlcher et l'abolition de l'esclavage* (Paris: Fayard, 1999): 376–79. The documentary does not mention that Victor Schœlcher voted for the indemnification law (as well as two deputies from Martinique who were Persons of Colour, François August Perrinon and Pierre-Marie Pory-Papy). In contrast to Schœlcher, they benefitted from the law. Jessica Balguy, *Indemniser l'esclavage en 1848? Débats dans l'Empire français du XIX<sup>e</sup> siècle* (Paris: Karthala & CIRESC, 2020): 309–11.

**118** “Garcin Malsa, president of the Mouvement International pour les Réparations (MIR), offers his full support to the two activists who took part in the destruction of the two statues of Victor Schœlcher in Martinique and warns against any attempt to take action against them,” Facebook MIR official, 31.05.2020.

**119** Patrick Chamoiseau, “Bien triste. L'ennemi ce n'est pas Victor Schoelcher, mais le Schœlcherisme” (Facebook FME, 02.05.2020).

**120** The positive view: Question: “What do you think about the toppling of the statues of Victor Schœlcher, Pierre Belain d'Esnambuc, Joséphine de Beauharnais, etc.?” Answer: “This a strong signal, an implicit expression of many things unsaid. It expresses the fact that people are ready (once more) to liberate themselves from their chains.” The student is female, 24 years old, from Guadeloupe and involved in an association whose aim is to conserve the cultural heritage of the island.

Exécutif, the local Government), did not lead to any questioning of the reasons behind this development or prompt any self-criticism from political elites.<sup>121</sup>

Françoise Vergès, a political scientist from the island of Réunion as well as former president of the Comité pour la Mémoire de l'esclavage (2008) and Comité pour la Mémoire et l'Histoire de l'Esclavage (2009–2012), is a rare example of a well-known personality in French politics defending the women who toppled the statues:

[ . . . ] Bravo to these young Martinican women who rightly say that they are not the first to protest, that they belong to a long history of resistance to French colonialism. [ . . . ]

Reading all this indignation makes one wonder what is going on [ . . . ] So is there nothing more to be said about the abolition of 1848? Should it be celebrated without any mention of the fact that the settlers were compensated, racism maintained and a colonial status imposed?!!! [ . . . ]

Yes, Schœlcher has a place in the history of the abolition of slavery in the French colonies, but surely not that which the French state wishes to give him. The first abolitionists, for an immediate and definitive end to slavery and racism – who paid for the struggle with their lives were the enslaved. The Haitian Revolution did a hundred times more than French abolitionists for bringing colonial slavery to an end. [ . . . ]<sup>122</sup>

Most Martinican interviewees were not in favour of demolishing monuments<sup>123</sup>; however, they expressed opinions that cast a damning light not only on the *békés*, but also

**121** “Two statues of Victor Schœlcher smashed by demonstrators in Martinique. The anti-colonial heritage demonstrators knocked down sculptures of the man who decreed the abolition of slavery. Emmanuel Macron has firmly condemned these actions,” *Le Monde*, 23.05.2020, [https://www.lemonde.fr/societe/article/2020/05/23/deux-statues-de-victor-sch-lcher-brisees-par-des-manifestants-en-martinique\\_6040559\\_3224.html](https://www.lemonde.fr/societe/article/2020/05/23/deux-statues-de-victor-sch-lcher-brisees-par-des-manifestants-en-martinique_6040559_3224.html) [accessed 21.09.2022].

The FME also officially condemned this action. See “La Fondation condamne les destructions de statues de Victor Schoelcher en Martinique le 22 mai,” *Communiqué de Presse*, 23.05.2020, <https://memoire-esclavage.org/sites/default/files/2020-05/CP%20FME%20statues%20Schoelcher%20en%20Martinique.pdf> [accessed 21.09.2022].

**122** Françoise Vergès, “1848, c’est le colonialisme français post-esclavagiste qui se déploie,” *Témoignages*, 25.05.2020, <https://www.temoignages.re/culture/culture-et-identite/francoise-verges-applaudit-les-jeunes-martiniquaises-qui-ont-deboullonne-les-statues-de-schoelcher,98177> [accessed 21.09.2022]. In an interview (26.05.2018), Françoise Vergès insisted that not only should Paris have a major museum of slavery – as did many interviewees in both academic and militant circles – but that the museum should explain slavery *and colonialism* and the *resistance of the enslaved and colonized*. The National Committee or Foundation responsible for commemoration should refer to “*l’Histoire de l’esclavage et de la colonisation*” and be renamed accordingly.

**123** An exception was Rodolphe Solbiac, who saw the activists as part of a long tradition of struggle against an imposed worldview and hoped that demolishing the statues would accelerate a necessary debate about arriving at a convergence of decolonized memories in Europe and the Caribbean (interview 18.12.2020). See also his book: Rodolphe Solbiac, *La destruction des statues de Victor Schœlcher en Martinique. L’exigence de réparations et d’une nouvelle politique des savoirs. [The Destruction of the Statues of Victor Schœlcher in Martinique. A Demand for Reparations and a New Knowledge Policy]* (Paris: Harmattan, 2020).

on white and black political elites. For instance, retired teacher and memorial activist Christian Jean-Etienne believes that young activists are misguided in toppling the statues of an abolitionist, but he explains their action in terms of “social inequality, unbearable tension”, youth unemployment, the expensive cost of living and immense obstacles to a fair economy, and the just distribution of wealth.<sup>124</sup> Justin Daniel opines:

This conflict re-enacts old socio-racial conflicts, on one side the *békés* who consider themselves as whites, as white creoles, and on the other the blacks who define themselves as *nègres*. The question of slavery has become central [ . . . ] and leads to much debate, [ . . . ] sometimes to actions in the public space, and has led for example to the demolition of statues.<sup>125</sup>

Elisabeth Landi sees the removal of monuments and setting fire to sugar cane fields in the island’s south as the first signs of a possible civil war, noting that similar fires had preceded the liberation wars of 1848 and 1870. The inability of white and black elites to resolve the problems of desperate youth and to enter into a dialogue with the population about the public remembrance of enslavement is responsible for the crisis in her view.<sup>126</sup> Elsa Juston argues that the reasons for such anger are social inequalities, the continuing economic power and political influence of the descendants of enslavers, and the chlordecone scandal in which the *béké* minority contaminated the island in order to profit more from the monoculture of bananas, with the complicity of the French state, which does not recognize the problem and compensate rural labourers for their resulting health problems. In addition, she asserts that Martinique is a “political desert” and that “the lack of vision” after the death of famous Martinican intellectuals such as Aimé Césaire and Édouard Glissant, the “political immobility” of the political class, factionalism at the university, and the brain drain through emigration of educated young people create a frustrating situation.<sup>127</sup> The members of the *Komité Anselè*, a group of citizens, mostly fishermen, who have established a memorial site for the indigenous people and enslaved Africans buried at the cemetery of Anse Bellay, expressed criticism of the condemnation of the statue-topplers by Martinican politicians and the juridical persecution of the young activists. They interpret the actions as reckoning with *schœlcherisme* and emphasized that the media did not present the supporting voices.<sup>128</sup> The group spreads a less politicized discourse than the MIR. Mourning for the enslaved ancestors is combined with respect for their human dignity and resilience under inhumane conditions.

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124 Interview 25.09.2020.

125 Interview 10.09.2010.

126 Interview 18.09.2020.

127 Interview 06.11.2020.

128 Group interview 29.04., 27.05.2022. The cemetery at a beach at the frontier of the communities of Trois-Ilets and Anses d’Arlets was excavated by archaeologists. The group obtained the return of the human remains to an ossuary on the site. Alex Ferdinand pointed to a long tradition of painting Schœlcher in red-green-black (the colours of Martinican flag and pro-Independence movement) and the removal of his bust in Rivière-Pilote by Mayor Marie-Jeanne in 1971 (interview 23.05.2022).

From a historian's point of view, the dichotomous vision that activists such as the statue-topplers or the MIR sometimes present about enslavement (e.g., overlooking People of Colour as enslavers), resistance (e.g., focusing on liberation wars and not seeing all the legitimate variants of behaviour between adaptation and violent resistance) and emancipation (e.g., ignoring alliances between black and white abolitionists) are rather undifferentiated. The causes of the bad socio-economic situation of the Antillean islands may also be more complex than described in the letters of the MIR, CIPN and other NGOs to President Macron or than the protagonists of independence reckon. If one looks at the neighbouring British Caribbean independent states, which many or most descendants of enslavers have left by now, one sees that the neo-colonial globalization by Western powers – whose preponderance was based on Atlantic slavery and colonialism<sup>129</sup> – and recently by China works against the descendants of the enslaved on small Caribbean islands also without a remaining powerful *béké* caste and the presence of colonial functionaries.<sup>130</sup> Most of them try to earn a living from the tourism industry, which means that local descendants of enslaved Africans have to sell their culture to the profiteers of slavery (i.e., European, US-American and Canadian white people), and the profits go to international corporations, not to local people.<sup>131</sup>

Yet although the narratives of activists and the narratives of historians about enslavement are interrelated, they are different (and multiple among themselves): that is, they have different aims and follow different logics. It makes no sense to be

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**129** On this question, see recent work that follows up Eric Williams' thesis about slavery and the genesis of capitalism. For Great Britain: Joseph E. Inikori, *Africans and the Industrial Revolution in England. A Study in International Trade and Economic Development* (Cambridge: Cambridge University Press, 2002); Catherine Hall, Nicholas Draper, Keith McClelland, Katie Donington and Rachel Lang, *Legacies of British Slave Ownership. Colonial Slavery and the Formation of Victorian Britain* (Cambridge: Cambridge University Press, 2014). For France: Caroline Le Mao, "L'argent de la traite et de l'esclavage," in *Bordeaux, La Rochelle, Rochefort, Bayonne, Mémoire Noire. Histoire de l'Esclavage*, ed. Caroline Le Mao (Bordeaux: Mollat, 2020): 93–116. For the U.S.: Sven Beckert and Seth Rockmann, eds., *Slavery's Capitalism: A New History of American Economic Development* (Philadelphia: University of Pennsylvania Press, 2016). For Spain: Martín Rodrigo y Alharilla, "From Periphery to Centre: Transatlantic Capital Flows, 1830–1890," in *The Caribbean and the Atlantic World Economy. Circuits of Trade, Money and Knowledge, 1650–1914*, ed. Adrian Leonard and David Pretel (Basingstoke: Palgrave Macmillan, 2015): 217–37; Various regions: Dale Tomich, ed., *Slavery and Historical Capitalism during the Nineteenth Century* (Lanham, MD: Rowman & Littlefield, 2017). Michael Zeuske and Stephan Conermann, eds., *The Slavery / Capitalism Debate Global: From 'Capitalism and Slavery' to Slavery as Capitalism [= Comparativ. Zeitschrift für Globalgeschichte und vergleichende Gesellschaftsforschung 30, no. 5–6 (2020)]*; Tamira Combrink and Matthias van Rossum, eds., *Europe and Slavery: Revisiting the Impact of Slave-Based Activities on European Economies, 1500–1850 [= Slavery & Abolition 42, no. 1 (2021)]*.

**130** For a description of the dramatic socio-economic, health and educational situation even before the Covid-19 pandemic, see the arguments for the 10-Point Reparation Plan of the CARICOM, <https://caricomreparations.org/caricom/caricoms-10-point-reparation-plan/> [accessed 21.09.2022].

**131** For the examples of St. George's, Bermuda, and Falmouth, Jamaica, see Brent R. Fortenberry, "Heritage Justice, Conservation, and Tourism in the Greater Caribbean," *Journal of Sustainable Tourism* 29, no. 2–3 (2020): 253–76, <https://doi.org/10.1080/09669582.2020.1757684>.

annoyed that historians do not dominate the public discourse on history. What I learnt during my research on sites of memory of enslavement is to listen carefully to Afro-descendant people in Europe and the Caribbean. I have come to understand that what historians narrate as the finished history of slavery ending with emancipation, maybe with a violent colonial aftermath in the immediate post-emancipation period, what French (and British and Cuban) ministers, mayors and museums commemorate as an abolished institution, what Spanish and Portuguese politics ignore completely, is an open, bleeding wound for Afro-Caribbean people, whether they live in Europe or on the islands. Their narrative has no end, least of all a happy one. Every black man or woman mistreated or even killed, the perpetrators unpunished like the enslavers, re-activates the traumas. For Afro-Martinicans, the racist terror in the United States is like a mirror of their own situation. The white French mobile guards sent from metropolitan France run no risk of condemnation for crimes against People of Colour from the white French judiciary in the context of continuing protests against environmental pollution.<sup>132</sup>

What follows from this? Historians who work on Atlantic slavery justified by a persistent racist ideology should do less research in their ivory tower and communicate more with the civil society around them and engage more in public history, not, of course, as party politics or at the expense of professional standards in academic research and teaching, but as entering into a dialogue with civil society in general and Afro-descendant communities in particular.

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<sup>132</sup> On the latest brutalities of the security forces against a young activist see Karl Lorand, "Arrestation du 16 juillet: la version de Keziah," *Radio Caraïbes Martinique*, 19.07.2020, <https://www.rci.fm/martinique/infos/Faits-divers/Arrestation-du-16-juillet-la-version-de-Keziah> [accessed 21.09.2022]; Jean-Marc Atsé, "Kéziah n'a toujours pas de justice," *France Antilles Martinique* 30.11.2021, <https://www.martinique.franceantilles.fr/actualite/faitsdivers/keziah-n-a-toujours-pas-de-justice-594016.php> [accessed 21.09.2022].

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# Slavery and Beyond through the Lens of Judicial Reasoning – Criminal Justice and Human Rights Approaches and Perspectives

Practiced from the earliest beginnings of humanity, slavery and similar relationships continue to evoke scientific curiosity. The prohibition of slavery is an indicator of societal evolution and is incorporated into all major international human rights instruments and almost all national legal systems in the world. Reasoning in national and international courts is an important part of the necessity of slavery disapproval and condemnation. The central research question of this paper evolves around judicial reasoning in slavery case law, from a human rights law and criminal law perspective. Do we have an approach adequate to modern society's conditions? Emphasis is placed on observed slavery understandings and their (un)functionality in this area, as well as on differences in judicial reasoning with the consequence of (un)certainly of assessment criteria. The selected and compared judgements well reflect how a slavery ban is brought to life, what concept is accepted in court reasoning, what legal terminology and assessment standards are used and what are the factors indicative of slavery qualification. The found judicial connection of the definition of slavery with the nowadays legally impossible or unviable concept – ownership of a human being – directs us to research and to advocate for possibilities of more suitable legal solutions, adjusted to the spirit of time. This research focuses on the difference between the approach to understanding slavery within the perspective of human rights and criminal justice, with the latter perspective appearing more open to advanced ideas and further steps in the contemporary interpretation of slave relations.

## 1 Introductory Remarks on Slavery and Beyond

Nothing is “notably peculiar”<sup>1</sup> about slavery. In the history of humankind, it has been practiced since the earliest times. It was often embedded within the national legal order<sup>2</sup>

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1 Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge: Harvard University Press, 1982): vii.

2 Roman law was the first system that regulated slavery in detail but with understanding of its “contrary to nature” characteristic. Antony Honoré, “The Nature of Slavery,” in *The Legal Understanding of Slavery: From the Historical to the Contemporary*, ed. Jean Allain (Oxford: Oxford University Press, 2012): 9, <https://doi.org/10.1093/acprof:oso/9780199660469.003.0002>.



with prohibitions starting from the beginning of the nineteenth century.<sup>3</sup> Considering the strong nature of international and national bans, one might assume that slavery has been eradicated. Slavery prohibition belongs to *jus cogens* international crimes. It is of the highest rank, peremptory and non-derogable, placing upon states the obligation not to grant impunity to perpetrators.<sup>4</sup> It has the *erga omnes* effect<sup>5</sup> and it is the first human rights issue addressed on an international scale.<sup>6</sup> Although the first association with slavery may be previous eras of history, present-day scholars often stipulate the unsuccessfulness of legal provisions in keeping pace with the evolving nature of slavery.<sup>7</sup> We often encounter reports dealing with exploitation of vulnerability and modern slavery,<sup>8</sup> stipulating the necessity of a more effective approach in suppression of the various contemporary forms of slavery<sup>9</sup> and labelling slavery as one of the most egregious human rights violations.<sup>10</sup> It all points to the weak effect of the great number of international provisions. The Declaration Relative to the Universal Abolition of the Slave Trade of 1815, the first international document that condemned the slave trade, came into force in 1927, and it is believed that between 1815 and 1957 some 300 international agreements

<sup>3</sup> William A. Schabas, *The European Convention on Human Rights: A Commentary*, ed. Philip Alston and Vaughan Lowe (New York: Oxford University Press, 2015): 201.

<sup>4</sup> M. Cherif Bassiouni, "International Crimes: Jus Cogens and Obligatio Erga Omnes," *Law and Contemporary Problems* 59, no. 4 (1996): 66–67.

<sup>5</sup> International Court of Justice, *Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)* (Second phase: 1970) | (February 5, 1970). "In view of the importance of the rights involved, all States can be held to have a legal interest in their protection; they are obligations erga omnes. Such obligations derive, for example, in contemporary international law, from the outlawing of acts of aggression, and of genocide, as also from the principles and rules concerning the basic rights of the human person, including protection from slavery and racial discrimination.": 32, paras. 33–34.

<sup>6</sup> Lukas Knott, "Unocal Revisited: On the Difference between Slavery and Forced Labor in International Law," *Wisconsin International Law Journal* 28, no. 2 (2010): 212. After two millennia of existence it became a focus of abolition as a "global crusade", Seymour Drescher, "From Consensus to Consensus: Slavery in International Law," in *The Legal Understanding of Slavery: From the Historical to the Contemporary*, ed. Jean Allain (Oxford: Oxford University Press, 2012): 85.

<sup>7</sup> Kevin Bales and Peter T. Robbins, "No One Shall Be Held in Slavery or Servitude": A Critical Analysis of International Slavery Agreements and Concepts of Slavery," *Human Rights Review* 2, no. 2 (2001): 18.

<sup>8</sup> European Committee of Social Rights: Secretariat, "European Committee of Social Rights: Conclusions 2020," March 2021, 8, <https://rm.coe.int/esc-press-briefing-conclusions-2020-final-en/1680a1e05b> [accessed 21.09.2022]. Gulnara Shahinian, "Human Rights Council Twenty-Fourth Session, Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development. Report of the Special Rapporteur on Contemporary Forms of Slavery," July 1, 2013.

<sup>9</sup> In the Report by the Secretary General Thorbjørn Jagland for the Ministerial Session of the Council of Europe, it is emphasized that trafficking for the purpose of labour exploitation is on the rise across Europe and there is a need for renewed action based on common European standards. Thorbjørn Jagland, "Ready for Future Challenges-Reinforcing the Council of Europe," 2019: 26, <https://rm.coe.int/168093af03> [accessed 21.09.2022].

<sup>10</sup> Human Rights Council, "Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences, A/HRC/39/52," July 28, 2018: 4, [www.cfr.org/interactives/modern-slavery/#!/section6/item-38](http://www.cfr.org/interactives/modern-slavery/#!/section6/item-38) [accessed 21.09.2022].

were implemented to suppress slavery.<sup>11</sup> Despite the prohibition of slavery, various human rights documents do not provide a definition of slavery. The Universal Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights of 1966, the European Convention on Human Rights and Fundamental Freedoms of 1950, the American Convention on Human Rights of 1969, and the African Charter on Human and Peoples' Rights of 1981 are among them. At this time, the “baseline for understanding slavery”<sup>12</sup> is found in article 1(1) of the Convention to Suppress the Slave Trade and Slavery of 1926 that defines slavery by stating that “Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.”<sup>13</sup> This is the agreed upon definition of slavery in international law.<sup>14</sup> It was reiterated 30 years later in article 7a of the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery,<sup>15</sup> adding that a “slave means a person in such condition or status.”<sup>16</sup> The most prominent part are the powers attached to the right of ownership meaning that ownership appears to be the baseline of slavery but, as Allain rightfully says “this is not an accurate reading of that phrase”,<sup>17</sup> as we will see later. Despite the passage of time, there has been no consensus about the need to change the definition of slavery. Bales and Robbins even describe the

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**11** David Weissbrodt and Anti-Slavery International, “Abolishing Slavery and Its Contemporary Forms, Office of the United Nations High Commissioner for Human Rights, HR/PUB/02/4 2002” (New York/Geneva, 2002): 3. Bales and Robbins, “‘No One Shall Be Held in Slavery or Servitude’: A Critical Analysis of International Slavery Agreements and Concepts of Slavery”: 18.

**12** Jean Allain and Robin Hickey, ‘Property and Definition of Slavery,’ *International and Comparative Law Quarterly* 61 (2012): 916. Bales and Robbins, “‘No One Shall Be Held in Slavery or Servitude’: A Critical Analysis of International Slavery Agreements and Concepts of Slavery”: 19.

**13** United Nations, “Slavery Convention, 46 Stat. 2183, Treaty Series 778” (1926), <https://www.ohchr.org/en/professionalinterest/pages/slaveryconvention.aspx> [accessed 21.09.2022].

**14** Jean Allain, “The Definition of Slavery in International Law,” *Howard Law Journal* 52 (2009): 239. Schabas, *The European Convention on Human Rights: A Commentary*: 207.

**15** Neither convention predicts provisions on authority for receiving State Parties’ reports on the fulfilment of their obligations. The 1956 Convention designated these tasks to the UN Economic and Social Council. With UN Resolution 6/14 of 28 September 2007 the special rapporteur for slavery was appointed by the Human Rights Council. Urmila Bhoola and Kari Panaccione, “Slavery Crimes and the Mandate of the United Nations Special Rapporteur on Contemporary Forms of Slavery,” *Journal of International Criminal Justice* 14, no. 2 (2016): 368.

**16** United Nations, “Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, UNTS 266, I. Nos 3822–3833 (1956),” <https://www.ohchr.org/en/professionalinterest/pages/supplementaryconventionabolitionofslavery.aspx> [accessed 21.09.2022]. This Supplementary Convention also referred to servile status (practice analogue to slavery) which includes debt bondage, serfdom, and “unfree forms” of marriage and child exploitation, etc. Bales and Robbins, “‘No One Shall Be Held in Slavery or Servitude’: A Critical Analysis of International Slavery Agreements and Concepts of Slavery”: 24.

**17** Allain, “The Definition of Slavery in International Law”: 241.

definition as controversial,<sup>18</sup> so the interpretation is not without question.<sup>19</sup> Society's circumstances have certainly influenced the understanding of slavery by conditioning a need for a contemporary context, exigency of consideration of an unprecedented scope of exploitation relations, appearance of cases without previous similarities or known patterns and appearance of migration social conditions, among others.

Reflections on the notion of 'modern' or 'contemporary' slavery refer to a set of concepts: traditional slavery, servitude, debt-bondage, serfdom, forced marriage and forced labour,<sup>20</sup> and trafficking in human beings. However, there are arguments about which practices should be considered slavery regardless of context.<sup>21</sup> The authors suggest article 1 of the Slavery Convention should be seen as the common denominator upon which every state could agree. It is connected to the legal concept of ownership, leaving other forms without evidence of the master-property relationship.<sup>22</sup> (Modern) slavery vulnerability is related to labour market precariousness and changes in employment (i.e., unemployment and part-time employment, low-skilled jobs, lack of stable income)<sup>23</sup> but specific circumstances can also increase the slavery risk (i.e., being a migrant, a refugee, a displaced person or an asylum seeker).<sup>24</sup>

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18 Bales and Robbins, "No One Shall Be Held in Slavery or Servitude": A Critical Analysis of International Slavery Agreements and Concepts of Slavery": 20.

19 Barbara Herceg Pakšić, "A Contribution to Slavery Debate: Domestic Labour of Migrant Children in Focus," *Zbornik Radova Pravnog Fakulteta, Novi Sad* 53, no. 4 (2019): 1368, <https://doi.org/10.5937/zrpfns53-24134>.

20 Urmila Bhoola, "Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences, A/HRC/36/43 2" (UN, August 2, 2017): 3–4; <http://digitallibrary.un.org/record/1304115> [accessed 21.09.2022]. Forced labour is more difficult to tackle since, for example, there is no consensus regarding its definition and standards in trafficking in human beings. GRETA- Group of Experts on Action against Trafficking in Human Beings, "7th General Report on GRETA'S Activities" (Strasbourg, 2017): 32.

21 Bales and Robbins, "No One Shall Be Held in Slavery or Servitude": A Critical Analysis of International Slavery Agreements and Concepts of Slavery": 20.

22 Ramona Vijayarasa and Jose Miguel Bello Villarino, "Modern Day Slavery? A Judicial Catchall for Trafficking, Slavery and Labour Exploitation: A Critique of Tang and Rantsev," *Journal of International Law and International Relations* 9 (2013): 55–56.

23 Human Rights Council, "Current and Emerging Forms of Slavery, Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences, A/HRC/42/44," September 2019: 4, <https://digitallibrary.un.org/record/3862519> [accessed 31.10.2022].

24 Migration and refugee conditions go hand in hand with isolation and dependence, language barriers, lack of knowledge about the legal system, etc., which makes their complex situation ever more difficult. These workers have a greater risk of becoming victims of many human rights violations and different forms of abuse and in many ways depend on their employer. There are studies that point out that labour law infringements and exploitations can turn to slavery-like practices: Angelika Kartusch, "Domestic Workers in Diplomats' Households Rights Violations and Access to Justice in the Context of Diplomatic Immunity," Tübingen, June 2011, [www.bvdm-online.de](http://www.bvdm-online.de) [accessed 21.09.2022]. The study focuses on practices in Austria, Belgium, France, Germany, Switzerland, and the United Kingdom in their capacity as host states for foreign diplomatic missions and international organizations.

Although the slavery ban is present in almost all countries of the world,<sup>25</sup> in recent years, legislative actions have increased. This is particularly visible in the increase in the national criminalisation regarding holding a person in slavery or servitude,<sup>26</sup> which sometimes occurs under the influence of international and European obligations.<sup>27</sup> Still, gaps remain,<sup>28</sup> particularly in the implementation of international obligations in domestic law. If national incriminations do not govern contemporary slavery forms, international obligations become irrelevant due to judicial interpretations of offence elements.<sup>29</sup> Compared with the criminalization of slavery, forced labour or servitude are criminalized to a lesser extent, and in addition, conviction numbers are very low; so the chances for the perpetrators to be condemned are minimal.<sup>30</sup> This ‘recurring theme’ of persistent impunity and lack of accountability<sup>31</sup> suggests that due to practical inefficiency, incriminations are of a symbolic nature.<sup>32</sup> The reasons for this lie in obstacles such as complex investigations, low awareness of competent authorities, the nature of the often transnational crimes and demanding interstate cooperation, etc. Nevertheless, these rare convictions therefore serve as a standard for making judgements.

Slavery can entail many other human rights violations such as religious freedoms, the right to family life, freedom of expression, etc. It can also hide specific problems. One of these is the exploitation by diplomatic personnel where employers’ diplomatic immunity often prevents the procedure from being carried out and the host countries

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25 David Tolbert and Laura A. Smith, “Complementarity and the Investigation and Prosecution of Slavery Crimes,” *Journal of International Criminal Justice* 14, no. 2 (2016): 430, <https://doi.org/10.1093/jicj/mqw007>.

26 For example, the United Kingdom and Australia, while in Germany, Switzerland, and Canada it is under consideration. Herceg Pakšić, “A Contribution to Slavery Debate: Domestic Labour of Migrant Children in Focus”: 1368–70. For new French legislation, where the statute for the first time addressed contemporary forms of slavery by establishing a set of four offenses, see Benedicte Bourgeois, “Statutory Progress and Obstacles to Achieving an Effective Criminal Legislation Against the Modern Day Forms of Slavery: The Case of France,” *Michigan Journal of International Law* 38, no. 3 (2017): 456.

27 Vladislava Stoyanova, “Article 4 of the ECHR and the Obligation of Criminalizing Slavery, Servitude, Forced Labour and Human Trafficking,” *Cambridge Journal of International and Comparative Law* 3, no. 2 (2014): 429.

28 Human Rights Council, “Current and Emerging Forms of Slavery, Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences, A/HRC/42/44,” 8.

29 Bourgeois, “Statutory Progress and Obstacles to Achieving an Effective Criminal Legislation against the Modern Day Forms of Slavery: The Case of France”: 459.

30 Katarina Schwarz and Jean Allan, “Antislavery in Domestic Legislation Database | RESPECT,” <https://respect.international/antislavery-in-domestic-legislation-database/> [accessed 30.03.2021]. Human Rights Council, “Current and Emerging Forms of Slavery, Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences, A/HRC/42/44,” 8–9.

31 Human Rights Council, “Current and Emerging Forms of Slavery, Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences, A/HRC/42/44”: 12.

32 Herceg Pakšić, “A Contribution to Slavery Debate: Domestic Labour of Migrant Children in Focus”: 1368–69.

often remain inactive. If legal proceedings are involved, they are primarily based on labour law and have a form of out-of-court negotiations leading to financial settlements. Despite international proclamations and obligations, there is no comprehensive survey of global anti-slavery efforts, and states are responsible for bringing this human right to life with the realization of freedom from slavery and servitude.<sup>33</sup> Parts of future anti-slavery agenda efforts must combine criminal justice efforts with other interventions that legally empower vulnerable populations.<sup>34</sup> This all means “a complex interaction of factors related to the presence or absence of protection; respect for rights; physical safety and security; access to the necessities of life such as food, water, and health care; and patterns of migration, displacement and conflict.”<sup>35</sup> Predictions of changes as well as risk factors refer to future work regulation, demographic trends and migration, economic and environmental changes, new technologies, armed conflicts, conflict-induced displacement and persistent gender imbalance.<sup>36</sup>

## 2 Reflections on Slavery Definitions

Leading scholars on this issue stipulate that thorough legal analyses of the meaning of ‘slavery’ in international law are yet to be conducted; so we cannot estimate how many people meet the legal definition of slavery.<sup>37</sup> Central elements of slavery are control, ownership and often a threat of violence, accompanied with a loss of many other human rights and freedoms.<sup>38</sup> Proper understanding of the definition of slavery in international law seems to be a first-class question, especially since the start of the twenty-first century, when certain courts represented contradictory interpretations,<sup>39</sup> causing the concept of slavery to become “increasingly confusing.”<sup>40</sup> Scholars’ interpretations usually go in two directions: *de jure* and *de facto* slavery. *De jure* slavery is a status as a recognition of slavery by law and *de facto* slavery is a condition as an actual slavery situation.<sup>41</sup> Nothing directly limits interpretation to just one viewpoint,

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33 Human Rights Council, “Current and Emerging Forms of Slavery, Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences, A/HRC/42/44”: 8.

34 Human Rights Council, “Current and Emerging Forms of Slavery”: 16.

35 Jacqueline Joudo Larsen and Davina P. Durgana, “Measuring Vulnerability and Estimating Prevalence of Modern Slavery,” *CHANCE* 30, no. 3 (2017): 22, <https://doi.org/10.1080/09332480.2017.1383109>.

36 Human Rights Council, “Current and Emerging Forms of Slavery”: 4–7.

37 Allain, “The Definition of Slavery in International Law”: 239.

38 David Weissbrodt, “Slavery,” in *Max Planck Encyclopedia of Public International Law*, Max Planck Institute for Comparative Public Law and International Law, March 2014, <https://doi.org/10.1093/law:epil/9780199231690/e874>.

39 ECtHR and ICTY. Allain, “The Definition of Slavery in International Law”: 242.

40 Bales and Robbins, “‘No One Shall Be Held in Slavery or Servitude’: A Critical Analysis of International Slavery Agreements and Concepts of Slavery”: 18.

41 Allain, “The Definition of Slavery in International Law”: 242.

and both are represented in jurisprudence,<sup>42</sup> but one should have in mind that favouring the *de jure* slavery interpretation could be the wrong path. Scholars stipulate that slavery has been abolished almost everywhere, leading the Slavery Convention(s) provisions to be largely irrelevant,<sup>43</sup> and reducing slavery to legally sanctioned phenomena implies making it a “defunct legal concept”.<sup>44</sup> *De jure* slavery is more suitable when describing traditional slavery, where slaves were treated as any other property. In contemporary societies, legal systems do not allow one person to treat another person as private property. Owning a person is a legal impossibility.<sup>45</sup> On the other hand, the *de facto* notion points to the conditions of slavery and is more suitable for coverage of contemporary exploitative practice, with emphasis on the loss of freedom (movement, decision making, etc.) and exploitation often accompanied by violence.<sup>46</sup> Cullen emphasizes the contemporary context between abolished legal slavery (ownership) and coercion or force as the main mark of forced labour in today’s *de facto* slavery, where powers attached to ownership are exercised without legal ownership right.<sup>47</sup> This concept is broader than the classic chattel slavery and has two aspects – the perpetrator/ the slave owner aspect (controls the victim, dominating over the freedom of choice) and the victim/slave aspect (how much control over the freedom of choice).<sup>48</sup> Hickey concludes that “the persistence of *de facto* ownership relations is possible and worth guarding against, even after we have decided not to tolerate *de jure* property rights in respect of persons.”<sup>49</sup>

Almost a decade ago, in the context of legal interpretation, it was proposed that execution of powers attached to the right of ownership should be seen “as constituting control over a person in such a way as to significantly deprive that person of his or her individual liberty, with the intent of exploitation through the use, management, profit,

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42 Herceg Pakšić, “A Contribution to Slavery Debate: Domestic Labour of Migrant Children in Focus”: 1373.

43 Ariela J. Gross and Chantal Thomas, “The New Abolitionism, International Law, and the Memory of Slavery,” *Law and History Review* 35, no. 1 (2017): 114, <https://doi.org/10.1017/S0738248016000651>.

44 Vladislava Stoyanova, *Human Trafficking and Slavery Reconsidered. Conceptual Limits and States’ Positive Obligations in European Law* (Cambridge: Cambridge University Press, 2017): 220.

45 Robin Hickey, “Seeking to Understand the Definition of Slavery,” in *The Legal Understanding of Slavery: From the Historical to the Contemporary*, ed. Jean Allain (Oxford: Oxford University Press, 2012): part C, <https://doi.org/10.1093/acprof:oso/9780199660469.003.0013>.

46 Bales and Robbins, “‘No One Shall Be Held in Slavery or Servitude’: A Critical Analysis of International Slavery Agreements and Concepts of Slavery”: 28–32. Authors proposed a definition of slavery as “a state marked by the loss of free will where a person is forced through violence or the threat of violence to give up the ability to sell freely his or her own labor power.”

47 Holly Cullen, “Contemporary International Legal Norms on Slavery,” in *The Legal Understanding of Slavery: From the Historical to the Contemporary*, ed. Jean Allain (Oxford: Oxford University Press, 2012): 304, <https://doi.org/10.1093/acprof:oso/9780199660469.003.0017>.

48 Irina Kilodizner, “R v Tang: Developing an Australian Anti-Slavery Jurisprudence R v Tang,” *Sydney Law Review* 31, no. 3 (2009): 491–95.

49 Hickey, “Seeking to Understand the Definition of Slavery”: part C.

transfer or disposal of that person”.<sup>50</sup> This clarification is a result of efforts made in the Bellagio-Harvard Guidelines on the Legal Parameters of Slavery (hereafter referred to as the BH Guidelines). Despite the criticism of its circular nature,<sup>51</sup> we find it useful for the possibility it offers to discuss betterment, regarding the meaning of deprivation of individual liberty. As elaborated,<sup>52</sup> the syntagm of *significant deprivation of liberty* might lead to excessive, overburdening requirements in judicial reasoning (deprivation is an absolute term). Following the assumption of significant control of personal freedom as sufficient for confirmation of slavery, the term *restriction* instead of deprivation could be considered.<sup>53</sup> It could be understood and interpreted as a major (or significant) restriction (or limitation) of personal freedom aimed at creating a significant dependence relationship.

Cullen emphasizes the frequent judicial ignorance regarding which ownership powers are exercised, focusing on the degree of control and coercion that has been exercised over the victim.<sup>54</sup> The issue of control is stipulated in judicial reasonings<sup>55</sup> and deeply rooted in exploitation of the victim’s vulnerability. It is underpinned with the sense that the situation will not change, accompanied by “feelings of fear, abandonment, helplessness, inability to change the situation, threats of being sent back to native country.”<sup>56</sup> Control can also serve as a transitional benchmark when servitude amounts to slavery with the exercise of additional control, which entails placing the victim in legal limbo beyond the protection of law.<sup>57</sup>

Notions included in the syntagm of modern slavery refer to institutions and practices similar to traditional slavery, such as servitude, forced labour, debt-bondage, human trafficking, serfdom, servile marriage, child exploitation, etc. are more or less analysed in law leading to the conclusion of a gradation, where slavery is the most

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50 Research Network on the Legal Parameters of Slavery, “The Bellagio-Harvard Guidelines on the Legal Parameters of Slavery,” March 03, 2012, Guideline 2.

51 Gross and Thomas, “The New Abolitionism, International Law, and the Memory of Slavery”: 115.

52 Barbara Herceg Pakšić and Miroslav Jukić, “Primjena Konvencijskog Prava u Području Zabrane Ropstva i Prisilnog Rada: Europski Standardi i Hrvatska Postignuća,” *Hrvatski Ljetopis Za Kaznene Znanosti i Praksu* 23, no. 2 (2016): 290.

53 Herceg Pakšić and Jukić, “Primjena Konvencijskog Prava u Području Zabrane Ropstva i Prisilnog Rada: Europski Standardi i Hrvatska Postignuća”; Herceg Pakšić, “A Contribution to Slavery Debate: Domestic Labour of Migrant Children in Focus.”

54 Cullen, “Contemporary International Legal Norms on Slavery”: 305.

55 As we will later see, ICTY insisted that chattel slavery is impossible today and placed emphasis on the issue of control. At a minimum, a slavery relationship requires that the slave owner has some degree of control over the object which is possessed, in this case, a slave. Vijayarasa and Bello Villarino, “Modern Day Slavery? A Judicial Catchall for Trafficking, Slavery and Labour Exploitation: A Critique of Tang and Rantsev”: 70.

56 Herceg Pakšić, “A Contribution to Slavery Debate: Domestic Labour of Migrant Children in Focus”: 1377.

57 Stoyanova, *Human Trafficking and Slavery Reconsidered. Conceptual Limits and States' Positive Obligations in European Law*: 286.

severe form of exploitation and the other forms are weaker. Servitude is not defined by an international instrument and can be described as “human exploitation falling short of slavery”<sup>58</sup> related to a coercively imposed providing of services that does not involve the notion of ownership.<sup>59</sup> Debt-bondage refers to the position of a debtor whose labour is the collateral property of the lender until the debt is repaid, which often means an indefinite period or a lifetime, sometimes placing a child or other family member in bondage to repay a debt.<sup>60</sup> According to Article 3 of the Palermo Protocol,<sup>61</sup> human trafficking has many means, forms and purposes, but sex trafficking stays the international and national focus.<sup>62</sup> Article 2.1 of the ILO Convention No. 29 (1930), providing some exceptions, defines forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.<sup>63</sup> It has three broad forms: work or services imposed by the State or by armed forces, forced commercial sexual exploitation and economic exploitation.<sup>64</sup> Slavery-like practices in marriage include forced, pretended or arranged marriages, mail-order bride systems, and sale of women for marriage<sup>65</sup> but there are also cases of child marriage where control and ownership are the main characteristics, especially in conflict settings.<sup>66</sup> In the following, we will therefore deal with the views of slavery through the eyes of the courts in selected cases that have attracted considerable attention within the scientific community. This review of court judgments clearly depicts the criminal justice and human rights contexts. Even though some decisions have muddied the waters with regards to reasoning where

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58 Jean Allain, “On the Curious Disappearance of Human Servitude from General International Law,” *Journal of the History of International Law* 11, no. 2 (2009): 304, <https://doi.org/10.1163/138819909X12468857001505>. See also Pitman B. Potter, “The Doctrine of Servitudes in International Law,” *American Journal of International Law* 9, no. 3 (1915): 627–41, <https://doi.org/10.2307/2187098>.

59 Schabas, *The European Convention on Human Rights: A Commentary*: 207.

60 Bales and Robbins, “No One Shall Be Held in Slavery or Servitude’: A Critical Analysis of International Slavery Agreements and Concepts of Slavery”: 34–36.

61 “Protocol to Prevent, Suppress and Punish Trafficking in Persons,” 2000, <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx> [accessed 21.09.2022].

62 Ella Cockbain and Kate Bowers, “Human Trafficking for Sex, Labour and Domestic Servitude: How Do Key Trafficking Types Compare and What Are Their Predictors?” *Crime, Law and Social Change* 72, no. 1 (2019): 10, <https://doi.org/10.1007/s10611-019-09836-7>.

63 “Convention C029 – Forced Labour Convention, 1930 (No. 29),” [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C029](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029) [accessed 15.04.2021].

64 Patrick Belser, “Forced Labour and Human Trafficking: Estimating the Profits,” *International Labour Organization, Working Paper* 42, 03.01.2005, [https://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_081971/lang-en/index.htm](https://www.ilo.org/global/topics/forced-labour/publications/WCMS_081971/lang-en/index.htm) [accessed 15.04.2021].

65 Marjan Wijers and Lin Lap-Chew, *Trafficking in Women, Forced Labour and Slavery-like Practices* (Utrecht: Foundation Against Trafficking in Women, 1999): 75–83.

66 Catherine Turner, *Out of the Shadows: Child Marriage and Slavery* (London: Anti-Slavery International, 2013): 16.



slavery is concerned, the jurisprudence of regional human rights courts still is “providing insights”.<sup>67</sup> International criminal law cases are oriented in individual liability for engaging in slavery/enslavement, and human rights courts are oriented to human rights violations that go beyond individual liability, to determine and evaluate state actions. National courts are bound by national arrangement of criminal law and general elements of criminal acts.

### 3 On the Case-Law and Judicial Reasoning on Slavery

Undoubtedly, international, European and national provisions on the prohibition of slavery are important because they reflect the consciousness and evolution of society in terms of its fundamental structures and values, but a test of their strength and weight is made in judicial reasoning and epilogues of real cases. There is a test of true social values in every court decision. It should be borne in mind that case law usually goes the established way without challenging ingrained social understanding. Still, in some situations, circumstances are stacked so that judges accept the opportunity to step forward and make a small step for a judiciary system, but a big one for case law. Select decisions related to slavery cases have attracted considerable attention from scientific authors. They are also interesting for another reason – their background is different: some are related to the context of human rights and others to criminal justice on two levels, the international and the national one. The difference in these approaches is reflected in the much stronger shackles of criminal justice versus the human rights perspective. This distinction is precisely emphasized by Bassiouni’s statement that human rights advocates strive to achieve *lex desiderata* with moral and ethical arguments, considering them sufficient to surpass the legal ones, but jurists rely on appropriate legal techniques to advocate human rights in a legal context.<sup>68</sup> Although this section analyses relatively recent case law insights into slavery, it is worth mentioning that more than half a century ago, the International Military Tribunal (IMT) put forth interesting and valuable views in the Pohl case.<sup>69</sup> Counts two

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<sup>67</sup> Human Rights Council, “Current and Emerging Forms of Slavery, Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences, A/HRC/42/44”: 10.

<sup>68</sup> M. Cherif Bassiouni, “Human Rights in the Context of Criminal Justice: Identifying International Procedural Protections and Equivalent Protections in National Constitutions,” *Duke Journal of Comparative & International Law* 3, no. 2 (1993): 242.

<sup>69</sup> US Military Tribunal Nuremberg, *United States v. Pohl, et al.* (November 3, 1947). IMT was founded in 1945 and has held trials for crimes committed in World War II. The Pohl case belonged to the subsequent Nuremberg proceedings (Military Tribunal II). It had eighteen defendants that were members of the Wirtschaft- und Verwaltungshauptamt (WVHA, Economic and Administrative Main Office). As head of WVHA, Oswald Pohl was chief defendant.

and three of the indictment alleged that the defendants committed or took part in different criminal acts, among them enslavement and deportation for the purpose of slave labour: about 5,000,000 men, women, and children were violently seized and forcibly deported as slaves. With regard to the characteristics of enslavement, the court emphasized deprivation of liberty and forced uncompensated labour. According to this decision, freedom from enslavement is “one of the fundamental concepts of civilization” and “slavery may exist even without torture. Slaves may be well fed, well clothed, and comfortably housed, but they are still slaves if without lawful process they are deprived of their freedom by forceful restraint. We might eliminate all proof of ill-treatment, overlook the starvation, beatings, and other barbarous acts, but the admitted fact of slavery – compulsory uncompensated labour – would still remain. There is no such thing as benevolent slavery. Involuntary servitude, even if tempered by humane treatment, is still slavery.”<sup>70</sup>

### 3.1 The European Court of Human Rights (ECtHR)

Article 4 of the European Convention for Human Rights and Fundamental Freedoms (ECHR) guarantees freedom from slavery, servitude and forced labour, which, along with articles 2 and 3 “enshrines fundamental values of democratic society”.<sup>71</sup> Its prohibition of slavery is absolute<sup>72</sup> and refers to positive rather than negative state obligations where the perpetrators are usually individuals.<sup>73</sup> There are no permissible exceptions and no possible derogation of the slavery ban. The concepts are interpreted in accordance with relevant international documents mentioned earlier, but also bearing in mind that the ECHR is a living instrument that should be interpreted in the light of present-day conditions.<sup>74</sup> In comparison with other Convention rights and freedoms, there are significantly

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<sup>70</sup> US Military Tribunal Nuremberg: 969–70.

<sup>71</sup> European Court of Human Rights, “Guide on Article 4 of the European Convention on Human Rights Prohibition of Slavery and Forced Labour,” April 2021, 5, Schabas, *The European Convention on Human Rights: A Commentary*: 201. European Court of Human Rights, *Siliadin v. France*, Application no. 73316/01 (July 26, 2005).

<sup>72</sup> Art. 4., Prohibition of slavery and forced labour. 1. No one should be held in slavery or servitude. 2. No one shall be required to perform forced or compulsory labour. 3. For the purpose of this Article, the term ‘forced or compulsory labour’ shall not include any work required to be done in the ordinary course of detention imposed according to provisions of Art. 5 of this Convention or during conditional release from such detention; any service of a military character, or in case of conscientious objectors in countries where they are recognized, service exacted instead of compulsory military service; any service exacted in case of emergency or calamity threatening the life or well-being of the community; any work or service which forms part of normal civic obligations.

<sup>73</sup> Schabas, *The European Convention on Human Rights: A Commentary*: 206.

<sup>74</sup> European Court of Human Rights, “Guide on Article 4 of the European Convention on Human Rights Prohibition of Slavery and Forced Labour”: 6.

fewer ECtHR judgments bringing the slavery prohibition to life, and this state of affairs can have many reasons: victims' rights awareness, (national) competent authorities' understanding of slavery, unsuccessful case handling and overall comprehension of the notion of slavery.<sup>75</sup>

The Court uses the 'classical' slavery definition from the 1926 Convention<sup>76</sup> ("the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised"). Due to differences in judicial stances made in other cases, Allain expressed the acute need to establish a proper understanding of the definition of slavery in international law.<sup>77</sup> In terms of the severity scale, slavery requires ownership, servitude requires forced labour coupled with the compulsion to live on another's property, and forced labour means involuntary work extracted under menace with no proprietary element.<sup>78</sup>

Following this *de jure* understanding, the ECtHR delivered a decision declining slavery confirmation in the first (and most well-known) case regarding Article 4,<sup>79</sup> *Siliadin v. France*.<sup>80</sup> The applicant was a Togolese national, who had been brought to France when she was 15 by a relative of her father. As an illegal immigrant, dependent and vulnerable, she was forced to work for Mr and Mrs B., doing housework and looking after their three, later four, children. Her passport had been taken, and she worked from 7 a.m. until 10 p.m. every day as an unpaid domestic servant, without a day off and entirely without pay for several years. Finally, neighbours intervened and the Committee Against Modern Slavery made a report to the prosecuting authorities. The couple was acquitted of the criminal charges, but proceedings continued with respect to the civil aspect and upon completion, they were ordered to pay compensation (non-pecuniary damage). Even though the ECtHR accepted that she was deprived of her personal autonomy, it found that the overall treatment amounted to servitude and forced and compulsory labour, but not slavery "as there was no genuine right of legal ownership over her, thus reducing her to the status of an object."<sup>81</sup>

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75 Herceg Pakšić and Jukić, "Primjena Konvencijskog Prava u Području Zabrane Ropstva i Prisilnog Rada: Europski Standardi i Hrvatska Postignuća"; Herceg Pakšić, "A Contribution to Slavery Debate: Domestic Labour of Migrant Children in Focus": 1371.

76 European Court of Human Rights, "Guide on Article 4 of the European Convention on Human Rights Prohibition of Slavery and Forced Labour": 8.

77 Allain, "The Definition of Slavery in International Law": 242.

78 David Keane, "Abolitionist in Heart But Not in Action: Slavery, Servitude and the Status of Article 4 ECHR in Irish Law," *Irish Jurist, New Series* 50 (2013): 171.

79 Helen Duffy, "Litigating Modern Day Slavery in Regional Courts: A Nascent Contribution," *Journal of International Criminal Justice* 14, no. 2 (2016): 378, <https://doi.org/10.1093/jicj/mqv079>. Vladislava Stoyanova, "Article 4 of the ECHR and the Obligation of Criminalising Slavery, Servitude, Forced Labour and Human Trafficking," *Cambridge International Law Journal* 3, no. 2 (2014): 413, <https://doi.org/10.7574/cjicl.03.02.191>.

80 European Court of Human Rights, *Siliadin v. France*, Application no. 73316/01.

81 European Court of Human Rights, at § 122.

In the case of a Roma girl claiming to have been sold to Italian criminals, the question of slavery in the marriage context was discussed.<sup>82</sup> The application was declared inadmissible; however, there were allegations of slavery due to money paid to the applicant's father related to the alleged marriage. The Court reasoned "marriage has deep-rooted social and cultural connotations which may differ largely from one society to another [ . . . ] payment can reasonably be accepted as representing a gift from one family to another, a tradition common to many different cultures in today's society [ . . . ] such a monetary contribution cannot be considered to amount to a price attached to the transfer of ownership."<sup>83</sup> The case *C. N. and V. v. France*<sup>84</sup> was brought by two sisters sent from Burundi to Paris to live with their relatives for whom they were obliged to carry out household and domestic chores under threat of being sent back to Burundi. The sisters were used as house cleaners who were obliged to carry out all household work. They had no access to a bathroom, were not allowed to eat with the family (were given leftovers instead) and were not paid or given days off. In this case slavery was not even examined, but a violation of art. 4 was found with confirmation of servitude and forced labour only for the older sister because she did most of the work and was under threat of returning to her country of origin. The presented ECtHR positions regarding interpretations of slavery provoked the authors to label the shown restrictive approach as incorrect and out of date<sup>85</sup> because it "does not seem to offer hints about interpreting slavery from a contemporary perspective"<sup>86</sup> and is reluctant to use the term slavery for anything that is not chattel slavery based on ownership.<sup>87</sup> This narrow approach is criticized for "denuding the prohibition on slavery of any utility."<sup>88</sup>

Thus, it is worth questioning or re-examining the presented ECtHR stances to explore other lines of reasoning. To facilitate legal reflections, in 2012 the BH Guidelines<sup>89</sup> were adopted. Despite the criticism about their circular nature<sup>90</sup> they can be a useful tool proposing the interpretation of "powers attaching to the right of ownership". According to

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<sup>82</sup> *M. and others v. Italy and Bulgaria*, Application no. 40020/03 (July 31, 2012).

<sup>83</sup> *M. and others v. Italy and Bulgaria*, Application no. 40020/03 at § 161. For research on whether forced marriage can be considered as a form of enslavement, see Iris Haenen, "The Parameters of Enslavement and the Act of Forced Marriage," *International Criminal Law Review* 13, no. 4 (2013): 895–916.

<sup>84</sup> *C. N. and V. v. France*, Application no. 67724/09 (October 11, 2012).

<sup>85</sup> Duffy, "Litigating Modern Day Slavery in Regional Courts: A Nascent Contribution": 379.

<sup>86</sup> Stoyanova, *Human Trafficking and Slavery Reconsidered. Conceptual Limits and States' Positive Obligations in European Law*: 246.

<sup>87</sup> Keane, "Abolitionist in Heart But Not in Action: Slavery, Servitude and the Status of Article 4 ECHR in Irish Law": 167.

<sup>88</sup> Cullen, "Contemporary International Legal Norms on Slavery": 309.

<sup>89</sup> Research Network on and the Legal Parameters of Slavery, "The Bellagio-Harvard Guidelines on the Legal Parameters of Slavery." This document contains altogether 10 guidelines providing clarification of the slavery definition from the 1926 Slavery Convention (Art. 1) and the 1956 Supplementary Convention (Art. 7).

<sup>90</sup> Gross and Thomas, "The New Abolitionism, International Law, and the Memory of Slavery": 115.

the BH Guidelines, it “should be understood as constituting control over a person in such a way as to significantly deprive that person of his or her individual liberty, with the intent of exploitation through the use, management, profit, transfer or disposal of that person. Usually, this exercise is supported by and obtained through means such as violent force, deception and/or coercion.”<sup>91</sup> The specific notion of control over a person is one tantamount to possession.<sup>92</sup> Some analyses have shown that in the *Siliadin* and *C. N. and V.* cases, in accordance with the BH Guidelines’ indicators of slavery, all or almost all indicators were fulfilled, which ultimately would allow us to form a conclusion on the existence of slavery.<sup>93</sup>

A few years later, the ECtHR reassessed and modified its views in the *Rantsev* case.<sup>94</sup> The applicant’s daughter was a Russian national who died in unexplained circumstances, falling from a window of a private property in Cyprus in March 2001. Her body was found in the street. She arrived in Cyprus with a ‘cabaret-artiste’ visa and when she wanted to return to Russia, a cabaret manager asked the police to detain her as an illegal immigrant. After contacting the immigration authorities and receiving instructions, the police did not detain her, and the manager picked her up. Afterwards she was found dead, and the conclusion based on the investigation was that her death was an accident that happened while she attempted to escape. Despite the complex circumstances and an autopsy conducted in Russia, neither the Russian nor the Cypriot authorities proceeded with the investigation. Given that trafficking of human beings is not explicitly mentioned within the text of Art. 4, the Court had to first discuss its applicability. The Court did not focus on the vicissitudes related to interpretations of the legal concept of ownership-related slavery but interpreted the Convention in light of present-day conditions. It concluded that trafficking of human beings is an internationally recognized and globally increasing negative phenomenon based on the exercise of power attached to the right of ownership and treating human beings as commodities; so it falls within the scope of Art. 4.<sup>95</sup> After confirming its applicability, the ECtHR found that both states had violated it: Cyprus by not establishing a suitable framework to combat human trafficking or to take operational measures to protect victims and Russia by failing to conduct an effective investigation regarding recruitment within its territory by traffickers. With an obvious difference in relation to the reasoning in the *Siliadin* case, the court did not determine under which definition from Art. 4 (‘slavery’, ‘servitude’ or

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91 Research Network on the Legal Parameters of Slavery, “Bellagio-Harvard Guidelines on the Legal Parameters of Slavery,” March 3, 2012, Guideline 2.

92 Research Network on the Legal Parameters of Slavery, Guideline 3. “To determine, in law, a case of slavery, one must look for possession.”

93 Herceg Pakšić, “A Contribution to Slavery Debate: Domestic Labour of Migrant Children in Focus”: 1377–79.

94 European Court of Human Rights, *Rantsev v. Cyprus and Russia*, Application no. 25965/04 (January 7, 2010).

95 European Court of Human Rights: § 281.

‘forced and compulsory labour’) the violation occurred, considering it to be unnecessary.<sup>96</sup> This omission, in the light of subsequent decisions in other cases,<sup>97</sup> has contributed to the impression that the overall understanding of the concept of slavery is still not sufficiently defined and specified, a situation which we hope will soon be rectified.

### 3.2 The International Criminal Tribunal for the Former Yugoslavia (ICTY)

The ICTY, the United Nations court for war crimes that happened during the 1990s in the Balkan area, ceased to exist in 2017. It had the power to prosecute individuals for grave breaches of the Geneva Conventions of 1949, violations of the laws or customs of war, genocide and crimes against humanity.<sup>98</sup> Enslavement, as a form of crime against humanity, is directed against the civilian population and committed during armed conflict of international or internal character.<sup>99</sup> In the well-known case *Kunarac et al.*,<sup>100</sup> which entailed the first ICTY convictions for enslavement (as well as rape), as a crime against humanity, the court assumed the stance of adaptability to the contemporary interpretation of slavery. The case was, *inter alia*, regarding enslavement as a crime against humanity, perpetrated by three members of the Serb forces against Muslim women who were held in early 1992 and mid-1993 in detention centres in Foča and other locations in Bosnia and Herzegovina. The accused faced charges of violating the laws or customs of war and committing crimes against humanity – rape, torture, enslavement and outrages upon personal dignity. Muslim civilians were rounded up in the villages surrounding Foča and men were separated from women and children. The men suffered periods of detention, mistreatment and some were killed. The women and children were detained at collection points from which women and young girls were taken to private houses and other places where they were raped.<sup>101</sup> In this case, the Trial Chamber considered and accepted the specific elements of relevance for the crime of enslavement such as:

<sup>96</sup> European Court of Human Rights: § 282.

<sup>97</sup> European Court of Human Rights, *S.M. v. Croatia*, Application no. 60561/14 (July 19, 2018).

<sup>98</sup> “Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed on the Territory of the Former Yugoslavia” (1991), Article 1–5, [https://www.icty.org/x/file/Legal Library/Statute/statute\\_sept09\\_en.pdf](https://www.icty.org/x/file/Legal%20Library/Statute/statute_sept09_en.pdf) [accessed 21.09.2022].

<sup>99</sup> Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed on the Territory of the Former Yugoslavia, Article 5 (c).

<sup>100</sup> ICTY, *Prosecutor v. Dragoljub Kunarac, Radomir Kovač and Zoran Vuković* (IT-96-23-T& IT-96-23/1-T) (February 22, 2001).

<sup>101</sup> The trial against the three accused is called the “rape camp case”, an example of the systematic rape of women of another ethnicity being used as a ‘weapon of war’. Members of the Bosnian Serb armed forces used rape as an instrument of terror. Judgement of Trial Chamber II in the *Kunarac, Kovač and Vuković* case (February 22, 2001).

detention; ordered work (cooking and household chores); reservation of some women for a specific person (exclusivity); constant disposal of victims; degrading treatment (offering permission to rape a victim in the presence of a witness); denial of control over victims' lives; sale and transfer of victims; mistreatment (beatings and slapping) and poor living conditions (lack of food). The ICTY Statute did not define enslavement; so, in order to evaluate the elements, it was necessary to research sources of international humanitarian and human rights law. Many of them, as mentioned earlier, did not include definitions of slavery and at the time,<sup>102</sup> case law was not yet developed, so the ICTY had no precedents. It was concluded that enslavement “consisted of the exercise of any or all of the powers attaching to the right of ownership over a person” where *actus reus* was the exercise of any or all of the powers attaching to the right of ownership over a person and the *mens rea* was the intentional exercise of such powers.<sup>103</sup> As described by the Chamber, this definition is wider than the traditional one and indications include “elements of control and ownership; the restriction or control of an individual’s autonomy, freedom of choice or freedom of movement; and, often, the accruing of some gain to the perpetrator.”<sup>104</sup> The absence of victim consent or free will is marked as irrelevant due to specific and frequent circumstances such as fear, coercion, threats, deception, vulnerability, captivity, etc. The factors for consideration of slavery were determined as “the control of someone’s movement, control of physical environment, psychological control, measures taken to prevent or deter escape, force, threat of force or coercion, duration, assertion of exclusivity, subjection to cruel treatment and abuse, control of sexuality and forced labour.”<sup>105</sup> By extending the international concept of enslavement and providing factors for assessment that would qualify as indicative of slavery,<sup>106</sup> the Trial Chamber found the first two accused (Kunarac and Kovač) guilty of enslavement and sentenced them to imprisonment. They appealed during March 2001 on several grounds. About a year and a half after the Trial Chamber judgement, the Appeals Chamber Judgement rejected all grounds of appeal confirming the sentences imposed by the Trial Chamber.<sup>107</sup> There was a common ground of appeal, relating to the definition of the crime of enslavement, contending the broadness of the Trial Chamber’s understanding of enslavement and the lack of clear crime elements. The appellants offered the following three

102 ICTY, Prosecutor v. Dragoljub Kunarac, Radomir Kovač and Zoran Vuković (IT-96-23-T& IT-96-23/1-T): 177–92, §§ 518–38.

103 ICTY, 192: § 539–40.

104 ICTY, 193: § 541–42. The Trial Chamber also identified some additional enslavement indicators such as exploitation, exaction of labour, physical hardship, sex, prostitution, and human trafficking.

105 ICTY, 194: § 543. The mere ability to buy, sell, trade or inherit a person or his or her labours or services could be a relevant factor.

106 Harmen van der Wilt, “Slavery Prosecutions in International Criminal Jurisdiction,” *Journal of International Criminal Justice* 14 (2016): 275, 282.

107 ICTY, Appeals Chamber Judgement: Prosecutor v Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic (IT-96-23 & IT-96-23/1-A) (June 12, 2002). ICTY, Appeals Chamber Judgement in the Kunarac, Kovač and Vuković (Foča) case-summary (CVO/ P.I.S./ 679-E) (June 12, 2002).

alternative criteria: establishing that the accused treated the victims “as their own ownership”, lack of victim consent throughout detention and transfer (claiming they had freedom of movement and could escape) and duration of enslavement as “indefinite or at least for a prolonged period of time” additionally claiming there was no *mens rea*.<sup>108</sup> The Appeals Chamber accepted the almost universal nature of the traditional concept of slavery from the Slavery Convention of 1926 but acknowledged that it evolved to comprise different contemporary forms based on power attached to ownership right. These forms were not as extreme as chattel slavery, but regardless were a part of enslavement, whose confirmation in this specific case will depend on “operation of the factors or indicia of enslavement identified by the Trial Chamber.”<sup>109</sup> Further, the Appeals Chamber rejected the idea that the victim’s lack of consent was an element of the crime; the crime setting disabling the expression of consent is sufficient to presume the absence of consent. Equally, it upheld the conclusion of duration not belonging to crime elements but rather highlighted the content of the perpetrator-victim relationship. Because of the notable step forward, this ICTY judgement is described as the reference point for other courts in defining slavery and the first contemporary international judicial decision on slavery.<sup>110</sup>

### 3.3 Australian Jurisprudence on Slavery

The landmark case *R. v. Tang*<sup>111</sup> is a first jury conviction for slavery under anti-slavery provisions introduced in 1999 and, alongside *Kunarac* and *Siliadin*, one that brought “much depth of understanding to the parameters of what constitutes ‘slavery’ both in the Australian context, but also in international law.”<sup>112</sup> Australian jurisprudence significantly contributed to the interpretation of slavery.<sup>113</sup> In 2006, the County Court of Victoria convicted brothel owner Ms Wei Tang for possession of a slave and intentional exercise of ownership power over a slave, and sentenced her to 10 years of imprisonment. The accusation was regarding five women, all Thai nationals, previously providing sexual

**108** ICTY, Appeals Chamber Judgement: *Prosecutor v Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic* (IT-96-23 & IT-96-23/1-A) at 33–34, §§ 107–11.

**109** ICTY, 36, § 119.

**110** Cullen, “Contemporary International Legal Norms on Slavery”: 305–6.

**111** High Court of Australia, *The Queen v Tang*, HCA 39 (August 28, 2008).

**112** Jean Allain, “*R v Tang*: Clarifying the Definition of ‘Slavery’ in International Law,” *Melbourne Journal of International Law* 10, no. 1 (2009): 246.

**113** Commonwealth Criminal Code was amended in 1999 to contain slavery-related offences and an updated slavery definition without the word ‘status’ to reflect the legal impossibility of ownership over a person. Cullen, “Contemporary International Legal Norms on Slavery”: 315. Prior to this, slavery was a criminal offence in Australia in accordance with the Slave Trade Act of 1824. Andreas Schloenhart and Laura-Rose Lynch, “*McIvor and Tanuchit*: A Truly ‘Heinous’ Case of Sexual Slavery,” *University of New South Wales Law Journal* 35, no. 1 (2012): 175.



services in Thailand. They (voluntarily) came to Australia to continue with this activity, for which each was paid 20,000 USD and was required to return 45,000 USD for transport and living expenses. They were not locked up and were provided with care, but did not speak English, their passports were retained, and they were told to avoid immigration officials. They worked long hours, reducing their debt by 50 USD per client. The Court of Appeal of the Supreme Court of Victoria quashed the conviction and ordered a new trial due to inadequate jury instructions, but prosecution appealed to the High Court, which allowed it and overturned the order of a new trial. In its 52-page decision, it was explained that “there is no status of slavery under Australian law and legal ownership of a person is impossible.”<sup>114</sup> The court continued that slavery is to be taken as *de facto*, and powers attaching to the right of ownership are ones attributed to effective but not legal ownership. Slavery is to be understood as a condition where any or all of the powers attached to the right of ownership are exercised over a person and ‘slave’ takes its meaning from the definition of slavery.<sup>115</sup> Since Australian law has never recognized the possibility that one person can own or possess another, ownership was explained as “dominion over”<sup>116</sup> and consists of the complete subjection of one person to the will of another.<sup>117</sup> Before this case, the parameters and the meaning of slavery in Australian law were untested.<sup>118</sup> With a six-to-one majority decision, the Court gave judicial guidance regarding the interpretation of slavery and set the grounds for future slavery reasoning by broadening the definition of slavery to encompass and prioritize its *de facto* form. The usefulness of the Tang case’s fundamentals and reflections on slavery was visible in the subsequent period when the need for judicial reasoning in the field of sexual slavery continued. Two years after Tang, there was the occurrence of the *R. v McIvor and Tanuchit* case with significant similarities, which was the first conviction for slavery offences in New South Wales.<sup>119</sup> Unlike Tang, this case received much less attention in the scientific community, despite the “exceptionally heinous nature of the crime and the intricate questions of law involved”.<sup>120</sup> The accused were a married couple convicted of possessing and using slaves. Five Thai women were exploited in a brothel owned and managed by the couple. The women were purchased in Thailand, entered Australia with fraudulent visas and were deceived about the nature of the work and its conditions. The offenders informed them that they were in debt, which was to be repaid by working in the brothel as prostitutes. They locked the women up, controlled them and prevented them from leaving. The women were subjected to

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114 High Court of Australia, *The Queen v Tang*, HCA 39 13, § 33.

115 High Court of Australia, 37, § 135.

116 High Court of Australia, 37–38, §139.

117 High Court of Australia, 38, § 142.

118 Schloenhardt and Lynch, “McIvor and Tanuchit: A Truly ‘Heinous’ Case of Sexual Slavery”: 176.

119 Schloenhardt and Lynch, “McIvor and Tanuchit: A Truly ‘Heinous’ Case of Sexual Slavery”: 175.

120 Schloenhardt and Lynch, “McIvor and Tanuchit: A Truly ‘Heinous’ Case of Sexual Slavery”: 176.

degrading treatment. The New South Wales District Court convicted the couple with imprisonment sentences, however on the second instance the Court of Criminal Appeal ordered a retrial.<sup>121</sup> In the twelve-week retrial, the New South Wales District Court declared both accused guilty of possessing a slave and exercising the power of ownership over a slave (power of use). The Court stressed that the possession offence is of “lesser seriousness than the use offence [ . . . ] the use in the brothel was the exercise of a power which most harshly exemplified the enslavement”<sup>122</sup> and sentenced each to 12 years of imprisonment.

It is interesting that the Australian criminal law provision also contains the offence of sexual servitude, but the reason for omitting its application is not known. Some authors offer the explanation that slavery was seen as a more severe form that more adequately reflects the criminal conduct and enables a higher penalty.<sup>123</sup> The area of sexual services proved to be a continuing challenge in the discussion of slavery, as other cases with factually and thematically similar circumstances obtained court epilogues. In *Ho and Leech*,<sup>124</sup> three offenders were convicted for slavery offences, where Thai women were purchased and placed on debt contracts to work in a Melbourne brothel. In *Sieders & Yotchomchin*,<sup>125</sup> both accused were found guilty of exploiting Thai women for sexual servitude. In the *Nethip* case,<sup>126</sup> the offender was found guilty of conducting a business involving sexual servitude. In *Nantakhum*,<sup>127</sup> the first case of slavery offences in the Australian Capital Territory, the accused (in addition to other criminal acts) was found guilty of intentional possession of two Thai women as slaves. Despite the relatively small number of convictions for slavery in Australia, the authors nevertheless researched common case law characteristics, such as the subtle recruitment methods that offenders use on victims, the offenders’ formation of complex and controlling relationships through debt-bondage, the offenders’ profit motivation and the similarities between the offenders and victims in terms of gender, background and experience.<sup>128</sup> Australian case law,

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121 Court of Criminal Appeal of New South Wales, *McIvor and Another v The Queen*, [2009] NSWCCA 264 (October 28, 2009).

122 District Court of New South Wales, *R v McIvor & Tanuchit* (December 17, 2010), § 62. The issue of double punishment emerged: related criminal law provision pairs together possession and exercising powers attaching to the right of ownership but were in this case charged separately. The court judge accepted the possibility of separate existence (even though this was hard to imagine) and held that possession is less serious than use, which solidified the victim’s status as a slave.

123 Schloenhardt and Lynch, “*McIvor and Tanuchit: A Truly ‘Heinous’ Case of Sexual Slavery*”: 191.

124 Supreme Court of Victoria, *Ho v The Queen*; *Leech v The Queen* [2011] VSCA 344 as related to DPP (Cth) v *Ho & Ho* [2009] VSC 437 (2009).

125 District Court of New South Wales, *R v Sieders R v Yotchomchin* [2007] NSWDC 101 (2007).

126 District Court of New South Wales, *R v NETHIP* [2010] NSWDC 159 (2010).

127 Supreme Court of the Australian Capital Territory, *R v Watcharaporn Nantakhum* (SCC149 of 2010) (2012).

128 Frances Simmons et al., “Human Trafficking and Slavery Offenders in Australia,” *Trends & Issues in Crime and Criminal Justice, Australian Institute of Criminology* 464 (2013): 10–11, <https://www.aic.gov.au/publications/tandi/tandi464> [accessed 21.09.2022].

starting with Tang, has readily taken over the present-day stance on the manner how slavery should be treated in court proceedings.

## 4 Acquired Cognitions in the Form of Concluding Thoughts

Proclamations on the absolute prohibition of slavery and similar practices have long since become a normative standard, as well as declarations that slavery undermines fundamental social structures. In today's social conditions, it is clear that approaches to understanding the concept of slavery require breadth and adaptability to constant social change. Prohibition is the prerogative of human rights but the enforceability of that standard in practice is a different matter altogether. Despite its long history, not all features of slavery are always easy to grasp, and even the very beginning and ending of the practice of slavery is challenged.<sup>129</sup> Regarding new interpretation opportunities, it would be advisable to step back from the attempt to define it with the legally impossible or unviable ownership concept. Turning towards its main characteristics, one description can be a significant restriction of personal freedom creating dependence to a considerable extent, with the goal of exploitation.<sup>130</sup>

This paper thematically deals with judicial approaches to slavery. The selected judgments well reflect the contemporary struggles from the criminal law and human rights perspective and showed a difference in approach and adaptability to slavery interpretations. The criminal justice approach turned out to be much more receptive to accepting the *de facto* notion of slavery as well as willing to step forward in interpretations (i.e. developing its own indicators of slavery), as opposed to the perspective offered by the human rights approach.

The latter was reflected in the ECtHR decisions and an approach that can be described as restrictive and cautious, (already) criticized as non-functional. Despite cases found to violate article 4, slavery *per se* was not yet confirmed due to acceptance of the traditional *de jure* concept of slavery. The general lack of precision in notions belonging to article 4 contributes to and conditions this situation. Continuing this approach also means continuing to miss the opportunity to take a step forward in more advanced consideration of slavery from a human rights perspective. As often stated, the ECtHR is a living instrument that is to be interpreted in the light of contemporary conditions. The beginning of a possible change can be sensed in recent considerations in

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<sup>129</sup> Knott, "Unocal Revisited: On the Difference between Slavery and Forced Labor in International Law": 209.

<sup>130</sup> Herceg Pakšić and Jukić, "Primjena Konvencijskog Prava u Području Zabrane Ropstva i Prisilnog Rada: Europski Standardi i Hrvatska Postignuća": 289–90.

which the terminology used is slowly beginning to move away from the standard *de jure* vocabulary. Thus, the term ‘legal’ in consideration of ownership begins to be avoided, as are the terms ‘status’ and ‘object’ (M. and others v. Italy and Bulgaria).<sup>131</sup> Case law of art. 4 is generally marked by a lack of clarity of encompassed notions as well as their blurred boundaries, which is certainly one of the future challenges for easier decision making. The protective scope of art. 4 continues to expand, extending to contemporary exploitation forms not directly mentioned in the provision’s wording. In 2010, trafficking in human beings was included due to its connection to slavery, and in 2018, exploitation of prostitution was added.<sup>132</sup> This significant positive development was however unspecified regarding the question under which of the existing notions from art. 4 the violations were committed: the court found it unnecessary to identify whether it constituted slavery, servitude or forced and compulsory labour. The criminal justice perspective has set the legal standards by preferring the notion of *de facto* slavery and reflections on the indicative criteria that confirm that slavery has been committed. The existing legal provisions on slavery that can be characterized as incomplete or imprecise undoubtedly create challenges in judicial reasoning. As Bourgeois stipulates, defining exploitation-related concepts is a dynamic process, and the identification of the constitutive behaviours under the concept of slavery depends on the level of exigency of the assessment.<sup>133</sup> Faced with a lack of clear constituent slavery elements, the ICTY and the HCA, in their landmark decisions, have parted from the outdated 1926 definition and made new standards for repression through the legal system. Case law accompanied with legal controversy shows the need to transcend the definition as the (illegal) ownership of a person but simultaneously to interpret the definition of slavery as the exercise of the powers attaching to the right of ownership over a person. This legal fiction continues to create practical efforts in resolving the puzzle and calls for a more scientific approach in future anti-slavery reflection.<sup>134</sup> Some sociological reflections abandon the ownership and property concepts, replacing them with ideas of slavery as human parasitism, which emphasizes the asymmetry of unequal relations and complexities of dependence.<sup>135</sup> There is, however, something peculiar about slavery: its ability to stand the test of time while persistently changing faces.

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131 M. and others v. Italy and Bulgaria, Application no. 40020/03, § 149. See Stoyanova, *Human Trafficking and Slavery Reconsidered. Conceptual Limits and States’ Positive Obligations in European Law*: 247.

132 European Court of Human Rights, S.M. v. Croatia, Application no. 60561/14.

133 Bourgeois, “Statutory Progress and Obstacles to Achieving an Effective Criminal Legislation against the Modern-Day Forms of Slavery: The Case of France”: 463.

134 Human Rights Council, “Current and Emerging Forms of Slavery, Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences, A/HRC/42/44”: 16.

135 Patterson, *Slavery and Social Death: A Comparative Study*: 334–36.

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