Inherited Status and Slavery in Late Medieval Italy and Venetian Crete
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Source: *Past & Present*, No. 182 (Feb., 2004), pp. 31-53
Published by: Oxford University Press on behalf of The Past and Present Society
Stable URL: http://www.jstor.org/stable/3600804
Accessed: 16-04-2018 10:01 UTC

INHERITED STATUS AND SLAVERY IN LATE MEDIEVAL ITALY AND VENETIAN CRETE*

The history of slavery in the medieval and early modern world is currently benefiting from fresh, innovative questions raised by scholars, after a long fallow period during which the subject was abandoned mostly to the ongoing care of economic historians.[1] Historians of the kingdoms of medieval Spain, the Italian city states and the interactions between Islam and Christendom, in particular, have in recent years approached the practice of slave-owning with tools and frames of reference

* Joan Cadden, Short Calf Society members Clarence Walker and Eric Rauchway, David Jacoby, and Natalie Z. Davis, who heard an earlier version of this paper at the Anglo-American Conference at the Institute of Historical Research in London in July 2002, offered me very helpful comments for which I am grateful.

[1] The starting point for medieval slavery is Charles Verlinden, *L'Esclavage dans l'Europe médiévale*, 2 vols. (Bruges, 1955–77). From there, a very selective list would include Benjamin Arbel, 'Slave Trade and Slave Labor in Frankish Cyprus (1191–1571)', *Studies in Medieval and Renaissance Hist.*, new ser., xiv (1993); Michel Balard, 'Esclavage en Crimée et sources fiscales génoises au XV[e] siècle', *Byzantinische Forschungen*, xxii (1996); Laura Balletto, 'Stranieri e forestieri a Genova: schiavi e manomessi (secolo XV)', in *Forestieri e stranieri nelle città basso-medievali (Atti del Seminario Internazionale di Studio, Bagno a Ripoli (Firenze), 4–8 June 1984)* (Florence, 1988); Salvatore Bono, *Corsari nel Mediterraneo: cristiani e musulmani fra guerra, schiavitù e commercio* (Milan, 1993); Olivia R. Constable, 'Muslim Spain and Mediterranean Slavery: The Medieval Slave Trade as an Aspect of Muslim–Christian Relations', in Scott Waugh (ed.), *Christendom and its Discontents* (Berkeley, 1998); Pierre Dockès, *Medieval Slavery and Liberation*, trans. Arthur Goldhammer (London, 1982); Alfonso Franco Silva, 'La esclavitud en la Península Ibérica a fines del Medioevo: estado de la cuestión y orientaciones bibliográficas', *Medievalismo*, v (1995); Matteo Gaudioso, *La schiavitú domestica in Sicilia dopo i Normanni: legislazione, dottrina, formule* (Catania, 1926); Domenico Gioffre, *Il mercato degli schiavi a Genova nel secolo XV* (Genoa, 1971); Jacques Heers, *Esclaves et domestiques au moyen âge dans le monde méditerranéen* (Paris, 1981); Ruth Mazo Karras, *Slavery and Society in Medieval Scandinavia* (New Haven, 1988); Iris Origo, 'The Domestic Enemy: The Eastern Slaves in Tuscany in the Fourteenth and Fifteenth Centuries', *Speculum*, xxx (1955); William D. Phillips, Jr, *Slavery from Roman Times to the Early Transatlantic Trade* (Minneapolis, 1985); Susan Mosher Stuard, 'To Town to Serve: Urban Domestic Slavery in Medieval Ragusa', in Barbara A. Hanawalt (ed.), *Women and Work in Preindustrial Europe* (Bloomington, 1986); Alberto Tenenti, 'Gli schiavi di Venezia alla fine del Cinquecento', *Rivista storica italiana*, lxvii (1955).

not traditionally associated with slavery in the Mediterranean.[2] For instance, the realization that a great many more Europeans suffered enslavement in Muslim lands of North Africa than has previously been understood compels scholars to digest the fact that — to adapt further Linda Colley's reworking of the famous lyric — Britons could indeed be slaves.[3] And as a result of the growing awareness of the significant numbers of enslaved Europeans, pleas made to religious orders, to the papacy and to secular powers to redeem captives constitute much of the material scholars are now studying to understand its implications.

The light of scholarly interest has yet to shine into one corner of pre-modern slavery where a group of potential slaves within Christian society await their interlocutors: the children of slave women by their free masters. A close look at their situation will reveal a little-noticed change in the way parents conveyed free status to their children in late medieval Italian city states and in Mediterranean colonies, and promises to open up new and unexpected facets of slavery in the pre-modern era. The children of slave women by free men have largely gone unnoticed as a group, because of the long-standing assumptions about their legal condition lying behind the work of nearly all scholars of pre-modern slavery. Unbeknown to these historians, at the beginning of the fourteenth century in the cities of Italy and

[2] Debra G. Blumenthal, 'Implements of Labor, Instruments of Honor: Muslim, Eastern and Black African Slaves in Fifteenth-Century Valencia (Spain)' (Univ. of Toronto Ph.D. thesis, 2000); Monica Boni and Robert Delort, 'Des esclaves toscans, du milieu du XIV[e] au milieu du XV[e] siècle', *Mélanges de l'École française de Rome*, cxii (2000); Daniel Duran Duelt, 'La companyia catalana i el comerç d'esclaus abans de l'assentament als ducats d'Atenes i Neopàtria', in Maria Teresa Ferrer i Mallol and Josefina Nutgé i Vivés (eds.), *De l'esclavitud a la llibertat: esclaus i lliberts a l'Edat Mitjana (Actes del col·loqui internacional celebrat a Barcelona, 27–29 May 1999)* (Barcelona, 2000); Steven A. Epstein, *Speaking of Slavery: Color, Ethnicity and Human Bondage in Italy* (Ithaca and London, 2001).

[3] Stephen P. Bensch, 'From Prizes of War to Domestic Merchandise: The Changing Face of Slavery in Catalonia and Aragon, 1000–1300', *Viator*, xxv (1994); James Brodman, *Ransoming Captives in Crusader Spain: The Order of Merced on the Christian–Islamic Frontier* (Philadelphia, 1986); Linda Colley, *Captives* (New York, 2002), 43–65; Robert C. Davis, 'Slave Redemption in Venice, 1585–1797', in John Martin and Dennis Romano (eds.), *Venice Reconsidered: The History and Civilization of an Italian City-State, 1297–1797* (Baltimore and London, 2000); Robert C. Davis, 'Counting European Slaves on the Barbary Coast', *Past and Present*, no. 172 (Aug. 2001); P. S. van Koningsveld, 'Muslim Slaves and Captives in Western Europe during the Late Middle Ages', *Islam and Christian–Muslim Relations*, vi (1995).

their Mediterranean colonies, those children began to inherit their fathers' status instead of their mothers'. The intimate concerns of many fathers about the status of their children nudged along a shift in the way status descended from one generation to the next and, consequently, as I shall suggest, a shift in the tolerance of slave-owning in the Italian peninsula.

The best way to understand the significance of the change in inherited status is to examine it first in the setting in which it provides the starkest contrast against the background of scholarly assumptions. We begin with the fourteenth-century court records of Venice's largest and longest-held territorial possession, the island of Crete, and end in the three main cities of late medieval and Renaissance Italy, Venice, Florence and Genoa.

I

VENETIAN CRETE

Pietro Porco attempted to sell two young boys, Dimitrios and Andronicos, in 1345. Their mother was his slave woman, Theodora. And in the court record it emerges that Pietro was himself their father. Somehow, in a way that we will never know, news of the attempted sale of the boys reached the ears of the colony's magistrates. They ruled succinctly and absolutely that

> [Pietro] may in no way or manner sell or alienate one or both of them at any time. They are and will remain in perpetuity free, since the regime has accepted on the strength of worthy witnesses who testified under oath not only that Dimitrios and Andronicos were the spurious sons of Pietro, who begat them with Theodora, but also that he had treated them as sons of that condition, and had acknowledged them to be his spurious sons.[4]

[4] Archivio di Stato di Venezia (hereafter ASV), Archivio di Duca di Candia (hereafter ADC), Memoriali, busta 29, fasc. 7, fo. 33^{v}, 16 Mar. 1345: 'Dictum est per egregium dominum Rogerium Ruçini honorabilem rectorem Crete et eius consilium concorditer et sententialiter quod Petrus Porco habitator in burgo Candide qui tentabat vendere et alienare Demitrium et Andronicum filios Theodore sclave sue tamquam suos sclavos et servos eo quod nati fuerant ex ipsa sua sclava prout de ipsa querimonia dominio facta fuit non possit modo aliquo vel ingenio ipsos vel aliquem eorum vendere vel alienare ullo tempore sed sint et esse debeant in perpetuum liberi cum eidem dominationi constiterit per plures testes fideidignos qui coram dominatione oretenus testificati fuerunt et afirmandunt per sacramentum ipsos Demitrium et Andronicum fore filios spurios ipsius Petri quod generavit et habuit ex Theodora predicta et ipsum Petrum Porco tractavisse ipsos tamquam huiusmodi filios suos et confessum fuisse ipsos esse filios eius spurios ut predicitur'.

The implication of the judges' sentence is that the boys were free because he had tacitly acknowledged them to be his spurious sons by treating them as such. The status of their mother was irrelevant.

To anyone familiar with late medieval slavery, this judgement is unexpected. By any body of law that was heir to Roman Law — and the laws of Italian city states were such — Pietro Porco's children should have been slaves. Venetian magistrates in Crete adhered to a clearly defined hierarchy of legal authority that began with the Statutes of Venice, first compiled in the mid thirteenth century and glossed by legal experts about a century later, and proceeded thereafter through conscience, selected local custom and *ius commune*, the pan-European theoretical legal principles whose roots in Roman Law were the same as those of canon law. In this case, the Venetian Statutes were sufficient, since one statute declared the child of a male slave and a free mother free. One of the Statutes' glossators, writing very likely in the mid fourteenth century, indicated that that particular statute also worked in reverse: a child of a slave mother and free father was a slave.[5] But even if the Statutes of Venice had not applied in this case, canon law and *ius commune* would have weighed in with the same verdict. By whichever source of law operating in the colony, Pietro Porco's sons should have been slaves like their mother. If the mother's owner happened to be the child's father, the child assumed the mother's condition anyway, an inheritance that could be changed only by the father's recognition of his paternity and his formal manumission of the child.

This fundamental principle of Roman and canon law has led a prominent historical sociologist of slavery to use it to characterize one of the seven ways in which slave societies around the world have dealt with the inherited status of slavery. The Roman

[5] Roberto Cessi, *Gli statuti veneziani di Jacopy Tiepolo del 1242 e le loro glosse* (Memorie del Reale Istituto veneto di scienze, lettere ed arti, xxx, 2, Venice, 1938), 208–9. For support, the jurist referred to the *Liber Extra*, Pope Gregory IX's canonical additions to the *Decretum*. The gloss on L. IV, c. xxviii, of the Statutes of Venice reads: 'Non ergo ancilla. Unde nota quod, si quis nascatur ex patre libero et matre ancilla, servus est. Sed, si e converse ex patre servo et matre libera, liber est partus, quo ad libertatem et servitutem, quia partus sequitur matris conditionem, ut Extr. [I. 18. 8] De servis non ordinandis, c. ultimo, cum suis similibus'. For the reference to the *Liber Extra*, see *Corpus iuris canonici*, ii, *Decretalium collectiones* (Graz, 1959), Decretales Gregorii IX, I. 18. 8: 'Natus ex patre servo et libera matre liber est, et licite promovetur'.

pattern, as Orlando Patterson calls it, meant that in the Roman Empire a child of a free father and a slave mother was always a slave and the child belonged to the master of the mother.[6] Since Patterson recognized that Roman Law had a deep and lasting impact on the canon law of the Church and on the law systems of southern European states in matters involving property and inheritance, he and nearly every other historian have worked under the assumption that in the Italian cities most active in the medieval slave trade, such as Genoa and Venice, the Roman pattern was the rule.

Use of the term *spurius*, the more serious and disadvantageous of two general categories of illegitimate children in canon law and *ius commune*, shows how novel this ruling was. Children born to unmarried parents between whom no legal impediment to their marriage existed were called 'natural' children. Those born from adulterous unions or to someone in holy orders (*adulterini*), or to parents who were too closely related to each other (*incestuosi*), were both considered spurious.[7] The living evidence of their parents' crime, they were not likely to be claimed by their fathers. Thus, natural children were often the products of their parents' wayward youth before marriage and so a little less likely to be spurned by their fathers. In

[6] Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge, Mass., 1982), 135. The others he discusses are the Ashanti, Somali, Tuareg, Chinese, Near Eastern and Sherbro patterns. At first sight, another of Patterson's patterns seems to be operating in the Pietro Porco case. The judges' ruling seems to follow what he would call the Somali pattern, whereby the father of a child by a slave woman had simply to acknowledge his paternity to ensure the child's freedom. The Somali pattern, according to Patterson, was applied in Maryland prior to the adoption of the Roman pattern in 1681, and, intriguingly, he suggests that it may have prevailed in Virginia as well: 'The children of the union of a slave woman and a free man were free if the father acknowledged paternity' (*Slavery and Social Death*, 137–8); 'In the modern Americas we find a Somali pattern in Maryland between 1664 and 1681, where the father determined the status of the child for both free persons and slaves. Although the Roman rule was adopted in 1681, the courts of Maryland were inclined to ignore it in the unusual cases where the rule worked on behalf of the slaves . . . Although it is nowhere explicitly stated, the same situation may have prevailed in early Virginia. It was not until 1662 that an act was passed that defined the status of the child according to that of the mother' (*ibid.*, 138 and n. 25).

[7] Enrico Besta, *La famiglia nella storia del diritto italiano* (Milan, 1962), 220–1; Jenny Teichman, *Illegitimacy: An Examination of Bastardy* (Ithaca, 1982), 144: 'The Roman Catholic Church distinguishes between two kinds of illegitimate children: natural children and spurious children. Natural children are those born to unmarried partners who could have married but did not; spurious children (*ex damnato coitu*) are born of adultery, or incest, or sacrilegious union'.

Venetian Crete, the colonists' natural children were so common that they appear everywhere in the surviving sources, in wills, business contracts and court records, showing that they had a chance of prospering in that society.[8]

To appreciate further the exceptional character of the ruling against Pietro Porco, we turn to another case from the very same court, one which in fact conforms to the Roman pattern. A former prostitute, Maria, went to court in 1383 to protect her two under-age sons, Francesco and Stamatio, from a man who claimed them as his slaves. The man claimed them on the grounds that his own slave had fathered the boys, and, therefore, as the issue of his slave, the boys were his property. For her part, Maria argued that the man's slave was not the father of her sons, an argument that in the end proved irrelevant to the court. The wording of the judges' reasoning is important:

> Having heard and understood the rights and claims of the parties and taking into consideration the condition of Maria, who had long been a public woman granting to the many men wishing to lie with her access to her person, and bearing in mind that all children born from such relations according to law must follow the condition of the mother, since the aforesaid mother of the boys in this instance was a free woman, consequently the children born by her must be free as well. Thus, [the sentence of the court] is that Francesco and Stamatio, sons of Maria, must follow the condition of their mother and therefore are free from all bonds of servitude.[9]

Here is a case in which the status of the child followed that of the mother. How, then, did the judges in Pietro Porco's case rationalize a ruling that contradicted not only canon law but the Statutes of Venice? Was the difference between the two cases merely one of a prostitute's promiscuity, on the one hand, and a slave-owner's tacit right to sexually exploit his human property? Did the judges not consider Pietro's situation

[8] Sally McKee, *Uncommon Dominion: Venetian Crete and the Myth of Ethnic Purity* (Philadelphia, 2000), 83–6, 102–4, 118–19, 125–6.

[9] ASV, ADC, Memoriali, busta 29bis–30, fasc. 19.2, fo. 33[r], 1383: 'Quapropter auditis et intellectis iuribus et allegationibus partium et considerata conditione suprascripte Marie que continue et quolibet tempore fuit femina publica consenciens personam suam multis viris volentibus concubere secum et habito respectu quod omnes filii nati ex tali concubitu secundum iura sequi debent conditionem matris prefata vero mater ipsorum puerorum erat libera et per consequens filii ex ea nati liberi esse debebant. Dictum est per suprascriptum dominum ducham et eius consilium concorditer et sentencialiter quod suprascripti Francischinus et Stamatius filii suprascripte Marie sequi debeant conditionem matris sue prefate et sint et esse debeant liberi ab omni vinculo servitutis'.

analogous to Maria's? Evidently, the judges did not find the two cases analogous. They appear to have valued certain kinds of illicit sexual relations and their consequences more than others. In the judges' view, a child of a slave woman was the product of an illicit union that nevertheless involved issues of ownership and habit. In Crete, the servile sexual partners of colonists resembled very closely those women denoted by the older term *concubina*, used on Crete rarely but always in situations where the concubine resided with the man. 'Concubine' implies a habitual relationship, one that the great thirteenth-century jurist Bartolo de Sassoferrato defined as an unmarried woman kept in the home by an unmarried man, from which union natural children are born.[10] Because she lived in her master's household, a slave woman sexually serving her master did not merit in the eyes of the court the label 'concubine', but the relationship between domestic slave and her master had elements in common with Bartolo's definition of concubinage. The child of a prostitute, in contrast, implied neither a habitual relationship with the child's father nor the father's ownership of the mother.

In the case of Pietro Porco and his sons, the judges assumed that the relationship between Pietro and Theodora was more substantial than the relations between Maria the prostitute and her clients. For the judges to direct the inheritance of status through the father in Pietro's case and through the mother in Maria's case there must also be implicit in their ruling an acknowledgement of how common long-term illicit sexual relationships between masters and slaves were. It stands to reason, also, that female slaves as sexual partners and the children they produced were more widespread than even the considerable numbers in the records indicate. The evidence from Venetian Crete tends strongly to suggest not only that men maintained long-term relationships with servile women, but that they had even longer ones with the children produced by such unions. As noted before, illegitimate children by slave women show up as beneficiaries in wills and as active parties in notarial documents. That they are not hard to find testifies to their acknowledged presence in society and perhaps in the sentiments of their fathers.

[10] Bartolo's definition of concubinage is cited in Bartolomeo de Bosco's *consilium* 78 discussed below: 'solutus cum solute, unica in domo retenta in schemate id est nominee, & figura concubinae est, ex quo naturales nascuntur'.

At this point the unusual nature of Cretan colonial life comes into play. Established in 1211 and lasting for over four hundred and fifty years until 1669, the Venetian colony of Crete started its existence with a population of a small group of ruling Venetians and a much larger group of conquered Greeks. By the fourteenth century, the residents of Crete from western Europe had become so acculturated to the Greek group that it was very difficult to tell a person of western European origins from those of Greek. Marriage between Venetians, in particular, and Greek Cretans on all levels of society produced a population many of whom could claim, going back through two or more generations, ancestors from both groups. Despite such a cultural mixture, the ever-changing Venetian administrators that were assigned to the island reserved lucrative public offices, political authority and military salaries exclusively for those colonists of Venetian and western European descent, whom they called 'Latins', and deprived the Greek population of the same, even though few colonists settled on the island for more than a generation could claim to belong entirely to one group or the other on the basis of ancestry.[11] Thus, the formal categories of Latin and Greek served to separate those to whom Venice granted privileges from those to whom it did not, or did so only exceptionally.

[11] For the sake of my argument, I would like to avoid the word 'ethnicity', which I increasingly suspect of inaccurately describing collectives of people organized around common descent, language, religion and customs in the pre-modern period. 'Ancestry', a concept more limited and concrete in its ambitions than the concept 'ethnicity', describes the awareness of who a person's parents and grandparents were and sometimes where they came from. Before there was 'race', there was ancestry, which contemporaries referred to in a variety of ways. In contexts involving slaves, 'genus' was most often used to describe their origins. Although it is true that 'genus' played no part in the fourteenth and fifteenth centuries in justifying or rationalizing the enslavement of people of a particular ancestry, the current consensus that racialized slavery emerged only at the end of the seventeenth century has led to the unwarranted implication that ancestry (as opposed to religion) had no relationship to legal status whatsoever before that time. By focusing exclusively on slave status, Europeanists and US historians (taking their cue from the Europeanists) have underestimated the role of ancestry in determining free status in the late medieval period. See Robin Blackburn, *The Making of New World Slavery: From the Baroque to the Modern, 1492–1800* (London and New York, 1997); David Brion Davis, *The Problem of Slavery in Western Culture* (Oxford and New York, 1966); Patterson, *Slavery and Social Death*; Phillips, *Slavery from Roman Times to the Early Transatlantic Trade*. To be fair, an awareness of this tendency among US historians is now apparent. See David Brion Davis, *In the Image of God: Religion, Moral Values, and our Heritage of Slavery* (New Haven, 2001), 159; George Fredrikson, *A Short History of Racism* (Princeton, 2002).

The status of 'Latin' in Venetian Crete eludes clear definition. Adherence to the Roman Church and recognition of the pope's authority certainly constituted one fundamental feature of the Latin group. But, in practice, it was not the *sine qua non* of membership in that group. For example, the Greek noble families who converted to the Roman rite in order to gain access to land and privileges reserved exclusively for Latins did not become Latin through conversion, although neither did they remain exactly Greek.[12] But religious adherence to Rome became indeed a primary criterion in the government's understanding of who among the population, man or woman, had the right to be styled 'Latin', as one court record from 1438 makes clear. In it, a communal prosecutor uses the evidence of pious testamentary bequests to Greek churches to show that the ancestors of a man who claimed the right to belong to the Great Council of Candia — open only to Latins — were in fact Greek. Consequently the man was ineligible for a seat on the council, despite his Roman Catholicism.[13] This case demonstrates just how ambiguous membership in an ancestral group was in the colony, but it also raises the more general point that Latin status appealed almost entirely to people at the extreme ends of the social spectrum.

At the highest and lowest levels of society, there were those whose claims to be Latin threatened to blur the boundaries established by the authorities. At the highest, recognition as a Latin meant access to wealth. At the lowest level, it meant freedom. Their claims, therefore, needed substantiation. For the people of the middling social rank living in the city of Candia, no great advantage accrued from claiming to be Latin. And so it comes as no surprise that, on that social level, discerning the ancestry of the skilled and unskilled labourers of Candia in the sources is almost impossible, and probably it was not particularly clear to the people themselves of that time, since intermarriage at that social level was very common.

Because there were both sanctioned (by marriage) and unsanctioned (concubinage) unions between the members of the different communities at all levels of society, determining

[12] For the Calergi and Ialina families, see McKee, *Uncommon Dominion*, 74–86, 108–9.

[13] ASV, ADC, Memoriali, busta 31bis, fasc. 40, fos. 54^{r}–55^{v}, no day given, March 1438 (cancelled).

who was or was not Latin became a problem that had to be solved through the imposition of standards of proof. Most people fell relatively easily into one community or the other, depending on their families' social rank and political allegiance. The increasing number of illegitimate children of mixed parentage, however, meant that a growing proportion of the population wished to but could not assign itself to the group most desirable from the point of view of rights and privileges.

Three types of legal status existed in Venetian Crete. The unfree peasantry, who resided in and toiled upon the great agricultural estates throughout the island, constituted the villeins, who were Greek-speaking adherents of the Eastern Church whose ancestors had once served Byzantine masters under the label of *paroikoi*. Slave status applied to those men and women who had been brought by merchants to the island, where they were bought either by residents in the colony or by merchants from elsewhere to be exported elsewhere. In the first half of the fourteenth century, the majority of slaves were Christian Greeks captured in Asia Minor, mainland Greece or the Aegean islands. The end of the century witnessed the replacement of Greek slaves by more and more people from the Black Sea region: Tatars, Circassians, Bulgars, Turks, Russians and others. Finally, free status constituted the only other legal condition recognized in Crete, although the free population of the colony itself was certainly economically and politically stratified.

Only one status was coextensive with an ancestral group: the Latins. Slave status was not restricted to one people, as it would be several centuries later in the Americas. All villeins were Greek, but not all Greeks were villeins. Only the people of Latin descent were by definition free. It could be argued that the term 'Latin', like the old elastic term 'Roman', a synonym for 'free man' in Roman Law, was not in essence an ancestral term, since we have already seen that 'Latin' was in large part a religious description, describing a person's loyalty to the pope. But conversion to the Roman rite did not suffice to win a slave or a villein's freedom. Claiming to be the child of a Latin father, however, did. The colonial administration's attempts to devise standards of establishing Latin ancestry came far too late to be effective or meaningful, since the population had been sexually mixing from the colony's birth in spite of bans on

marriages between Latins and Greeks. The important point is that such standards were devised only because the lines between the two ancestral groups were becoming blurred at the highest and lowest levels of society where property and legal capacity were at stake.

For example, in 1324 the colonial regime's prosecutors took a man to court to prove he was a villein. But the Venetian judges in Crete declared him to be instead the illegitimate son of a Latin man and therefore free. His case must not have been an open-and-shut one, because the court placed two conditions on him. If the man wore a beard in the Greek manner or worshipped in a church of the Greek rite or otherwise did not live like a Latin, he would revert to villein status.[14] The reality was, however, that, even as early in the colony's history as 1324, beards and an adherence to the Greek rite did not reliably point to a Greek person in Crete. The people whose ancestors came from the Italian peninsula had assimilated into the Greek culture to the point where language, dress and custom were unreliable indicators of a person's ancestral origins. Not even names and cognomens served as trustworthy signposts to a person's ancestral group. Nevertheless, by virtue of his western European ancestry, and not his cultural habits or his language, a father bequeathed his status to his illegitimate child.

In 1346 the Cretan judges upheld the claim of Michele Barastro, a resident of the village of Palla, against that of the commune's prosecutors, who were trying to show that Michele was an unfree villein. The prosecutors claimed that Michele's father was the late Georgio Pellecano, a villein, but Michele insisted that he was instead the illegitimate son of the late Niccolò Barastro, a Latin man. Once the court accepted Michele's evidence that his father was Latin, he was absolved from the status of villein on that basis. The assumption here was that being the son, legitimate or not, of a Latin father trumped all other considerations in establishing inherited status. So successful was this strategy to evade the burdens of villeinage that the government had earlier attempted, in 1323, to seal off this exit from

[14] *Ibid.*, busta 29, fasc. 2, fo. 17^{r}, 26 Jan. 1323/4: 'quod si dictus Michael portabit umquam barbam secundum morem Gregorum vel ibit ad officium Grecorum et non vivere tamquam Latinus quod ipse esse debeat villanus Comunis'.

servitude.[15] Since all cases involving natural sons of villeins are subsequent to the date of the government's decree, we see how potent Latin paternity continued to be and how futile such efforts to prevent claims to it were.[16]

Those examples involve villeins. Did the same rule apply to slaves? The absence of cases involving slaves claiming free status must not be taken to mean that the beneficial effects of Latin paternity did not apply to them. More likely, slaves were generally ignorant of the rule, in addition to lacking the legal capacity and the funds to have representation in the colony's courts. But other evidence, like the case involving Pietro Porco's sons, makes clear that at some point in the first decades of the fourteenth century free status began to descend automatically to the children Latin men had by slave women. In 1271 Bellamore Rosso, a resident of Candia, had drawn up an instrument of manumission for his son Bonaventura by his slave woman Bona.[17]

Within thirty years, the situation had changed. Among the approximately eight hundred wills that survive from the fourteenth century many were made by testators who looked to the future of their slaves and the children they had by them. Although numerous men freed slave women in their wills, none of them freed the sons and daughters they had by them. Nor in the wills of relatives left in charge of those children is there any indication that before dying the fathers had formally manumitted them. The children are all assumed to be free.[18] If the children

[15] *Duca di Candia: bandi, 1313–1329*, ed. Paola Ratti Vidulich (Fonti per la storia di Venezia, Sez. 1, Archivi pubblici, Venice, 1965), no. 345, 1323 (pp. 131–2): female villeins may no longer claim that their sons are natural sons of someone other than their husbands.

[16] Two examples of such paternity claims recorded after the ban: ASV, ADC, Memoriali, busta 29bis–30, fasc. 19.2, fos. 9^{r}–10^{v}, 1382; *ibid.*, fasc. 22, fos. 21^{v}–22^{r}, 1390.

[17] *Imbreviature di Pietro Scardon, 1271*, ed. Antonino Lombardo (Documenti e studi per la storia del commercio e del diritto commerciale italiano, xxi, Turin, 1942), no. 101, 28 Feb. 1271 (pp. 40–1): 'Die ultimo. Bellamore Rosso habitator in Candida facit liberum Bonaventurum, filium Bone quondam sclave sue, qui dicitur eius filius naturalis ita plene sicut fieri potest. Testes Petrus Rosso et Pascalis Faber. Dare et complere. Petrus Rosso solvit pro eo yperpera VIIII quia fecit fieri ipsum liberum et Marcus Flabani et Nicolaus de Amico'.

[18] *Pietro Pizolo, notaio in Candia*, ed. Salvatore Carbone, 2 vols. (Fonti per la storia di Venezia, Sez. 3, Archivi notarili, Venice, 1978–85), no. 127, 1300 (i, 61–2); *Wills from Late Medieval Venetian Crete, 1312–1420*, ed. Sally McKee, 3 vols. (Washington DC, 1998), i, no. 337, Marcus Baroci, 1391 (p. 446); no. 343, Maria,

(cont. on p. 43)

had been manumitted, their status as freed people would have been signalled in the documents in which they appear as legal beneficiaries. Just as ex-slaves state their freed status plainly in the contracts they had cause to draw up, it was a prudent father or caring relative who set out plainly in a publicly notarized document the status of a child, whether a married daughter or an emancipated son, or the recognition of a natural child. Because the lack of free status made a beneficiary liable to a challenge from one of the other heirs, it was a common practice to make explicit the status of those whose legal capacities might be in question. Therefore, if the children of slave women are not described as freed, it means that they had never been anything but. Moreover, although manumissions of slaves survive in the notarial registers from the fourteenth century, I have found in the same registers no manumission by a father of his child after the 1270s. Not only is it reasonable to assume that free status by virtue of Latin paternity extended to slaves, but Pietro Porco's free sons serve as confirmation of it.

The Venetian administration used ancestry in the colony to sort out problems of inclusion and exclusion that considerations of social status alone would have solved in the city states of Italy. The social forces peculiar to a colonial society, in which a small group endeavours to keep another, larger group in a subordinated position, go a long way to explain why Venetian judges would gradually come to use ancestral criteria in their accommodation of the colonists' desire to bequeath their free status to their illegitimate sons by slave women. The pressure for the change must have come from the fathers, because the nature of Cretan colonial society was such that the Venetian authorities had absolutely no incentive to relinquish this exclusive claim to privileged status. Venice never conceded anything to the Greek-Cretan population except under pressure. Thus, colonial relations gave rise to the use of ancestry as the principal tool for determining who had the right to benefit from the privileges granted to Latins.

(n. 18 cont.)
wife of *dominus* Marcus Faletro, 1326 (p. 452); no. 218, Daniel Greco, 1348 (p. 284); no. 34, Massimus de Rimano, 1348 (p. 44); no. 74, Simon de Torcello, 1348 (p. 98); ii, no. 573, *Presbyter* Nicolaus Milovani, 1350 (p. 725); no. 263, Marcus Brogognono, 1360 (p. 343); no. 275, Andreas Cornario, 1360 (p. 361).

Although very little material from other colonies in the eastern Mediterranean — either Venetian or Genoese — has survived, what there is does not offer a consistent picture. There are indications that what became customary in Crete also prevailed in other colonial populations under the rule of Venice. A Venetian residing in the Black Sea port of Tana freed his 23-year-old Tatar slave, Eni, baptized Agnes, without also freeing his daughter by her.[19] But in Genoese territory the picture is different. On the island of Chios, a man freed the daughter he had by a slave. Yet this piece of evidence does not necessarily reflect practices in Genoa itself, as we shall see.

II

THE CITIES OF THE ITALIAN PENINSULA

The peculiar circumstances inherent in a colonial setting alone explain the use of ancestral designations to differentiate between the illegitimate children who had sanctioned claims to free status and those who did not. Colonial relations do not suffice to explain a similar change in inherited status back in the metropolis and other cities of the Italian peninsula in the same period. Venetian Crete's colonial characteristics are so anomalous for its time that it would have been excusable to leave the matter at that and attribute the divergence from Venetian statutory and canon law to the colony's precocity in its social relations. On closer examination, however, of the way the cities of Italy handled slave women's children by free men within their own metropolitan jurisdiction, a much more complex picture comes into focus than was to be expected. As the picture becomes clearer, a family portrait, with the father at the centre, takes shape. The father is extending his hand to motion into the picture's frame his children by his slave women, who stand visibly but subserviently in the background. It is a crowded and uncomfortable space, but there the children are, standing a little to the side, unsure of their placement and in uneasy proximity to their father's legitimate kin.

[19] *Moretto Bon, notaio in Venezia, Trebisonda e Tana, 1403–1408*, ed. Sandro de' Colli (Fonti per la storia di Venezia, Sez. 3, Archivi notarili, Venice, 1963), no. 27, 1407 (pp. 37–8): in Tana, 'Iacobus de Zane de Venetiis nunc habitator in Tana' frees slave, Eni, baptized with the name Agnes, 'mater Chaterine filia mea de genere Tartarorum de etate annorum XXIII'.

At first glance, this picture does not fit what most people assume to be the law. For instance, Ruth Mazo Karras, in her short essay on 'Gender and Slavery' in *A Historical Guide to World Slavery*, states: 'Roman law and legal systems based on it denied the legality of slave marriage, and therefore there was no presumption of paternity; the child was the mother's alone'.[20] It is true, as we saw, that canon law and *ius commune* do direct the descent of inherited status through the mother. Susan Mosher Stuard, too, saw no reason to doubt canon law's applicability in cases involving the status of slave children when she argued convincingly that the number of slave women (*ancillae*) in the households of the European Mediterranean was considerably greater than historians thought existed in the late medieval period.[21] The evidence that a child of a slave woman was always a slave seems straightforward and incontestable to some historians.[22]

In the fourteenth century, however, positive law in this regard began to muscle that older tradition out of the way. Thanks largely to Thomas Kuehn's recent study of illegitimacy in Florence, there is now no doubt that the Statutes of Florence considered the children of slave women by free men to be free.[23] Furthermore, it looks as though in practice if not in law the same was true in Genoa.[24] While no manumissions of slave women's children survive from the fourteenth century (so far as I am aware), legitimations of such children do exist, in which there is no mention of previous manumissions. Common sense proposes that only free offspring could be legitimated.

[20] Ruth Mazo Karras, 'Gender and Slavery', in Seymour Drescher and Stanley L. Engerman (eds.), *A Historical Guide to World Slavery* (Oxford and New York, 1998), 218.

[21] Susan Mosher Stuard, 'Ancillary Evidence for the Decline of Medieval Slavery', *Past and Present*, no. 149 (Nov. 1995).

[22] As another example, Victor Crescenzi, *'Esse de Maiori Consilio': legittimità civile e legittimazione politica nella repubblica di Venezia (secc. XIII–XVI)* (Rome, 1996), maintains that 'il figlio di una *serua* altro non potrebbe esse che un *seruus*, incapace ad acquistare la qualità di *filius legitimus* e di conseguenza non politicamente legittimabile, giusta il disposto delle leggi del 1323 e del 1414' (p. 373).

[23] Thomas Kuehn, *Illegitimacy in Renaissance Florence* (Ann Arbor, 2002), 79. He refers to an unpublished statute of Florence, in which this is made clear: Statuta 1415, bk 3, rubric 186: De sclavis et servis et eorum materiale, 1: 385–7 (Archivio di Stato di Firenze, Statuti di Firenze 29, fos. 153^{r}–154^{r}). Origo also mentioned in a footnote that slave women's children inherited their status from their fathers: 'Domestic Enemy', 344 n. 113.

[24] Kuehn, *Illegitimacy in Renaissance Florence*, 75.

A legal opinion written in the first decades of the fifteenth century by a Genoese jurist shows this in fact to have been so. The case whose merits Bartolomeo de Bosco undertook to assess involved a 3-year-old son of a slave woman, Lucia Christiana, by her master, Niccolino Presani, all of whom resided in the Genoese colony of Caffa, the port on the Black Sea. Before dying intestate, he had freed her. The epithet 'Christiana' indicates that the slave Lucia, perhaps a Tatar woman, had been baptized since her enslavement. Against the interests of Lucia's son, a kinsman of Niccolino went to court to press a claim to be the heir of his intestate relative, on the grounds that, since a child of a slave could only be spurious and not natural, he, the kinsman, was the closest living relative.[25] In other words, Bartolomeo had to decide if a child of a slave could be legitimated, because, if so, then there was nothing to prevent a legitimated child from taking his or her rightful place at the head of the line in intestate succession.

But the jurist first had to prepare the ground for his decision. A judge's conscience on its own is never sufficient to reach a decision, he argues in the first of his points leading to his summary opinion. The judge must bear in mind 'two salts', the salt of knowledge and the salt of assured conscience, by which Bartolomeo seems to mean: at first glance the outcome of this case may seem self-evident — of course, the child of a slave woman cannot succeed to his father. In fact, after closer scrutiny of the deceased's actions and intentions, conscience must weigh in to protect the dead man's intentions.[26] Once he has announced his resolve to let the verified circumstances of the case guide his conscience, Bartolomeo begins setting out his argument leading inexorably to the confirmation of a slave woman's child as a free human being.

He laid out his reasoning as responses to a series of questions that follow a logical progression through his argument. He asks,

[25] *Consilia egregii domini Bartholomei de Bosco famosissimi iuris consulti genuensis* (Loano, 1620), *consilium* 78.

[26] *Ibid.*, p. 135: 'Restat vt obiectionibus respondeatur. In primis dicebatur quod iudex habebat latissimam potestatem iudicandi de iure de veritate, & secundum quod conscientiae eius videtur, ex quo pars contraria praetendat sententiam pro se ferri debere quasi conscientia pro se faceret, sed Respondebatur quod in mente cuiuslibet recti Iudicis debent esse duo sales, scilicet sal scientiae, & sal securae conscientiae: nam Iudex non debet simpliciter iudicare secundum conscientiam, sed debet eam informare secundum allegata, & probate ad facti veritatem pertinentia'.

can a child by a slave concubine be a natural child? Who is a legitimate concubine? After stating that in civil law there can be no marriage between a free person and a slave, but by canon law there may be, he asks, who are called simply natural children, who natural and legitimate, who only legitimate, and who spurious?[27] The one question Bartolomeo does not pose is whether or not the legitimated child of a slave concubine was free. Given the punctilious nature of most jurists' reasoning in legal opinions, it is fair to assume that, if the child of a slave concubine needed to be manumitted before legitimation, Bartolomeo would have said so.

Steven Epstein sees in this case evidence of Bartolomeo's grappling with the moral issue of slavery.[28] The thought is compelling, but even Epstein admits that most of the cases involving slaves seem to involve them only incidentally, in that the legal principles underlying a case about the sale of a slave might just as easily have been about the sale of a horse. And the hospital Bartolomeo founded in Genoa to care for old slaves may reflect an unsually strong concern about slavery, but may equally be viewed as an unusual extension of an ordinary pious bequest for the relief of those enslaved.[29] Instead, the compassion Epstein senses lying behind Bartolomeo's consideration of issues involving slaves appears to have oriented the jurist's thinking less along the lines of whether slavery was right or wrong and more in the direction of the practical extension of free status. Like most other people of that time, his focus is less on the problem and more on the remedy. Bartolomeo's compassion led him to view his conscience and his judicial discernment as gatekeepers at the doors leading to civic life.

Why Bartolomeo favoured civil society's embrace of slave women's children by their masters involved factors more complicated than his own inclinations. Simply stated, Bartolomeo's opinion reflects a shift occurring in the late medieval world of Italian cities. Without the invidious use in Italy of ancestry to cast slaves and their offspring as profoundly and innately

[27] *Ibid.* To avoid confusion, it should be noted that Point 13, whether a father may emancipate a son while the son is absent, does not refer to the freeing of a slave. Emancipation is the formal act of releasing a son from parental authority and obligations; manumission is the act of freeing a slave.

[28] Steven A. Epstein, 'A Late Medieval Lawyer Confronts Slavery: The Cases of Bartolomeo de Bosco', *Slavery and Abolition*, xx (1999).

[29] Steven Epstein, *Genoa and the Genoese, 958–1528* (Chapel Hill, 1996), 282.

different from their masters, the increase in the number of slaves in Italian cities in the late medieval period and early Renaissance in fact contributed to their masters' reluctance to see their own children bear their mothers' burden.[30] A simplistic notion of slave-owning that allows little room for the unpredictable agency of human emotions will hinder us from exploring the possibility either that more fathers kept their illegitimate offspring in their households, or that those who did, even if their numbers did not significantly increase, exerted some influence on their societies to make their preferences known.

By once again bringing disparate elements together we can make sense of a complex picture. In Venice, the Great Council enacted legislation in 1422 that prohibited Venetian patricians from putting up their illegitimate sons by slave women for seats on the Great Council of Venice.[31] The prohibition formed part of a broader effort dating back to the thirteenth century to prevent all illegitimate sons from gaining entry to the Great Council, but the 1422 statute is the first to mention slave women, in contrast to earlier and more general references to women 'of low and vile condition'. For the Venetian patriciate to stoop so low as to mention slave women in the same context as membership in their ranks may indicate, on the one hand, a greater number of slave women in the city by that time and their sexual exploitation, or, on the other, that at least one patrician had attempted to enrol a son by a slave woman, or both.[32] In Venice and in Venetian Crete patricians were fined for attempting to do just that.[33]

[30] Braude similarly argues that fifteenth-century Europeans made little distinction between themselves and people from other continents: Benjamin Braude, 'The Sons of Noah and the Construction of Ethnic and Geographical Identities in the Medieval and Early Modern Periods', *William and Mary Quart.*, liv (1997).

[31] ASV, Maggior Consiglio, *Ursa*, reg. 22, 1415–54, fos. 47^{v}–48^{r}, 26 May 1422: 'Et insuper si occureret quod aliquis noster nobilis habuisset vel haberet agere carnaliter cum aliqua ancilla sua vel alia muliere vilis condicionis et diceret ipsam desponsasse non possint nec debeant ullo modo filii qui nascerentur seu nati essent ex talibus mulieribus venire nec esse de nostro maiori consilio nisi ille talis illa die propria qua desponsaverit dictam talem ancillam seu mulierem denotaverit personaliter advocatores nostri comunis et provaverit per testes fide dignos qui interfuerint disponsacioni predicte quam denunciam et testificaciones dicti advocatores teneantur facta distincte notary in actis sui officii'.

[32] Stanley Chojnacki, 'Social Identity in Renaissance Venice: The Second Serrata', *Renaissance Studies*, viii (1994), 344–8.

[33] ASV, Avogari di Comun, *Raspe*, reg. 3646, fos. 49^{v}–50^{r}, 1414; ASV, ADC, Memoriali, busta 31, fasc. 39, fo. 97^{v}, 1436.

In Florence, as the registers of the Ospedale degli Innocenti show, the number of children in the city's foundling hospitals who did not benefit from their fathers' acknowledgement increased over the fifteenth century.[34] Whether that increase had to do more with a corresponding rise in the number of illegitimate children or with a greater inclination on the part of the fathers to reject their illegitimate offspring is not known. But private family records, official tax records and various other documents show that it was not uncommon for fathers to keep their illegitimate children near them.[35] Bearing in mind that the children by slave women were almost certainly under-reported in the tax census (*catasto*), they nevertheless constitute 34.8 per cent of the 557 illegitimates that Kuehn counted in the tax census for the year 1458 alone. And he found that fifty-four daughters of slave women had deposits placed in the *monte delle doti*, the public fund that allowed fathers to invest in their daughters' future dowries.[36] Moreover, there are signs that it was also not uncommon for Genoese fathers to keep their offspring by slave women.[37]

Why these cities felt moved to grant free status to children of slave women no doubt had also much to do with the survival and self-interests of high-ranked families. Venetian, Genoese and Florentine fathers very likely would not have sought to promote their illegitimate sons if they had had legitimate sons, or if they could have counted on their legitimate issue surviving until they produced children of their own. The fears of family extinction felt everywhere in the Italian cities, particularly in the aftermath of the devastating epidemics of the fourteenth and fifteenth centuries, made patricians more inclined to accept and even nurture their illegitimate sons and, less often, their illegitimate daughters. Similar fears motivated the high-ranked fathers of Venetian Crete as well, but there the inclination to retain children by slave women in households led to a much broader

[34] Kuehn, *Illegitimacy in Renaissance Florence*, 110.

[35] Kuehn refers to slave offspring remaining in their fathers' households: *ibid.*, 116, 118; Philip Gavitt, *Charity and Children in Renaissance Florence: The Ospedale degli Innocenti, 1410–1536* (Ann Arbor, 1990), 197–8; Anthony Molho, *Marriage Alliance in Late Medieval Florence* (Harvard Historical Studies, cxiv, Cambridge, Mass., 1994), 93: *catasto* 821, fo. 245^{v}, 1458.

[36] Kuehn, *Illegitimacy in Renaissance Florence*, 143, 148.

[37] Luigi Tria, *La schiavitù in Liguria (ricerche e documenti)* (Genoa, 1947), 145, no. xii, 1318.

acceptance of them in that smaller-scaled, colonial society than they apparently received in Venice, Genoa or Florence.

Thus, the motivations behind the acceptance of slave women's children both in Crete and, more gradually, in Venice, Florence and Genoa are similar. A rising number of slaves in the fourteenth century led to an increase in the number of illegitimate children by slave women. Whether out of affection or fear of extinction, some fathers both in the colony and in the cities of Italy kept their illegitimate children. Magistrates and jurists responded sympathetically to the impulse to create room within the family portrait for them. Granting free status to slave women's offspring was the a priori condition for considering them as natural children capable of being legitimated. But the criteria by which illegitimate children themselves could be recognized as legally free in Crete differed from the criteria applied in the Italian cities. In Crete, a slave woman's child had merely to show that his father was of western European descent to attain free status. In Florence, Venice and Genoa, the process depended on the fathers' rank as citizens. In both situations, the western European origins of the father are a given, but only in the colonial setting are they explicitly stated.

III

IMPLICATIONS

The contrast between Venetian Crete and the Italian cities in this regard is suggestive of a number of ideas. First, the people of Venice, Florence and Genoa seem to have been, in practice, indifferent to the ancestral origins of the slaves they bought, none of whom was western European. This is not to say that they were indifferent to skin colour, but, as Braude has suggested, a firm connection between geographical origin and skin colour had yet to take hold in the minds of fifteenth-century Italians. While slave ownership was allowed in Italian cities, the ancestral origins of slaves were not what made the sons of slaves undesirable members of Italian patriciates. The low social status of slave mothers was what detracted from the purity of the ruling group in the eyes of the state.

But ancestry did matter to the Venetian authorities in the colony of Crete. In a colonial setting where high rank was associated

with members of one ancestral group, the Latins, and lower rank associated with everyone else, slaves were among those who stood outside the privileged group. A man or woman from an Italian city, or, for that matter, from anywhere in western Europe, would never have referred to him- or herself as a Latin in the way that men and women of Italian ancestry did in Crete. The official term 'Latin' only made sense in a climate in which it was necessary to sort out those who were from western Europe and loyal to the Roman Church from those who were not. The status of 'Latin' implies a binary opposition with a non-Latin, because of the privileges inherent in Latin status. The reality was different. A binary opposition between Latin and non-Latin did not exist, thanks to the sexual mixing that had been taking place in the colony since its inception in 1211. 'Latin' remained a largely formal category, but one internalized by the inhabitants to varying degrees depending on social rank.

In colonies where the conquerors from western Europe were a minority, ancestry became a convenient tool initially to identify those whom public authorities deemed worthy of inclusion within the small privileged group. Once a society internalizes ancestry to the extent that many aspects of that society filter through it, it is then easy to subvert its use to support a strategy of exclusion on the same basis, as happened in North and South America. In western Europe, except in Iberia where colonial relations similar to those in subsequent Spanish colonies in the western hemisphere prevailed, ancestry remained attached to social status. While Italians appear to have been mostly indifferent to the ancestry of servile people in their own territories, it became an effective tool in Mediterranean colonies founded by Venetians, and subsequently by others across the Atlantic, as a long-standing means of subordinating a local population. Thus, slave-owning colonial societies established by people from western Europe in territories outside western Europe cared more about the introduction of children of mixed parentage into society than did slave-owning societies within Europe.

Drawing attention to the social utility of ancestry in the Venetian colony of Crete and the indifference to slave ancestry in the cities of Renaissance Italy offers an analytical framework for understanding how later concepts such as 'race' and 'ethnicity' developed differently in Europe from the way they developed in colonies founded by Europeans. In other words, the comparison

of the legal situation of slave women's children in Italian cities with their situation in Venetian Crete helps differentiate between the ways in which the people *of* western Europe experienced ancestry and how people *from* western Europe experienced it. But it needs stressing that the kind of ancestral awareness connected to slavery that developed in the western hemisphere was not by any means the result of a progression along a continuum stretching from Crete to Virginia. Instead, this analysis of the prospects facing the children of slave women in Italian cities and in Mediterranean colonies should help to clarify slavery's intimate, organic role in the history of European colonies in the Americas.

The change in inherited status found in late medieval Italian cities and their colonies also brings to mind an idea about why colonizing powers tolerated slavery so much better outside western Europe than they did inside it. Since the people of western Europe did not enslave themselves, the granting of free status to slave women's children encouraged Europeans to perceive the offspring of slaves as potentially like themselves and therefore legally protected from enslavement. The children of slave women dissolved into the European population without threatening public authority. The same could not be said about the dissolution of ethnic lines in populations made up of colonizers and colonized, whose stable relations depended on rationales justifying one ancestral group's domination over another.

Finally, what emerges most clearly from the evidence for this change in inherited status is that enslavement constituted so real and imminent a danger for so many that people at all social levels gave far more thought in the fourteenth and fifteenth centuries to the practicalities of free status than to the morality of slavery. Despite the relatively few texts that rationalized slavery according to the *ius gentium* of Roman Law (although by natural law all human beings were born free), the evidence for how late medieval people thought about slavery lies less in the absence of arguments against it than it lies in the efforts to extend free status to people traditionally excluded from it by law and custom. During the same period in which people grappled with the issue of free status in opposition to serfdom and the freedom of cities from external tyranny, a similar struggle was taking place at the bottom of the social ladder, where slave women brought into life the children of their masters.

Free status and enslavement were the two poles of existence in the pre-modern world. In the fourteenth and fifteenth centuries, people stood with their backs to the pole of enslavement and faced the very real problem of preserving free status. In a time when western Europeans feared enslavement by Muslims and Berbers, and Slavs, Greeks, Muslims and other peoples feared enslavement in western Europe, justifications for and against slavery did not seem as urgent as strategies to secure free status. Public authorities, jurists and magistrates, under the pressure of Europeans' intimate concerns, focused their attentions on establishing criteria for the legal determination of a person's legal status in such a way as to show favour to those who wished to expand the circle enclosing free people.

That orientation towards devising strategies to confront the loss of free status meant that where western Europeans ruled as a small minority they were more likely to employ formal ancestral categories in situations such as deciding what to do with the children of their slaves. Public authorities sought to regularize the inclusion of free men's illegitimate children into civil society by resorting to ancestral categories to identify those children of mixed parentage. Where western Europeans prevailed numerically and politically, they had no need of those categories, since the children of mixed parentage were assimilated into the larger, socially dominant group.

Overall, what matters most is the change in law, because, once identified, it needs explaining in the light of the current perception that Europeans did not trouble themselves much about the moral problem of slavery in the late Middle Ages. The slave-owning systems of North America exhibited similar tendencies in the early years of colonization to tweak the way the inherited status of slaves operated. But in those later times and in those more complex colonial societies, the recourse to ancestry as a way of determining status led to the bolstering of enslavement and not the extension of free status. Not surprisingly, by the end of the seventeenth century, the father's gift of free status to his offspring had metamorphosed into the mother's tragic legacy of enslavement to her fatherless child.

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