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# SLAVERY AND OTHER FORMS OF STRONG ASYMMETRICAL DEPENDENCIES

SEMANTICS AND LEXICAL FIELDS

*Edited by Jeannine Bischoff and Stephan Conermann*

UNIVERSITÄT  BONN



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STUDIES

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## **Slavery and Other Forms of Strong Asymmetrical Dependencies**

# **Dependency and Slavery Studies**



Edited by  
Jeannine Bischoff and Stephan Conermann

**Volume 1**

# **Slavery and Other Forms of Strong Asymmetrical Dependencies**



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Stephan Conermann

# Introduction: The Semantics of Slavery and Other Forms of Strong Asymmetrical Dependency in Comparison

The Bonn Center of Dependency and Slavery Studies (BCDSS)<sup>1</sup> explores slavery and other types of strong asymmetrical dependencies from five different thematic and methodological vantage points. The first of these five research areas aims at establishing a new language of analysis.<sup>2</sup> In other words, an important condition for our ambitious undertaking is questioning our own analytical vocabulary. We need to reconsider the key concepts, terminologies and categories that structure the way we think and speak about asymmetrical dependencies. The goal of the first research area is thus the exploration of the *semantics, lexical fields and narratives* used by historical actors themselves in organizing their world and talking about asymmetrical dependencies.

Part of the working program of the BCDSS are its “thematic years.” Apart from the first and the last year of the funding period of the Cluster of Excellence, each of the other five years highlights the central topic of one of the five research areas. Thus, in addition to our on-going work in individual and collaborative projects, we

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1 [www.dependency.uni-bonn.de](http://www.dependency.uni-bonn.de).

2 The second research area (Embodied Dependencies) examines primarily non-textual relics of asymmetrical dependencies, which have been “inscribed” in bodies and artefacts. The aim of this research area is to correct the widespread imbalance in academic evaluations of written and non-written traditions by including the perspectives of pre-colonial cultures, and to establish archaeology, art history, and object-based anthropology on an equal level with those disciplines of the humanities that focus on textual sources. In this way, we give “voice” to actors operating in non-textual environments. The third research area (Institutions, Norms, and Practices) studies forms of asymmetrical dependency produced at the crossroads of conflicting institutions, norms, and practices. Their interaction must be conceived of as a two-way movement: top-down, i.e., from institutions to practices (for example, when institutions create norms that are – or are not – implemented into practices), and from below (for instance, when practices produce norms and these become “institutionalized”). The fourth area (Labor and Spatiality) focuses on labor-related asymmetrical dependencies and mobility. Instead of starting with the Industrial Revolution, and thus adopting European free wage labor as the standard labor relation of modernity, all forms of labor have to be taken into account in equal measure. Against this backdrop, the dialectics between spatial mobilization and immobilization of the dependents have also to be studied. The fifth research area (Gender [and Intersectionality]) addresses asymmetrical dependencies specifically at the intersections of gender, status, class, ethnicity, religion, and age. Originally developed by scholars from the field of gender studies, intersectionality has since been productively applied to various forms of social hierarchization, discrimination, discreditation and stigmatization. Intersectionality does not merely necessitate a rethinking of personal identities, but rather allows for an overarching analysis of the asymmetrical dependencies present within identities.

seek to share our research with the global scientific community with a special focus on the research area at the center of the current thematic year. We organize themed international workshops and an annual international conference. By focusing on the topic of one research area per year, we create an intellectually intense and inspiring environment that boosts research. We invite eminent scholars in the field of Slavery and Dependency Studies from around the world so that they can discuss, debate and collaborate with each other, with us and with our Fellows. The Fellows who join us for the thematic years in our Institute of Advanced Study, the Heinz Heinen-Kolleg, are consequently chosen with matching thematic foci. In this way, we make sure to pick Fellows who complement our research by filling our thematic gaps.

The first thematic year of the BCDSS started in October 2019. The first workshop, “Semantics and Lexical Fields of Slavery and Other Forms of Asymmetrical Dependencies,” whose results are published in the present volume, took place from March 5–6, 2020, ten days before the first Covid lockdown in Germany started. Due to the pandemic, that year’s annual conference, “Slavery and Other Forms of Strong Asymmetrical Dependencies: Semantics, Lexical Fields and Narratives” (October 1–2, 2020) had to take place virtually. The thematic year was wrapped up with the workshop on “Narratives of Dependency” (July 15–16, 2021), organized by Elke Brüggem and Marion Gymnich, which had been postponed due to the pandemic.<sup>3</sup>

The humanities in Germany can look back on a long tradition as far as the study of *semantics* and *lexical fields* are concerned. This tradition is associated first and foremost with the (linked) fields of the history of concepts (“Begriffsgeschichte”) and historical semantics (“Historische Semantik”) as well as with a number of excellent long-term projects. The *Archiv für Begriffsgeschichte*, which was initiated by Erich Rothacker in 1955, developed over the course of time into an internationally renowned journal for research on the history of concepts.<sup>4</sup> It complements in many respects the multi-volume *Historisches Wörterbuch der Philosophie* (*HWP*, Historical Dictionary of Philosophy), which was completed in 2007.<sup>5</sup> The eight-volume *Geschichtliche Grundbegriffe* edited by the historians Otto Brunner, Werner Conze and Reinhart Koselleck from 1972 to 1997 constitute the most important handbook on the history of concepts.<sup>6</sup> This work is a historical lexicon of political and social language used in Germany since 1700. The *Handwörterbuch der musikalischen Terminologie* (*HmT*, Dictionary of Musical Terminology), which was published as a loose-leaf collection between 1971 and 2006, provides an important overview of the origin, history

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<sup>3</sup> The proceedings of the other two workshops will also be published in 2022.

<sup>4</sup> <https://meiner.de/zeitschriften-ejournals/afb.html> [accessed 17.05.2022].

<sup>5</sup> Joachim Ritter, Karlfried Gründer, and Gottfried Gabriele, eds., *Historisches Wörterbuch der Philosophie*, 13 vols., 1971–2007 (Basel: Schwabe, 2007) (CD-ROM).

<sup>6</sup> Otto Brunner, Werner Conze, and Reinhart Koselleck, eds., *Geschichtliche Grundbegriffe: Historisches Lexikon zur politisch-sozialen Sprache in Deutschland*, 8 vols. (Stuttgart: Klett-Cotta, 2004).

and meaning of musical terms.<sup>7</sup> Probably the most important German-language encyclopedia on scientific rhetoric is the twelve-volume *Historisches Wörterbuch der Rhetorik* (Historical Dictionary of Rhetoric, editor: Gert Ueding), completed in 2015.<sup>8</sup> The *Historisch-kritisches Wörterbuch des Marxismus* (HKWM, Historical-Critical Dictionary of Marxism), planned to be published in fifteen volumes, is a major international German-language encyclopedia covering over 1,500 historical terms connected with Marxism.<sup>9</sup> Intense collaborative work resulted in a seven-volume historical dictionary of the key concepts of aesthetics, *Ästhetische Grundbegriffe*, published between 2000 and 2005.<sup>10</sup> It is against this background that Ernst Müller and Falko Schmieder, both of Humboldt University in Berlin, produced a comprehensive overview of the major currents and developments of the field of conceptual history and historical semantics.<sup>11</sup> At first glance, their chronological overview of various disciplines looks like a very simple approach. They trace the development of conceptual history and historical semantics in philosophy from Georg Friedrich Wilhelm Hegel, Ludwig Feuerbach and Karl Marx by way of Friedrich Nietzsche and Martin Heidegger to Hans-Georg Gadamer and Hans Blumenberg. For historiography, they discuss Max Weber and Karl Mannheim, Otto Brunner, Werner Conze and of course Reinhart Koselleck. Their description of discourse in linguistics and communication studies touches not only on classical onomasiology and structuralism, but also Dietrich Busse's prototype semantics and theory of linguistic structure. In the history of science and knowledge, the survey ranges from Max Horkheimer and Thomas Kuhn to Hans-Jörg Rheinberger, and in cultural studies from psychoanalytic signification studies (Sigmund Freud, Hans Sperber, Adolf Josef Storfer), via Edgar Wind's concept of embodiment and discourse analysis to the semantics of unavailability (Heinz Dieter Kittsteiner) and metaphorology. While such an approach makes it impossible to eschew overlaps and duplications, Müller and Schmieder succeed very well in showing the numerous interconnections between individual theoretical approaches, and in writing a coherent history of this (very German) field of scholarship. The exploration of conceptual histories and semantic analyses of historical texts reveals the linguistic configuration of the world, and, as a result, the world views of actors in social orders. Understanding culture as a comprehensive practice of articulating and of updating

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**7** Hans Heinrich Eggebrecht and Albrecht Riethmüller, eds., *Handwörterbuch der musikalischen Terminologie* (Wiesbaden: Steiner, 1971–2006) (CD-ROM).

**8** Gregor Kalivoda, Franz-Hubert Robling, and Gerd Ueding, eds., *Historisches Wörterbuch der Rhetorik*, vols. 1–9 (Berlin: De Gruyter, 1992–2009), vol. 10: *Nachträge A–Z* (Berlin: De Gruyter, 2012), vol. 11: *Register* (Berlin: De Gruyter, 2014), vol. 12: *Bibliographie* (Berlin: De Gruyter, 2015).

**9** <http://inkrit.de/neuinkrit/index.php/de/hkwm> [accessed 17.05.2022].

**10** Karlheinz Barck, ed., *Ästhetische Grundbegriffe: Historisches Wörterbuch in sieben Bänden* (Stuttgart: Metzler, 2000).

**11** Ernst Müller and Falko Schmieder, *Begriffsgeschichte und Historische Semantik: Ein kritisches Kompendium* (Berlin: Suhrkamp, 2016).

significations can, according to Müller and Schmieder, lead to the equation of conceptual history and historical semantics with cultural sciences. The authors go on to argue that both represent the self-reflection inscribed in modernity and could, as such, function as alternatives to common meta-narratives. In their introduction, the authors provide some useful definitions. “Historical semantics” could be understood as “the umbrella term for methodological approaches that, like the history of ideas, or conceptual history in its broadest sense, address diachronic linguistic changes, whether from an onomasiological or a semasiological perspective.”<sup>12</sup> As such, they argue that historical semantics equates to the linguistic component of cultural semantics and is thus always in and of itself already an abstraction, because language was always inseparably integrated into social relationships and practices, figurative ideas, and media. Following Willibald Steinmetz, they hold that “conceptual history” should be understood as “the investigation of ‘nodal points in the diachronic change of the meaning of individual words’, of socially highly effective, often controversial crystallizations of linguistic meanings.”<sup>13</sup> Accordingly, historical semantics is, in a manner of speaking, the context of conceptual history, while conceptual history stands for only one of many ways in which historical semantics may be pursued.

The compendium by Müller and Schmieder offers an excellent starting point for our research in Research Area A of the BCDSS, and specifically for grasping the concepts “semantics” and “lexical fields.” A productive process of discussing different approaches has led to the following definitions:

(1) Semantics. Our approach to the semantics of the many different (predominantly pre-modern) languages we are interested in focuses on the word, i.e., the lexical dimension, as well as on pragmatics, in so far as meaning often turns out to be dependent on the contexts in which a word is used. In addition to the linguistic context, the genre/text type and wider cultural contexts may turn out to be relevant as well. We aim at identifying inventories of linguistic items (and their usage) that are pertinent to our topic at a particular time and in a specific historical (con)text. Most of us will first adopt a synchronic approach and focus on a single text or a small set of texts. These case studies will of course not be able to provide a comprehensive account of the semantics of slavery and asymmetrical dependencies, but they will allow us to compare different ways of conceptualizing asymmetrical dependencies linguistically, which may or may not turn out to be specific to particular regions or points in time. An analysis of diachronic semantic changes, which amounts to a

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**12** Müller and Schmieder, *Begriffsgeschichte und Historische Semantik*: 18: “[D]er Oberbegriff für methodische Ansätze, die sich wie Problem-, Ideen- oder Begriffsgeschichte im weitesten Sinne mit diachronen sprachlichen Veränderungen, sei es in onomasiologischer oder semasiologischer Perspektive, beschäftigen.”

**13** Müller and Schmieder, *Begriffsgeschichte und Historische Semantik*: 18: “[D]ie Untersuchung von ‘Knotenpunkte(n) im diachronen Bedeutungswandel einzelner Worte’, von gesellschaftlich hochwirksamen, nicht selten umstrittenen Kristallisationen sprachlicher Bedeutungen.”

history of the terms pertinent to our topic, would of course be very interesting, but for most of the subjects in our Cluster of Excellence a diachronic perspective can hardly be a short- or medium-term goal, since the prerequisites for such an approach are simply not there. For instance, there simply is not a sufficient number of edited texts that are relevant to our topic for many regions and/or periods. Our approach is based on the assumption that the meaning of a word can only be identified by taking its usage into consideration. Detailed analyses of key terms that are associated with the conceptualization of strong asymmetrical dependencies promise to provide new insights into the self-concept and knowledge of pre-modern societies. The majority of these key terms have not been studied from a semantic or terminological perspective so far.

(2) Lexical Fields. Our understanding of lexical fields is based on an onomasiological approach – which linguistic items are used to refer to a particular concept? Which words are used to express a concept? This means that the concept is a semantic unit which is not directly accessible but may be manifested in different ways on a linguistic level. We are interested in single concepts such as “wisdom” or “fear,” but also in more complex semantic units like “strong asymmetrical dependencies.” We consider concepts to be abstract units that are manifested in a particular language. At the same time, we are aware that direct translations of concepts and individual words or other linguistic structures are not necessarily possible. In some cases, we can identify anthropological constants, which suggest that there are at least some universal concepts, i.e. concepts that can be expressed in all of the languages we examine. What provides deeper insights into the specific societies we are interested in is an analysis of the concrete expressions of concepts, which may look similar, but usually are not identical for people in different cultural contexts and language communities. A lexical field encompasses the set of linguistic items in one language that can be linked to a particular concept (e.g., “wisdom”) and the related conceptual network due to semantic relations. In comparative studies, which seek to examine different cultural contexts, the concept of lexical fields promises to be enormously useful, since it is a tool that helps us to reveal differences in terms of usage associated with otherwise similar concepts. Thus, it seems reasonable to compare specific conceptual networks and their lexical manifestations in different languages as well as in different diachronic stages of the development of a society and a language. Generally, in each language (or diachronic stage), key terms emerge. The usage of these key terms should be analyzed in terms of its relations to linguistic items that can be shown to be syntagmatically and paradigmatically linked to the key term (synonymy and opposition).

As was shown above, there is vibrant research on the history of concepts and on questions of Historical Semantics by German academics (in German). It has, however, barely been acknowledged internationally. An interesting initiative to institutionalize at least the history of concepts beyond the specific German context emerged in

Finland.<sup>14</sup> Jointly with his American colleague Malvin Richter (City University, NY), Kari Palonen from the University of Jyväskylä organized a workshop on “Conceptual Changes in European Political Cultures” at the Finnish Institute in London in 1998. In the wake of this conference the *History of Political and Social Concepts Group* was established, which changed its name to *History of Concept Group* in 2012. This Group is incorporated as a non-profit entity in Finland, and is affiliated with the Center for Intellectual History at Helsinki University. At the moment, the board consist of four persons: Martin J. Burke (City University of New York), Chair; Margrit Pernau (Max Planck Institute for Human Development, Berlin), Vice-Chair; Rosario López (University of Malaga), Secretary; Jani Marjanen (Helsinki University), Treasurer.<sup>15</sup>

Our conference can likewise be seen as an initiative that seeks to move terminological issues and concepts from Historical Semantics beyond a limited focus on European contexts. It is a first, exploratory attempt to broaden the discussion by integrating sources in Chinese, Ancient Egyptian, Arabic, Ottoman Turkish and Maya into our research. An interdisciplinary dialogue across languages, cultures and times promises to yield innovative methodological impulses for the field of Historical Semantics. Semantic and sociolinguistic approaches that have thus far been designed and discussed mainly for the investigation of European languages can be brought into a productive dialogue with models predominantly used in disciplines with a focus on non-European societies.

In her contribution, *Susanne Adamski* explores the question of whether the earliest societies of ancient China (the late Shāng, c. 1300–1045 BC, and the Western Zhōu, c. 1045–771 BC) had social relations characterized by strong asymmetrical dependency. Starting from the premise that these two societies differed significantly in some respects from later societies of the Chinese empire, Adamski first addresses the problem of calling these early societies “slave societies” in contemporary scholarship, a term often used for ancient China. Through an analysis of ancient inscriptions, Adamski then examines whether there were indeed forms of “strong asymmetrical dependency” in the late Shāng and Western Zhou. In doing so, Adamski concludes that the inscriptions do not provide sufficient semantic evidence to define relationships of “strong asymmetric dependency.” She therefore suggests a shift of focus from examining pure terminology to analyzing social phenomena in more detail in order to approach the concept of “asymmetrical dependency.”

*Ludwig D. Morenz* analyzes the culture of Pharaonic Egypt in its formative phase during the late fourth and early third millennia BC in his paper. He explores the probably *almost universal* phenomenon of “subjugation,” of bringing someone under the yoke, both as a metaphor and as a social practice. According to Morenz,

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<sup>14</sup> <https://www.historyofconcepts.net> [accessed 17.05.2022].

<sup>15</sup> <https://www.historyofconcepts.net/the-history-of-concepts-group/meet-the-board> [accessed 17.05.2022].

“subjugation” denotes radical subjection in connection with high levels of social control. Certain social patterns, stronger asymmetrical dependencies and the origins of the imagery they reflect in spatially and temporally distant linguistic and written worlds seem to emerge frequently from lexical fields that have certain aspects in common, even in the absence of concrete historical connections.

*Winfried Schmitz* discusses the semantics of various asymmetrical forms of dependency regarding the rural population in archaic and classical Greece. For this purpose, he examines the twelfth book of the *Geographica* by the ancient geographer Strabo (circa 64 BC–19 AD), which reports on the kingdom of Pontus on the Black Sea and contains an account of the Mariandyni, who were forced into bondage by the Milesians, who had founded the city of Heracleia in the territory of the Mariandyni. The status of the Mariandyni is described by Strabo with the term *heilōteúein*, a form of dependency similar to that of the helots in Sparta: The Mariandyni could be sold, but only within the limits of their former territory, so that many would remain in their villages as tribute payers and serfs. The analysis of the terminology used by Strabo to describe these dependency relationships reveals a differentiated understanding of different forms of strong asymmetrical dependency, which move between the poles of “slave” and “free.”

*Martin Schermaier*’s contribution focuses on the historical origins and development of the semantics of Latin terms describing dependency relationships in ancient Roman society. Schermaier analyzes the term *familia*, whose meanings he examines on the basis of Roman legal texts. Through a contextual analysis, Schermaier shows the semantic developments undergone by the term, developments that also point to a conceptual change of slavery during the Roman republican period. According to Schermaier, the variations of public attention paid to dependency relationships in the private sphere also point to a close connection between the legal status of slaves and social and political changes of the time.

*Christian M. Prager*’s paper discusses the representation of asymmetrical dependency relations in Classic Maya narratives. The many small hegemonic Maya states spanning the territory of the Yucatán Peninsula in southern Mexico, Guatemala, Belize, and Honduras in the Classic period (AD 240–950) were characterized by strictly hierarchized social orders. At the top of these societies stood the rulers and their families, courtiers and priests who inhabited the monumental palaces in the political centers of the city states. The rural population that inhabited the surrounding areas under their rule had to pay tributes to the ruling families in the form of agricultural yields or of labor in the elites’ building projects. Using various inscriptions that emerged in the course of the court culture, Prager analyzes expressions and visualizations of these forms of dependency in Maya hieroglyphs.

In her contribution, *Anna Kollatz* explores the historical semantics of strong asymmetrical dependencies in Islamicate societies on the Indian subcontinent. In doing so, she elaborates on problematic areas that, on the one hand, complicate the study of these societies living in the period between the decline of the Mughal

Empire and Indian independence, and, on the other hand, affect the evaluation of Islamic legal semantics in relation to strong asymmetric forms of dependency. To this end, Kollatz examines the *Book on Manumission* from the Ḥanafī legal commentary *al-Hidāya fī sharḥ bidāya al-mubtadī*, which is still considered one of the most influential works of the Hanafite legal school. The focus of the analysis is the translation process that this text underwent: The Arabic original was first translated into Persian and then into English under colonial occupation. By contrasting the Arabic original and the English translation, the effects of translation on semantic attributions are examined.

*Veruschka Wagner* examines in her paper manumission documents from the Ottoman Empire. Since slavery relations under the Ottomans were always limited in time, numerous copies of such manumission papers from the sixteenth and seventeenth centuries lie in the archives of Istanbul courts. By analyzing the terminology used in them in connection with slavery and emancipation, Wagner shows different stages and layers in the dependency relationships between (freed) slaves and owners. She notes that, on the one hand, slaves were only ever dependent to a certain degree and at a certain time, but on the other, they could never completely rid themselves of their constantly changing status as dependents, since certain dependencies remained even after manumission.

*Hans-Heinrich Nolte's* article uses early modern records to examine terms used for dependent people among the Russian rural population and their historical development. In doing so, he finds that terms for dependent people, which in the fifteenth century could describe quite different dependency relationships, were systematized and standardized in the sixteenth century, when Russia was ruled by Moscow, and later underwent yet another semantic change in the St. Petersburg Empire (from 1721). According to Nolte, these changes of terminology and their meanings are also accompanied by a gradual systematization and degradation of dependent people in the rural population.

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Susanne Adamski

# Indefinite Terms? Social Groups in Early Ancient China (ca. 1300–771 BC) and “Strong Asymmetrical Dependency”

In this paper,<sup>1</sup> I am going to explore the question whether social relations of “strong asymmetrical dependency” can be identified during the earliest historical periods of ancient China: the late Shāng 商 (ca. 1300–ca. 1045 BC) and Western Zhōu 西周 (ca. 1045–771 BC). Although many cultural, social, paleographic, and linguistic features of later “China” originate in them, and important social and political processes beginning under the Western Zhōu eventually led to the formation of the Chinese empire in 221 BC, society in these periods differs to some extent from that of later periods. I will therefore look for examples of “strong asymmetrical dependency” in epigraphic sources, paying particular attention to designations of social groups. This entails, in a first step, a re-evaluation of previous scholarship regarding the presumed existence of “slaves” in early Chinese antiquity, because ancient China often has been regarded as a so-called “slave society” in certain historical stages, thus problematizing the usage of later social terminology for far earlier social phenomena.<sup>2</sup> In a second step, I am going to look at possible cases of “strong asymmetrical dependency” in ancient inscribed texts: How can they be identified? And finally, I shall consider alternative

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1 I am very grateful to Maxim Korolkov for valuable comments on this paper that helped to improve it, and to Chai Jianhong, John Gillingham, Matthias Richter, Anne Sapich, Christian Schwermann, and Alain Thote for their helpfulness; I also express my thanks to Zhonghua Book Company for permission to reproduce inscription rubbings. An earlier and narrower version of this paper was presented under the title “On the Problem of Identifying ‘Slavery’ in Early Bronze Age China (ca. 1300–771 BC)” at the international workshop “Cumulative Chinese Culture and the Study of Early China,” July 6–7, 2019, at the Ludwig-Maximilians-Universität München. I would like to thank all the participants of that workshop for a stimulating discussion and helpful comments, and Armin Selbitschka and Yitzchak Jaffe for their kind invitation. My further thanks go to the editors of this volume for inviting me to the workshop “Semantics and Lexical Fields of Slavery and Other Forms of Asymmetrical Dependency” at the Bonn Center for Dependency and Slavery Studies (BCDSS), and to the workshop’s participants for their fruitful remarks. Any shortcomings are my own.

2 In doing so, this paper follows the methods of conceptual history in a wider sense. This seems justified by the words of Reinhart Koselleck, who underscores the intimate link between conceptual and social history: “[W]elche Geschichte gäbe es, die nicht als solche begriffen werden müßte, bevor sie zur Geschichte gerinnt? Die Begriffe und deren sprachliche Geschichte zu untersuchen gehört so sehr zur Minimalbedingung, um Geschichte zu erkennen, wie deren Definition, es mit menschlicher Gesellschaft zu tun zu haben.” Reinhart Koselleck, “Sozialgeschichte und Begriffsgeschichte,” in *Begriffsgeschichten: Studien zur Semantik und Pragmatik der politisch-sozialen Sprache*, auth. Reinhart Koselleck, Ulrike Spree, and Willibald Steinmetz (Frankfurt am Main: Suhrkamp, 2006): 9.

approaches to the study of the relevant epigraphic sources with regard to social relations of dependency.

Indigenous sources, in particular from the late Shāng, are unearthed divination inscriptions on oracle bones or turtle shells, as well as commemorative inscriptions cast in or on bronze vessels, especially from the Western Zhōu.<sup>3</sup> I will look at other finds of manuscripts written on bamboo, wood or silk, with administrative, legal, philosophical, religious or other content from the Eastern Zhōu 東周 (770–221 BC) and early imperial periods (beginning 221 BC), with regard to extant analyses and research. I argue that “strong asymmetrical dependency” cannot be proved within the early Chinese epigraphic record that has been discovered and published so far.

My aim is not criticism, but fruitful discussion.

## 1 “Slavery” in Scholarship on Early Chinese Epigraphy

### 1.1 State of Research

Both transmitted and excavated texts of late pre- and early imperial China reveal information on the lowest social strata. For example, some legal statutes from the first imperial dynasty Qín 秦 (221–206 BC) relate to “convicts” and “slaves.”<sup>4</sup> However, epigraphic texts of the earlier Shāng and Western Zhōu dynasties (ca. 1300–771 BC) are largely non-descriptive of these social groups. In fact, we need to question the degree to which they are mentioned at all.

During the twentieth century, modern historians influenced by Marxist-Leninist stage theory tried to prove that ancient Chinese society was slave-based.<sup>5</sup> Most

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<sup>3</sup> Although transmitted textual sources in some instances date back to the Western Zhōu period, such as parts of the classic “Book of Songs” (*Shī jīng* 詩經), a collection of early poetry, or of the collected royal speeches, dialogues and announcements in the “Book of Documents” (*Shū jīng* 書經 or *Shàng shū* 尚書), about half of which are considered forgeries (cf. Edward Shaughnessy, “*Shang shu* 尚書 (*Shu chīng* 書經),” in *Early Chinese Texts: A Bibliographical Guide*, ed. Michael Loewe [Berkeley: The Society for the Study of Early China, 1993]: 376–89), these works were edited during the far later Hàn 漢 dynasty (206 BC–220 AD). Since changes may have been made to the structure and wording of these texts, their information should not be unthinkingly mixed with that of the indigenous Shāng and Western Zhōu textual sources.

<sup>4</sup> See, for instance, Robin D.S. Yates, “Slavery in Early China: A Socio-Cultural Approach,” *Journal of East Asian Archaeology* 3, no. 1–2 (2001): 283–331.

<sup>5</sup> Adherents to historical materialism as developed by Karl Marx identify an initial stage of “primitive society” also in ancient China, followed by a “slave society,” “feudal society,” and further stages in social development. Endymion Wilkinson remarks that there is, however, no consensus on the timing of the transitional phases: “[T]he transition to slave society [. . .] varies according to

influential in this respect was Guō Mòruò 郭沫若 (1892–1978), who in his *Study of Ancient Chinese Society* (*Zhōngguó gǔdài shèhuì yánjiū* 中國古代社會研究) from 1930 cited several Western Zhōu bronze inscriptions mentioning people given as a “gift” and people being “sold” or put under the authority of others. Without much further analysis, he concluded that these people were “slaves.”<sup>6</sup> In the late Western Zhōu Bù Qí *gǔ* 不其簋 inscription (*Jíchéng* #4328)<sup>7</sup> for instance, *chén* 臣 are given to the official Bù Qí, along with other items, for his merits in battle: “(I) bestow on you a bow, a bundle of arrows, five families of *chén*, (and) ten fields.” 賜汝弓一矢束臣五家田十田。<sup>8</sup> Epigraphic terms designating apparently “unfree” people mainly are: *chén* 臣, *pú* 僕, *yù* 馭, *rénlì* 人鬲, *qiè* 妾, *shùrén* 庶人, or *zhòng* 眾, most of which already occur in late Shāng oracle-bone inscriptions. Some of these have also been lexicalized as denoting “slaves.” During the past decades, scholars with a focus on Shāng and Western Zhōu social stratification have either confirmed this view, understanding some or all of these terms as referring to “slaves,” for instance Yin Wéirén 殷伟仁 1983 and Yin Jímíng 殷寄明 1990;<sup>9</sup> some generally argued for the existence of an ancient slave society (such as Dǒng Lìzhāng 董立章

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the historian from different periods of the Longshan culture (third millennium BC), the Xia, or the Shang dynasties. The end of slave and the beginning of feudal society [. . .] are variously placed in the Western Zhou, the Spring and Autumn, the Warring States, the Qin unification, the Later Han, or the Wei-Jin periods.” Endymion Wilkinson, *Chinese History: A Manual. Revised and Enlarged*, Harvard-Yenching Institute Monograph Series 52 (Cambridge, MA: Harvard University Asia Center, 2000): 8. For a summary and discussion of different related theories in China since the 1980s, see Guō Shānbīng 郭善兵, “Èrshí shìjì bāshí niándài yīlái dàlù xuéjiè xiān Qín shèhuì xìngzhì wèntí yánjiū shùpíng 二十世紀八十年代以來大陸學界先秦社會性質問題研究述評,” *Zhōngguó shǐ yánjiū* 中國史研究 73 (2011): 283–302.

6 “Zhōu period slaves really were an important kind of property!” 周代的奴隸，正是一種主要的財產！ Guō Mòruò 郭沫若, *Zhōngguó gǔdài shèhuì yánjiū* 中國古代社會研究 (n.p.: n.p., 1930; Reprint, n.p.: Rénmín Chūbǎnshè 人民出版社, 1954): 229.

7 Bronze inscriptions within the text are cited, unless otherwise indicated, with their number in the standard reference work *Yīn Zhōu jīnwén jíchéng* 殷周金文集成, abbreviated *Jíchéng* (Shànghǎi 上海: Zhōnghuá Shūjú 中华书局, 1984–1994).

8 Example taken from line nine of the inscription. Punctuated transcription from the concordance *Jīnwén yǐndé* 金文引得: *Yīn Shāng Xī Zhōu juàn* 殷商西周卷 (Nán níng 南宁: Guǎngxī Jiàoyù Chūbǎnshè 广西教育出版社, 2001): no. 5054, 326; cf. transcription and rubbing in *Yīn Zhōu jīnwén jíchéng shìwén* 殷周金文集成释文, vol. 3 (Hong Kong: Xiānggǎng Zhōngwén Dàxué Zhōngguó Shèhuì Kēxuéyuàn Kǎogǔ Yánjiūsuǒ 香港中文大學中國社會科學院考古研究所, 2001): no. 4328, 463. Compare the citation in Guō Mòruò, *Zhōngguó gǔdài shèhuì yánjiū*: 227.

9 Yin Jímíng 殷寄明, “Jiǎ, jīnwén zhōng de núlì míngchéng kǎolüè 甲、金文中的奴隶名称考略,” *Jiāngxī jiàoyù xuéyuàn xuéào* 江西教育学院学报 1990, no. 2: 25–27, argues for a great variety of “slave” designations in oracle-bone and bronze inscriptions, due to building principles of ancient Chinese characters, sex differentiation etc., relying on both inscriptions and traditional texts; Yin Wéirén 殷伟仁, “Cǐ . . . rén lì, zì yù zhì yú shù rén’ jiè ‘锡 . . . . . 人鬲, 自馭至于庶人’解,” *Rénwén zázhi* 人文杂志 (*The Journal of Humanities*) 1983, no. 6: 70–71, discusses the terms *rénlì* 人鬲 (in his view a coordination of *rén* 人 and *lì* 鬲), *yù* 馭 and *shùrén* 庶人 in line fifteen of the *Dà Yú dǐng* 大盂

2000);<sup>10</sup> or found evidence to refute the identification of one or more specific terms as “slaves,” often rejecting the idea of an early “slave society” as seen mainly from the Shāng or Western Zhōu epigraphic texts, for example David Keightley 1969 and 2012,<sup>11</sup> Shī Wěiqīng 施伟青 1987,<sup>12</sup> Raimund Kolb 1991,<sup>13</sup> Huáng Wǔqiáng 黄武强 1994,<sup>14</sup> Huáng Xiànfán 黄现璠 2015,<sup>15</sup> Susanne Adamski

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鼎 inscription (*Jíchéng* #2837, see *Yīn Zhōu jīnwén jíchéng shìwén*, vol. 2, no. 2837, 410–11), arguing rather unconvincingly for their inverted sequence in the sentence, and identifies yù as “slaves” (núlì 奴隶).

**10** Dǒng Lìzhāng 董立章, “Xī Zhōu bìng fēi shíxíng zhǒngzú núlì zhì 西周并非实行种族奴隶制,” *Journal of South China Normal University* 华南师范大学学报 2000, no. 6: 61–66 argues against the “traditional doctrine” of “ethnic” slavery in particular during the Western Zhōu (for instance by way of “enslaving” the overthrown Shāng), mostly using transmitted texts. According to Dǒng, the dynasties prior to the Eastern Zhōu only had “slaves” who were prisoners of war – these, however, he reckons to have been quite numerous. He thereby distinguishes “ethnic” from “common” slavery, the former still prevailing wrongly “in both university and school textbooks.”

**11** David N. Keightley, “Public Work in Ancient China: A Study of Forced Labor in the Shang and Western Chou” (PhD diss., Columbia University, 1969), analyzes oracle-bone and bronze inscriptions of the Shāng and Western Zhōu, and David N. Keightley, *Working for His Majesty: Research Notes on Labor Mobilization in Late Shang China (ca. 1200–1045 B.C.), as Seen in the Oracle-Bone Inscriptions, with Particular Attention to Handicraft Industries, Agriculture, Warfare, Hunting, Construction, and the Shang’s Legacies*, China Research Monograph 67 (Berkeley: Institute of East Asian Studies, University of California, 2012), in particular the oracle-bone evidence from the late Shāng.

**12** Shī Wěiqīng 施伟青, “‘Lì’ fēi núlì biàn ‘高’非奴隶辨,” *Xiàmén dàxué xuébào* 厦门大学学报 1987, no. 3: 72–76, argues against identifying bronze inscriptional lì 鬲 as “slaves.”

**13** In his study of the early Chinese infantry, Raimund Kolb argues against the identification of all of the above-mentioned epigraphic terms as “slaves” – following the definition by Moses I. Finley, in his book *Ancient Slavery and Modern Ideology* (London: Chatto & Windus, 1980) –, in Shāng oracle-bone corpora and Western Zhōu bronze inscriptions published until the end of the 1980s. See Raimund Theodor Kolb, *Die Infanterie im alten China: Ein Beitrag zur Militärgeschichte der Vor-Zhan-Guo-Zeit*, AVA Materialien 43 (Mainz: Philip von Zabern, 1991); compare also his review article “Bemerkungen zu Ulrich Lau: *Quellenstudien zur Landvergabe und Bodenübertragung in der westlichen Zhou-Zeit*,” *Oriens Extremus* 42 (2000/2001): 191–206.

**14** Huáng Wǔqiáng 黄武强, “Xī Zhōu Chūnqiū shèhuì xíngtài xīntàn 西周春秋社会形态新探,” *Guǎngxī shèhuì kēxué* 广西社会科学 1994, no. 1: 51–60. Huáng refutes Guō Mòruò’s interpretation of bronze inscriptional evidence regarding “slaves” by contextual analysis of the terms chén 臣, zhòng 眾, yù 馭, lì 鬲 and rén 人高, concluding that none of these were “slaves.” However, in moving the phase of slave society to the previous Xià 夏 (according to traditional Chinese historiography) and Shāng dynasty instead, he sees even stronger support for the Marxist-Leninist stage theory and for the existence of “slaves” in Chinese antiquity.

**15** Huáng Xiànfán 黄现璠 (1899–1982, birth name Gān Jīnyīng 甘锦英) had long finished and revised his book “There was no Slave Society in Chinese History: Combined Discussion of the World’s Ancient ‘Serfs’ and Social Formations” (Huáng Xiànfán, *Zhōngguó lìshǐ méi yǒu núlì shèhuì – jiānlùn shǐjiè gǔdài nǚ qī shèhuì xíngtài* 中国历史没有奴隶社会——兼论世界古代奴及其社会形态 [Guilin 桂林: Guǎngxī Shīfān Dàxué Chūbǎnshè 广西师范大学出版社, 2015]) in 1981, shortly after the reform, but it was only recently published in full length. Huáng makes a thorough study of the ancient Chinese

2017b,<sup>16</sup> or Chén Mǐnzhèn 陈民镇 2017.<sup>17</sup> Leaving aside the different aims and scopes of these works, they found that the “giving” (*fū* < \**p(r)ō-s* 付)<sup>18</sup> or “providing” (*cì* < \**s-lek-s*

terms identified by Guō Mòruò as “slaves” (*núli* 奴隶), as well as of relevant Sumerian, Babylonian, ancient Indian, and ancient Greek and Latin terms regarding their semantic ranges. Based on his findings, he argues against the equation of ancient Chinese terminology with the modern concept “slave,” rejecting the highly persistent idea of an ancient Chinese “slave society.” Terminologically, Huáng differentiates between historically documented *nú* 奴, who are found in a great variety throughout Chinese history in transmitted pre-imperial and imperial texts (perhaps best understood as “servant, menial, serf”), in different areas of obligations and of various origins, and *núli* 奴隶, “slave,” a foreign concept having only been adopted during the process of China’s modernisation, and which he defines as “a living, speaking tool, without an independent human personality, any freedom or rights, having lost all means of production and subsistence. Slaves are one of the most important producers within a slave society [ . . . ]” 奴隶是一种活着的没有独立人格、没有任何自由和权力, 又丧失了一切生产资料和生活资料的会说话工具。奴隶属于奴隶社会的主要生产者 [ . . . ] Huáng Xiànfán, *Zhōngguó lǐshǐ méi yǒu núli shèhuì*: 195–96. Huáng emphasizes the difference in Marxist terminology between “serfs”/“serfdom” (*nóngnú* 农奴/*núyìzhì* 奴役制) and “slaves” (*núli*), the latter having been used in “domestic slavery” (*jiāting núlìzhì* 家庭奴隶制) since ancient times, while “slaves” in a “slave society” are a peculiarity that only appeared in later ancient Greek and Roman societies (termed “classical ancient labor slavery” [*gùdiǎn gùdài láodòng núlìzhì* 古典古代劳动奴隶制] by Marx and Engels) (Huáng Xiànfán, *Zhōngguó lǐshǐ méi yǒu núli shèhuì*: 197). He thinks that “slaves” (*núli*) in human history were mostly prisoners of war, acquired via slave trade, or coastal settlers captured by pirates (the Barbary corsairs), or could also be born into slavery; but “as far as those *nú* [‘servants, menials’] in ancient society are concerned who had sold themselves or had been convicted etc., those belonged to [the category of] *núbì* 奴婢 [‘male and female servants/serfs/menials’], and were not *núli* [‘slaves’].” 之余古代社会的卖身为奴、罚罪为奴等一类奴, 当属奴婢, 而非奴隶。Huáng Xiànfán, *Zhōngguó lǐshǐ méi yǒu núli shèhuì*: 208 (my insertions). Dealing primarily with Guō’s argumentation and focusing on the Marxist concept of a “slave society,” Huáng almost naturally follows a structuralist conception of society too, and concludes that “most ancient societies did not go through a stage of slave society, but from primitive society directly entered into feudal society” 世界各国古代历史绝大多数都没有经过奴隶社会, 而是从原始社会直接进入封建社会 (Huáng Xiànfán, *Zhōngguó lǐshǐ méi yǒu núli shèhuì*: 583). Huáng could not include archaeological evidence found and subsequently published since the 1970s, such as Warring States and early imperial bamboo manuscripts, and newly excavated oracle-bone corpora or bronze inscriptions.

**16** See Susanne Adamski, “Sklave oder Dienstmann? Einige Überlegungen zum Status von *chén* 臣 in der West-Zhōu-Zeit (1045–771 v. Chr.),” in *Rechtsdenken und Gerechtigkeitssinn in China*, Jahrbuch der Deutschen Vereinigung für Chinastudien 11, ed. Kerstin Storm and Jonas Polfuß (Wiesbaden: Harrassowitz, 2017).

**17** Chén Mǐnzhèn 陈民镇, “Núli shèhuì zhī biàn – chóngshěnhēng Zhōngguó núli shèhuì jiēduàn lùnzhēng 奴隶社会之辩 – 重申中国奴隶社会阶段论争,” *Lìshǐ yánjiū* 历史研究 2017, no. 1: 159–78. Chén approaches the structuralist view of Chinese history that has been so influential in scholarship, re-examining the classification of the Shāng period as a “slave-holding society” as well as the identification of *zhōng* and *mín* as “slaves” in excavated and transmitted sources, including the newly published Qīnghuá 清华 bamboo manuscript “Shāng shū” 商书 dating from the Zhànguó 戰國 (481–221 BC) period. All in all, he argues for studying Chinese history primarily from the indigenous sources instead of using an overarching theoretical framework.

**18** In the present paper, Old Chinese reconstructions (marked by an asterisk) follow, if not otherwise mentioned, William H. Baxter and Laurent Sagart, *Baxter-Sagart Old Chinese reconstruction*,

賜) of people, usually from the king or sometimes the head of a lineage to another élite member, which we often find in Western Zhōu bronze inscriptions, cannot be tied to a “slave” status, because they clearly included members of the nobility. The famous Dà Yú *dǐng* 大盂鼎 inscription (*Jíchéng* #2837) dated to the early Western Zhōu period states that “four Firstborns (*bó* 伯) who govern the *bāng* 邦-territories” 邦(司)四伯, along with over six hundred and fifty charioteers and other personnel, were given to the official Yú 孟 of the Nángōng 南宮 lineage.<sup>19</sup> These “Firstborns” or “Elders” often were or became the leaders of their lineages, and in this case already were in an administrative capacity.

Further, an example of the “redemption” (*yù* < \**luk* 賣 or \**[l]/iw/k* 價) or “employment” (*yòng* < \**loŋ-s* 用) of individual *fū* 夫 (“men, individuals”), *rén* 人 (“men”<sup>20</sup>) or *chén* 臣 in the well-known Hū *dǐng* 曷鼎 inscription, dated to the middle Western Zhōu period, cannot be securely identified as referring to “slaves” or “bondservants,” due to the lack of certain information.<sup>21</sup> We will come back to this specific case in part two of this paper. Therefore, because a) no specific term can be securely identified as “slave” according to recent definitions of the term, and b) there is still no real consensus on the social status of the people denoted by these particular terms, we must conclude that “slaves” cannot be found within the Shāng and Western Zhōu epigraphic texts that have been published so far.

Nonetheless, both Chinese and Western scholars in general believe in the existence of such a “class” or social status in earliest China. For instance, Zhāng Yàchū 張亞初 and Liú Yǔ 劉雨 1986 conclude that those Western Zhōu *pú* 僕 and *yípú* 夷僕 who served in a military capacity “seem to differ from those *pú* who are slaves” (以上諸器銘文中的僕、夷僕與奴隸之僕似有所不同).<sup>22</sup> David N. Keightley in 2012 stated that “[t]he Shang certainly had some slaves – mainly prisoners of war – but were not a slave economy.”<sup>23</sup> He does not provide an inscriptional example of a “slave,” nor does he explain how we can identify prisoners of war as such. His statement that the Shang “certainly had some slaves” seems to be based on assumptions. As a third example,

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version 1.1 (September 20, 2014), <http://ocbaxtersagart.lsa.umich.edu/BaxterSagartOCbyMandarinMC2014-09-20.pdf> [accessed 17.05.2022].

19 For this example, compare Adamski, “Sklave oder Dienstmann”: 28. For rubbing and transcription see *Yin Zhōu jīnwén jíchéng shìwén*, vol. 2, no. 2837, 410–11, as well as the transcription in *Jīnwén yīndé*, no. 4024, 253–54. A partial translation of the Dà Yú *dǐng* inscription can be found in Li Feng, *Landscape and Power in Early China: The Crisis and Fall of the Western Zhou 1045–771 BC* (Cambridge: Cambridge University Press, 2006): 127.

20 The Chinese term is gender neutral, already in early inscriptions referring to men and women alike.

21 Issues in identifying the individual’s status as “slave” have been problematized in Adamski, “Sklave oder Dienstmann”: 21–24. See also 2.1.1 below.

22 Zhāng Yàchū 張亞初 and Liú Yǔ 劉雨, *Xī Zhōu jīnwén guānzhi yánjiū* 西周金文官制研究 (Běijīng: Zhōnghuá Shūjú, 1986): 55.

23 Keightley, *Working for His Majesty*: 65.

an inscribed Western Zhōu bronze vessel excavated in 2005, the so-called “Sù yǒu” 肅卣, has been interpreted as evidence for a class of “bondservants” or “slaves” by Dǒng Shān 董珊 in 2014: “The inscription recorded a rare case of degrading the social class of *shuren* (common people). This case hinted that in the Western Zhou Dynasty, the common people had personal freedom.”<sup>24</sup> The “Sù yǒu” inscription, dated early mid-Western Zhōu, contains two terms we know from later textual sources, *pú* 僕 and *shù-rén* 庶人, and was interpreted by Dǒng Shān as recording the social degradation of six families of “free men,” *shù-rén*, to *pú*, which according to his reading of certain graphs were recorded in a special “register” (*jí* < \*[dz]Ak 籍), from which they were “erased” after successful “remonstration” (*jiàn* < \*kʰranʔ(-s) 諫).<sup>25</sup> From the article it transpires that Dǒng understands *pú* 僕 to mean “bondservants” or “slaves,” in Chinese *núpú* 奴僕 (simplified: 奴仆). This chain first occurs in Hàn 漢 dynasty (206 BC–220 AD) texts such as the “History of the Hàn” (*Hàn shū* 漢書), completed around 110 AD, or the argumentative socio-critical text “Comments of a Recluse” (*Qiánfū lùn* 潛夫論) by the Later Hàn scholar Wáng Fú 王符 (82–167 AD),<sup>26</sup> and is commonly used in the modern Chinese lexicon.<sup>27</sup>

In modern Chinese, *nú* 奴 or *núli* 奴隶 is defined as “a person suppressed, exploited, and being used, without personal freedom or other political rights” (旧社会中受压迫、剥削、役使而没有人身自由等政治权利的人),<sup>28</sup> in English: “a slave,”<sup>29</sup> and *pú* 僕, being short for *púrén* 僕人, means “servant” or “attendant.”<sup>30</sup> The composite *núpú* is also lexicalized as “people formerly carrying out various tasks in a master’s home (generic term)” (旧时在主人家里从事杂役的人(总称)), as in the modern Chinese dictionary *Xiàndài Hànyǔ Cídiǎn* 现代汉语词典 of 2002.<sup>31</sup> The term *nú* does not yet occur in the epigraphic sources of the Shāng and Western Zhōu published so far, and neither does the composite *núpú*.<sup>32</sup>

24 See Dǒng Shān 董珊, “Shānxī Jiàng xiàn Héngshuǐ M2 chūtǔ Sù yǒu míngwén chūtàn 山西绛县横水M2出土肅卣铭文初探,” *Wénwù* 文物 2014, no. 1: 50–55 (quote from the English abstract).

25 See Susanne Adamski, “The ‘Sù yǒu 肅卣’ Inscription and the Debate on Western Zhōu Social Dependence (1045–771 B.C.),” in *n.n.*, ed. Enno Giele, Christian Schwerman and Kerstin Storm (Munich: Iudicium, forthcoming).

26 The search was performed using the Chinese Ancient Texts (CHANT) database Pre-Han and Han 先秦两汉, of the Research Centre for Chinese Ancient Texts, Chinese University of Hong Kong (<http://www.chant.org>, accessed August 30, 2020 via CrossAsia [<https://crossasia.org/>]).

27 See *Xiàndài Hànyǔ Cídiǎn* 现代汉语词典 (Běijīng: Shāngwù Yìnshūguǎn 商务印书馆, 2002): 937.

28 *Xiàndài Hànyǔ Cídiǎn*, 937.

29 Cf. for example *Xīn Hàn Dé Cídiǎn* 新汉德词典 (Běijīng: Shāngwù Yìnshūguǎn, 1996): 597: “Sklave; Knecht.”

30 “People employed to fulfill various tasks and services in a household” 指被雇到家庭中做杂事、供役使的人 (*Xiàndài Hànyǔ Cídiǎn*, 987).

31 *Xiàndài Hànyǔ Cídiǎn*, 937.

32 As stated by David N. Keightley for the Shāng period, “[a]ttempts to assign a slave status to particular groups recorded in the inscriptions, or to read a particular oracle-bone graph as *nu* 奴,

As presented elsewhere in more detail, Dǒng Shān's interpretation of the "Sù yǒu" inscription has influenced several other interpretations that followed shortly after Dǒng's article, none of them doubting that the term *shùrén* 庶人 denotes "free men," most of them following the interpretation of *pú* as *núpú* – "bondservants" or "slaves," except for Lǐ Kǎi 2018, who also scrutinizes the inscriptional term *pú*, but relies completely on Dǒng Shān's transcription.<sup>33</sup> The "Sù yǒu" inscription poses several paleographic and epigraphic issues, in particular, a) interpreting the bronze graph *xī* 昔  as a loan for *jí* 籍, "register," is an assumption; b) other crucial graphs

'slave', have generally involved more theoretical assertion than paleographic demonstration" (Keightley, *Working for His Majesty*: 57). For instance, an interpretation of the incomplete graph  on bone fragment *Héjǐ* #22462 (see *Jiǎgǔwén héjǐ* 甲骨文合集, vol. 7 (Běijīng: Zhōnghuá Shūjú, 1999): no. 22462, 2925) as *nú* 奴, so given in the Ancient Chinese Texts (CHANT) Jiaguwen 甲骨文 database, is not seen in the reference work *Jiǎgǔwén héjǐ shìwén* 甲骨文合集释文, ed. Hú Hòuxuān 胡厚宣, vol. 2 (Běijīng: Zhōngguó Shèhuì Kēxué Chūbǎnshè 中国社会科学出版社, 1999): no. 22462. Before the 1980s, having discussed the earliest graphic forms and usages of *nú* and *núpú* as well as different scholarly interpretations of them, Huáng Xiànfán already noted that neither they nor the early imperial *núbì* 奴婢 (traditionally interpreted as "slaves") fall under the category of being completely "owned" by another person, as was the case in classical Greece and Rome, and that oracle-bone inscriptions and transmitted sources provide no evidence as to whether there existed any Shāng dynasty "slaves" in the Marxist definition (Huáng Xiànfán, *Zhōngguó lìshǐ méi yǒu núlì shè-huì*: 444; see also: 10–15 for *nú*, 24–31 for *núpú*). The absence of *nú* 奴 from oracle-bone inscriptions has not changed since publication of the more recent corpora excavated from the Yǐnxū 殷墟 site at Huāyuánzhuāng Locus East (Yǐnxū Huāyuánzhuāng dōngdì jiǎgǔ 殷墟花園莊東地甲骨) as well as from the center and south of Xiǎotún Village (Yǐnxū Xiǎotún cūnzōng cūnnán jiǎgǔ 殷墟小屯村中村南甲骨), cf. the concordances Yǐnxū Huāyuánzhuāng dōngdì jiǎgǔ kècǐ lèizhuǎn 殷墟花園莊東地甲骨刻辭類纂 (Běijīng: Xiànzhuāng Shūjú 綫裝書局, 2011); Yǐnxū Huāyuánzhuāng dōngdì jiǎgǔwén lèizhuǎn 殷墟花園莊東地甲骨文類纂 (Fúzhōu 福州: Fújiàn Rénmín Chūbǎnshè 福建人民出版社, 2016); and Yǐnxū Xiǎotún cūnzōng cūnnán jiǎgǔ kècǐ lèizhuǎn 殷墟小屯村中村南甲骨刻辭類纂 (Běijīng: Zhōnghuá Shūjú 中華書局, 2017). However, the graph 奴 in itself clearly has a history. So far it appears on several bronze weapons and vessels of the early Chūnqiū 春秋 (771–481 BC) and Zhànguó 戰國 periods (481–221 BC), as part of a personal name. For example, on the Fú Nú Fù dǐng 弗奴父鼎 vessel (*Jíchéng* #2589), excavated in 1972 in Zōu 鄒 county, Shāndōng 山東 Province (see *Yīn Zhōu jīnwén jíchéng shìwén*, vol. 2, no. 2589, 278). Here the graph  clearly consists of the two components 女, "woman," and 又, "hand," as in the seal script character given in the second century AD character dictionary *Shuōwén jiězì* 說文解字; it is also already seen in the donor's name of the Western Zhōu bronze vessel Sī Nú bǎo yǎn 夔人奴寶鬲 (*Jíchéng* #851): , the only Western Zhōu epigraphic occurrence so far, of which, however, only the transmitted rubbing exists (see *Yīn Zhōu jīnwén jíchéng shìwén*, vol. 1, no. 0851, 576). Compare the seal character form and epigraphic evidence given in Zāng Kèhé 臧克和 and Wáng Píng 王平, eds., *Shuōwén jiězì xīndìng* 說文解字新訂 (Běijīng: Zhōnghuá Shūjú, 2002): 819. The etymology of the word *nú* < \*n<sup>h</sup>ə, according to Axel Schuessler, is uncertain: while possibly "cognate to TB-Mru *nar* 'servant'," the word has been related "to nǚ<sub>1</sub> 'woman'; this has semantic parallels, especially among foreign loans," or to a word form "with the basic meaning 'tense' (incl. nǚ<sub>1</sub> 弩, nǚ<sub>2</sub> 努), hence 'press into service'" (Axel Schuessler, *ABC Etymological Dictionary of Old Chinese* (Honolulu: University of Hawai'i Press, 2007): 404).

33 Cf. Adamski, "Sù yǒu 肅卣 Inscription," providing an alternative transcription and translation, leaving unclear graphs unidentified, and taking into consideration several possibilities of translation.

are as yet unidentifiable (such as 隸), having been transcribed and interpreted quite differently, making their normalization even more precarious (e.g. the reading of the graph 隸 as 隸 and its normalization to *lì* 隸, “subordinate, slave,” or the interpretation of 隸/芟 as “erase”); c) the bronze inscriptional term *pú* 僕 quite clearly is no status term, since several bronze inscriptions strongly indicate a military function of the people it denotes; d) while *shùrén* is either a status term or generic designation of a broader social category during the early imperial period, there is so far no clear earlier Western Zhōu epigraphic evidence to read *shùrén* as a status term either, and thus the inscription cannot be said to record the degradation of status.<sup>34</sup>

These examples show that the question of the existence of “slavery” is either not an issue in contemporary scholarship on early China, or not within the author’s focus. With regard to the extant epigraphic material, we thus find two assumptions in early China scholarship, a) “slavery” was an institution of high social and/or economic significance that can be identified in the contemporary sources;<sup>35</sup> or b) if not identifiable in contemporary terminology, “slavery” was a social phenomenon of no obvious social and/or economic importance, but existed all the same.<sup>36</sup> But if there is no real evidence for “slaves” in the indigenous texts, did the Shāng and Western Zhōu have “slaves” at all? Obviously, this leads to the question of defining “slavery,” which is often circumvented.

34 See Adamski, “Sù yǒu 肅卣’ Inscription.”

35 As prominently argued by Guō Mòruò, *Zhōngguó gǔdài shèhuì yánjiū*.

36 Cf., for instance, Li Feng, “The Western Zhou State,” in *Routledge Handbook of Early Chinese History*, ed. Paul R. Goldin (London: Routledge, 2018): 101: “[. . .] *Renli* 人鬲[. . .] probably meant ‘slaves.’ We still do not know their exact status, but it is likely they were war prisoners brought into Zhou society during the great early Western Zhou expansion.” Raimund Kolb also considers the possibility that slaves existed in ancient China: “Da die *zhong-ren* keine Sklaven waren und die Wirtschaft des Shang-Yin-Staates auf ihren Schultern ruhte, kann nicht von einer Sklavenhaltergesellschaft gesprochen werden, womit jedoch nicht behauptet werden soll, es hätte keine Sklaven gegeben” (Kolb, *Die Infanterie im Alten China*: 48); “Bei den *li* könnte es sich mithin sowohl um Sklaven als auch um Kriegsgefangene gehandelt haben” (61); “Die Qualität der Produkte der Manufakturen der WZ [= Western Zhōu] spricht für herausgehobene Handwerker; Sklaven könnten für Hilfsarbeiter beschäftigt gewesen sein” (114). Huáng Xiānfán, who also worked with a clear definition of “slaves” (*núli*), did not reject the possibility of their existence particularly in Shāng China, but reasonably pointed out that aside from the lack of clear evidence, it would be crucial to know their exact numbers in order to be able to decide whether they may have constituted a social class in the Marxist sense (compare Huáng Xiānfán, *Zhōngguó lìshǐ méi yǒu núli shèhuì*: 446); further, as to “slaves” bought via the slave trade, he states that these “are almost not seen” in Chinese pre-imperial history (for his discussion of slave trade in general, see 203–7).

## 1.2 Definition of “Slavery”

As we are aware, there is no scholarly consensus on a precise meaning of the terms “slave” and “slavery.” Lexicalizations, such as for example in the *Encyclopaedia Britannica*, commonly state that

[t]he slave was a species of property; thus, he belonged to someone else. In some societies slaves were considered movable property, in others immovable property, like real estate. They were objects of the law, not its subjects. [ . . . ] The slave usually had few rights and always fewer than his owner, but there were not many societies in which he had absolutely none. [ . . . ] The slave was removed from lines of natal descent. Legally, and often socially, he had no kin.<sup>37</sup>

But to define the boundaries of the term is no easy matter. As the historian Michael Zeuske points out in his 2013 global history of slavery *Handbuch Geschichte der Sklaverei*, it is hard to define and differentiate “slavery” and other terms such as “serfdom,” because there seem to be several gradations of these phenomena at different times in different societies all over the world.<sup>38</sup> He therefore speaks of “slaveries” in the plural.<sup>39</sup> Due to such difficulties, it seems to be a good idea to go beyond traditional terms, as the Cluster of Excellence 2036 “Beyond Slavery and Freedom” does, taking “‘strong asymmetrical dependency’ as a new key concept” in the study of pre-modern societies, in which “slavery” seems to be understood as

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<sup>37</sup> Richard Hellie, “Slavery,” *Encyclopaedia Britannica Online*, last updated August 17, 2020, <http://www.britannica.com/EBchecked/topic/548305/slavery> [accessed 17.05.2022].

<sup>38</sup> For the terminological diversity of the concept “servitude, serfdom,” German *Leibeigenschaft*, see also the concise summary by Anne-Marie Dubler, “Leibeigenschaft,” *Historisches Lexikon der Schweiz (HLS)*, June 13, 2012, <https://hls-dhs-dss.ch/de/articles/008967/2012-06-13/> [accessed 17.05.2022]: “Die Bezeichnungen für leibherrl. Abhängigkeit sind vielfältig bei z.T. umstrittener Bedeutung. Die Sklaven der Antike (Sklaverei) wurden als Sache behandelt und waren rechtlos. Dagegen genossen die *servi (mancipii, ancillae)* des Früh- und HochMA und später die Leibeigenen als Personen beschränkte Rechte. Der vom vieldeutigen mittelhochdt. *eigen* abgeleitete Begriff des ‘Eigenmanns’ bezeichnete den Unfreien schlechthin; dem dt. ‘Eigenleute’ entsprechen franz. *hommes propres* und ital. *uomini propri* (lat. *homines proprii*). Mit der spätma. Aufspaltung der Herrschaftsrechte in grund-, gerichtsherrl. Rechte drängte sich zur Unterscheidung des leibherrl. Anspruchs vom grundherrl. Eigen am Boden (Grundbesitz) eine Präzisierung auf: mit dem *lib eigen* oder leibeigen. Der Begriff ‘Leibeigener’ wurde im dt. Sprachraum erst um 1500 gebräuchlich; bis ins 16. Jh. wurden persönlich Abhängige in der Deutschschweiz noch häufiger als ‘Eigenleute’ denn als ‘Leibeigene’ bezeichnet. Rechtssprachl. Schöpfungen, keine Quellentermini sind die Begriffe ‘Unfreie’ für unterschiedl. Formen der Unfreiheit, ‘Hörige’ (‘Grundhörige’) für schollengebundene Bauern der Grundherrschaft und ‘Halbfreie’ für Leute unterschiedlichen minderen Rechts, z.B. Freigelassene.”

<sup>39</sup> See Michael Zeuske, *Handbuch Geschichte der Sklaverei. Eine Globalgeschichte von den Anfängen bis zur Gegenwart* (Berlin: Walter De Gruyter, 2013): especially 108–15. A second, enlarged edition of this work was published in 2019.

the “most extreme” form of “human bondage and coercion.”<sup>40</sup> However, if we want to know how to find out if “extreme forms of dependency” such as “slavery” existed particularly in late Shāng and Western Zhōu China, we should be clear about what we mean by these forms in this specific historical context. In short, we need to define what we are looking for.

While “slavery” has traditionally been defined within concepts of “ownership” or the “means of production,” as in extant lexicalizations, such attempts were rejected by Orlando Patterson in 1982 in his comparative study *Slavery and Social Death*, because, a) “Proprietary claims and powers are made with respect to many persons who are clearly not slaves.”<sup>41</sup> This fact had already been shown by Max Weber, who wrote on the concept of *Herrschaft* (“authority”) that, for example, a family head according to ancient Roman law could even legally kill or sell his wife or children, or rent them out.<sup>42</sup> b) The terms “free” or “unfree” equally cannot be applied to define “slavery,”

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**40** Cf. the cluster’s website (Bonn Center for Dependency and Slavery Studies [BCDSS], “Research,” <https://www.dependency.uni-bonn.de/en/research> [accessed 17.05.2022]): “Despite the many different forms that human bondage and coercion have taken over time, academic debates in the modern West primarily focused on the most extreme one: slavery [. . .] This is why we decided to employ a more neutral terminology, and so move beyond the binary opposition of ‘slavery versus freedom’. Instead, we suggest ‘asymmetrical dependency’ – or, more precisely, ‘strong asymmetrical dependency’ as a new key concept, which includes debt bondage, convict labor, tributary labor, servitude, serfdom, and domestic work as well as forms of wage labor and various types of clientage and patronage.” The difficulty of avoiding established concepts such as “slavery” is shown in their continued use in the description of research areas, which “approach the phenomenon of slavery and other types of strong asymmetrical dependencies,” or “enslavement and other forms of asymmetrical dependencies” (see Bonn Center for Dependency and Slavery Studies, “Semantics – Lexical Fields – Narratives,” [https://www.dependency.uni-bonn.de/images/pdf-files/research-areas/semantics\\_lexical-fields\\_narratives.pdf](https://www.dependency.uni-bonn.de/images/pdf-files/research-areas/semantics_lexical-fields_narratives.pdf), and “Embodied Dependencies,” <https://www.dependency.uni-bonn.de/images/pdf-files/research-areas/embodied-dependencies.pdf> [both accessed 17.05.2022]).

**41** Orlando Patterson, *Slavery and Social Death: A Comparative Study, With a New Preface* (Cambridge: Harvard University Press, 2018): 21. He regards “all attempts to define slavery in modern legalistic terms” as erroneous, because “this does not really specify any distinct category of persons” (21).

**42** “Gerade die primitiv patriarchale Auffassung behandelt vielmehr [. . .] die Hausgewalt durchaus eigentumsartig: die Kinder aller in der Hausgewalt eines Mannes, es sei als Weib oder als Sklavin, stehenden Frauen gelten ohne Rücksicht auf physische Vaterschaft, sobald er es so will, als ‘seine’ Kinder, wie die Früchte seines Viehs als sein Vieh. Neben Vermietung (in das mancipium) und Verpfändung von Kindern und auch Weibern ist der Kauf fremder und Verkauf eigener Kinder noch entwickelten Kulturen eine geläufige Erscheinung. Er ist geradezu die ursprüngliche Form des Ausgleichs von Arbeitskräften und Arbeitsbedarf zwischen den verschiedenen Hausgemeinschaften. [. . .] Daneben dient der Kindeskauf anderen speziell religiösen Zwecken (Sicherung der Totenopfer), als Vorläufer der ‘Adoption’.” Max Weber, *Grundriss der Sozialökonomik*, vol. 3, *Abteilung: Wirtschaft und Gesellschaft* (Tübingen: J.C.B. Mohr, 1922): 680 (on “Patrimonialismus”). Compare the English paraphrase in Richard Swedberg, *Principles of Economic Sociology* (Princeton and Oxford: Princeton University Press, 2003): 267: “The power of the house father extends with only

because “[i]n almost all non-Western slaveholding societies there was no such status in law as a ‘free’ person.”<sup>43</sup> Instead, Patterson defines slavery within the framework of power and powerlessness, “on the level of personal relations: slavery is the permanent, violent domination of natively alienated and generally dishonored persons.”<sup>44</sup> According to Patterson, “slaves,” although physically alive, are *socially dead*: “Alienated from all ‘rights’ or claims of birth, [the slave] ceased to belong in his own right to any legitimate social order.”<sup>45</sup> While this definition of a “slave” is certainly useful for the examination of “asymmetrical” social relations in historical sources, it has been criticized as a sociological abstraction, for example by Joseph C. Miller 2012, because it “excludes historical context by definition,” resulting in a decontextualized, static “master-slave dyad.”<sup>46</sup> I shall return to this issue in part three of this paper.

### 1.3 “Slavery” in Ancient China

Patterson’s characterization of slaves as “socially dead” has however been applied to Qín and Hàn China by Robin Yates, focusing on the “nature” of ancient Chinese slavery.<sup>47</sup> By analyzing Qín legal statutes excavated from a tomb at Shuihǔdì 睡虎地, Húběi 湖北 province, in 1975 as well as transmitted Hàn imperial sources, he shows that at this period of time several terms clearly denote the lowest social strata and also apply to the concept of “slaves” as defined by Patterson. These terms are: *rénnú* 人奴, as a general term,<sup>48</sup> *rénchén* 人臣 or *chén* 臣 for male “slaves,” *rénqiè* 人妾 or *qiè* 妾 for female “slaves,” as well as *rénnúchén* 人奴臣; and within Hàn 漢 law *nú* 奴 and *bì* 婢, denoting male and female “slaves.”<sup>49</sup>

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ritualistic limitations to the execution, or sale of the wife, and to the sale of the children or to leasing them out to labor.” Also compare Patterson, *Slavery and Social Death*: 24, n. 27.

<sup>43</sup> Patterson, *Slavery and Social Death*: 27.

<sup>44</sup> Patterson, *Slavery and Social Death*: 13; cf. Yates, “Slavery in Early China”: 298.

<sup>45</sup> Patterson *Slavery and Social Death*: 5. He further states: “Because the slave had no socially organized existence outside of his master, he became a social nonperson. [ . . . ] Not only was the slave denied all claims on, and obligations to, his parents and living blood relations but, by extension, all such claims and obligations on his more remote ancestors and on his descendants. He was truly a genealogical isolate.”

<sup>46</sup> Cf. Joseph C. Miller, *The Problem of Slavery as History* (New Haven: Yale University Press, 2012): 20.

<sup>47</sup> Yates, “Slavery in Early China.”

<sup>48</sup> Yates, “Slavery in Early China”: 297.

<sup>49</sup> Yates, “Slavery in Early China”: 303–4. Yates explicitly focuses on these terms, leaving “several other terms of lesser importance” aside (303–4). While stating that “the Han term for female slave (*bì* 婢) does not occur” in the Qín legal sources (304), Yates adds in a more recent essay that, “however, it does appear in several documents published in volume one of the complete Liye documents, but not in the context of a statute or ordinance” (Robin D.S. Yates, “The Changing Status of Slaves in the Qin-Han Transition,” in *Birth of an Empire: The State of Qin Revisited*, ed. Yuri Pines,

The lowest social strata in Qín and Hàn law were “slaves” and “convicts” (*tú* 徒), the latter term however only rarely used in this sense in Qín legal documents.<sup>50</sup> Yates provides evidence by analyzing excavated Qín law, as well as phrases from the transmitted political “Discourses on Salt and Iron” (*Yántiě lùn* 鹽鐵論) and the Warring States history *Zuǒ zhuàn* 左傳, that the people referred to were considered “not human” (*fēi rén yě* 非人也)<sup>51</sup> and socially dead because: “A slave and a criminal in early traditional China lost his rights and obligations and relations to his family, both his parents and his children. He was a socially dead person.”<sup>52</sup> As illustrated in Fig. 1,

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Gideon Shelach, Lothar von Falkenhausen, and Robin D.S. Yates (Berkeley: University of California Press, 2014): 211). With regard to terminological differences, he tentatively concludes “that the early Han changed or refined the legal nomenclature of slaves, possibly in 202, when the ‘Statutes on Male and Female Slaves’ might have been enacted, as suggested above” (Yates, “The Changing Status of Slaves”: 211). There is also some terminological confusion as to the categorization of other terms. Yates states that “the county government also bought and sold slaves known as *tuli* 徒隸 on the open market” (212), while at the same time translating *tūli* 徒隸 as “bonded laborers” (223), also drawing attention to the fact that “[i]t is to be noted that there were statuses between slaves and free commoners, as indicated in the statute quoted above.” (212). Yates is certainly aware of these issues: “Regardless of the identity of these workers, what is to be noted is that they were of such low slavelike status that the government could buy them on the open market, on the one hand, and, on the other, that Sima Qian uses this term *tuli* to identify many of the workers who constructed the First Emperor’s mausoleum,” and “there must have been a very large market for slave-like workers in the Qín” (223).

50 Yates, “Slavery in Early China”: 303–4.

51 Literally “to be something that is not human.” The expression *fēi rén yě* 非人也, albeit in quite a different context, is also attested in Qín *Shuihūdi* bamboo slips (dated 217 BC), namely in the “day-book” manuscript *Rìshū A* (*Rìshū jiǎzhǒng* 日書甲種), a compilation of hemerological manuals concerned with spirits and demons, in the section “Spellbinding” (“Jié” 詰). Here, in a prescription for how to act when the well of a household has become bloody, it is used in its literal sense: “Fill it with sand and make another well; feed from it with steamed rice, drink hoarfrost and dew, and after three days you will be human. If you fail to do so, (continue to) drink from it [i.e. the old well] and depend on it for about three months, then you will no longer be human, but become a skeleton.” 以沙墊之, 更為井, 食之以噴, 飲以爽(霜)路(露), 三日乃能人矣。若不, 三月食之若傅之, 而非人也, 必枯骨也。 Punctuated transcription from *Shuihūdi Qín mù zhújiǎn* 睡虎地秦墓竹簡 (Běijīng: Wénwù Chūbǎnshè 文物出版社, 1990): 216, slips no. 53 verso (3) – no. 55 verso (3). My translation follows the editor’s notes given in *Shuihūdi Qín mù zhújiǎn* and thus also closely Hu Baozhu, *Believing in Ghosts and Spirits: The Concept of Gui in Ancient China*, Monumenta Serica Monograph Series 71 (London: Routledge; Monumenta Serica Institute, 2021): “Appendix 3 Investigation: Annotated Translation of the ‘Jie’ 詰 Section,” no. 70, <https://doi.org/10.4324/9781003110040> [accessed 17.05.2022]. The search was done using the Chinese Ancient Texts (CHANT) Jianbo Database 竹簡帛書 1.

52 Yates, “Slavery in Early China”: 299. In contrast to Orlando Patterson’s more global definition of “slavery,” which has been criticized for apparently treating “slaves” – socially interacting living human beings – as if in complete social isolation (see for example Miller, *The Problem of Slavery as History*: 31–32), Yates sees “social death” in the specific context of ancient China: “Humans are humans because they are tied into a network of kin relationships which constitute the world of social life and which define their social being, and in China humans are humans because of the direct

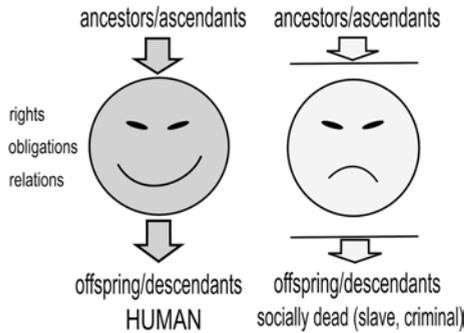


Fig. 1: Social death in ancient China after Yates, “Slavery in Early China.”

a “human,” socially alive, has relations and obligations. He or she is certainly not “free” to do as he or she likes; a slave or criminal, however, is cut off from any of his or her natural human relations.

Yates sees evidence for this hypothesis, for example in the fact that under Qín law “children who were considered ‘not whole’ (*buquan* 不全) could be killed with impunity” by their parents,<sup>53</sup> and that, as is known from transmitted sources, a male child with a disability “cannot serve at the ancestral altars” and therefore could not fulfil his obligations as an heir.<sup>54</sup> Within this lowest social stratum of socially dead persons, slaves can further be distinguished from convicts according to Yates, because their bondage was perpetual, while the bondage of convicts was limited to a set period of years.<sup>55</sup> However, differentiation of “slaves” and “convict” laborers in Qín and early Western Hàn is far less clear-cut than implied by Yates in 2001: as Maxim Korolkov recently summarizes the “decades-long” scholarly debate after the publication of

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line and link between themselves and their ancestors or ascendants and their offspring or descendants.” Yates, “Slavery in Early China”: 299. Indeed, Patterson does not seem to deny that “slaves” were interacting human beings or had any social relations at all, but rather argues that they were deprived of something inherently human: “Slaves differed from other human beings in that they were not allowed freely to integrate the experience of their ancestors into their lives, to inform their understanding of social reality with the inherited meanings of their natural forbears, or to anchor the living present in any conscious community of memory.” Patterson, *Slavery and Social Death*: 5.

53 Yates, “Slavery in Early China”: 297.

54 Yates, “Slavery in Early China”: 300. Yates refers to a case recorded in the *Zuǒ zhuàn* 左傳, chapter “Lord Zhāo 昭公 seventh year (535 BC)” (“Zhāo Gōng qī nián 昭公七年”), “in which a lame elder brother is barred from inheriting his father’s rank for precisely the same reason: he is not human (*fei ren ye* 非人也), or considered a member of the clan [. . .] and so cannot serve at the ancestral altars [. . .].” For the original as well as annotated translated passage see Stephen Durrant, Wai-ye Li and David Schaberg, trans. and introd., *Zuo Tradition / Zuozhuan* 左傳: *Commentary on the ‘Spring and Autumn Annals’* (Seattle and London: University of Washington Press, 2016): 1432–1435.

55 Yates, “Slavery in Early China”: 301.

excavated Qín legal manuscripts, increasing evidence for life-long labor sentences, the fact that “slaves” could actually be purchased by the government from private individuals as laborers and “conversely, [the government] leased convicts out to private users, invite the question of whether or not convict laborers should be properly described as state-owned slaves.”<sup>56</sup> Thus, there remains the issue whether, and how, privately and state-owned “slaves” and/or other “bondservants” and unfree laborers are actually distinguishable as to their “nature.”<sup>57</sup>

Nevertheless, Robin Yates’ analysis and understanding of “slavery” in late Warring States and early imperial China as encompassing social death is, in my view, very insightful, and seems to be applicable to these periods, although constant (re-) evaluation of the growing number of manuscript corpora is needed. However, just like other scholars, Yates assumes the existence of “slaves” in Shāng and Western Zhōu China without addressing the issue of how they are to be identified:

In China from the Neolithic to the late Western Zhou 西周 and early Eastern Zhou 東周 periods, there was no strict separation in status between the lowest members of society and the highest. All members were to a certain extent unfree, and it was only in the middle of the Spring and Autumn period that a market economy really developed. I am not claiming that there were no slaves at all in early times. Rather, I wish to argue that there was a radical change in the nature of slavery in the middle of the Eastern Zhou period [ . . . ], when slaves for the first time came to be bought and sold.<sup>58</sup>

What, then, was their “nature” in early times? Is it possible to determine an early social category of “slaves,” or any other low stratum, before the Eastern Zhōu period?

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**56** Maxim Korolkov, “Empire-Building and Market-Making at the Qin Frontier: Imperial Expansion and Economic Change, 221–207 BCE” (PhD diss., Columbia University, 2020): 308. My insertion. For a thorough discussion of the extensive Qín system of unfree labor and its importance within the state economy and for the empire’s construction projects, see the fourth chapter “Between command and market: the economy of convict labor” (307–427). The relationship between institutional and private dependency in Qín is further discussed in Maxim Korolkov, “Between Command and Market: Credit, Labour, and Accounting in the Qin Empire (221–207 B.C.E.),” in *Between Command and Market: Economic Thought and Practice in Early China*, ed. Elisa Sabattini and Christian Schwermann (Leiden: Brill, 2021): 162–243.

**57** Yates also further revised his analysis in 2014, after examination of the newly published Qín bamboo manuscripts excavated at Liyè 里耶, Húnán Province, as well as the early Hàn Zhāngjiā-shān 張家山 bamboo manuscripts excavated from Tomb 247 (see Yates, “The Changing Status of Slaves”). There, he states: “It is clear that we still have a long way to go to understand the exact nature of the many statuses among the lower orders of the Qin and early Han and how they may have changed over time and political and military circumstances.” (223.)

**58** Yates, “Slavery in Early China”: 287–88.

## 2 Looking for “Strong Asymmetrical Dependency” in Epigraphic Sources: Social Groups

Let us consider the new concept “strong asymmetrical dependency.” According to the webpage of the Cluster of Excellence “Beyond Slavery and Freedom,” this means “human bondage and coercion,”<sup>59</sup> including “debt bondage, convict labor, tributary labor, servitude, serfdom, and domestic work as well as forms of wage labor and various types of clientage and patronage,” and what is described as their “most extreme” form: “slavery.” Thus, “strong asymmetrical dependency” is a generic term for specific social phenomena of “human bondage and coercion,” known from particular societies at particular times. If looking for them within a given society such as ancient China, we first need to define what “human bondage and coercion” are: either we a) base our search on extant definitions of all these social phenomena just quoted in different historical contexts, or b) look for forms of human “bondage” and “coercion” which, however, need to qualify as being “strong,” based on extant definitions of these two words in English or another modern language. To simplify our search, we shall therefore first look for “bondage,” which according to the Merriam-Webster dictionary was first used during the fourteenth century in the sense of “the tenure or service of a villein, serf, or slave,”<sup>60</sup> and, in the same contexts, for

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59 In the late 1860s, Karl Marx translated “bondage” as “Hörigkeit” (see Karl Marx, *Das Kapital: Kritik der politischen Oekonomie*, vol. 1, *Der Produktionsprozess des Kapitals*, 2nd ed. (Hamburg: Verlag von Otto Meissner, 1872): 602). In the modern English lexicon, “bondage” seems to be treated as synonymous with other concepts such as “enslavement, servility, servitude, slavery, thrall, thralldom, yoke” as given by the online *Merriam-Webster dictionary*, s.v. “bondage,” <https://www.merriam-webster.com/dictionary/bondage> [accessed 17.05.2022], while German “Hörigkeit” (*bondage*), with the synonyms “Abhängigkeit, Unmündigkeit, Unselbstständigkeit,” seems to be treated as a hyperonym of different phenomena such as “Sklaverei” (*slavery*), which in turn constitutes another synonym group: “Knechtschaft, Leibeigenschaft, Sklaverei, Unfreiheit.” See *Digitales Wörterbuch der Deutschen Sprache*, s.v. “Hörigkeit” and “Sklaverei,” <https://www.dwds.de/wb/H%C3%B6rigkeit> and <https://www.dwds.de/wb/Sklaverei> [both accessed 17.05.2022]. The greatest variety of translations of “bondage” and seeming overlaps or synonymy of different concepts is to be found in the online *Linguee Wörterbuch*: “Bondage, Knechtschaft, Gefangenschaft, Zwang, Sklaverei, Leibeigenschaft, Unfreiheit, Hörigkeit, Zwänge, beengender Zwang”; “Knechtschaft” in turn being translated as “slavery, servitude, bondage, subjugation, thralldom, serfdom” (see *Linguee Wörterbuch*, s.v. “bondage,” <https://www.linguee.de/deutsch-englisch/search?source=englisch&query=bondage> and s.v. “Knechtschaft,” <https://www.linguee.de/deutsch-englisch/search?source=auto&query=Knechtschaft> [both accessed 17.05.2022]). Thus “bondage,” taken as an overarching concept, nevertheless points to specific social phenomena.

60 *Merriam-Webster dictionary*, s.v. “bondage,” <https://www.merriam-webster.com/dictionary/bondage> [accessed 17.05.2022].

identifiable forms of “coercion,” a word first used during the fifteenth century in the sense “to restrain or dominate by force.”<sup>61</sup>

## 2.1 The Problem of Dependent Labor during the Late Shāng and Western Zhōu Periods

Within a given society, severe forms of human bondage and coercion should be the most asymmetrical of all social relations. When looking for them, it might be helpful to scrutinize society’s lowest end. However, the Shāng and Western Zhōu inscriptions are largely non-descriptive of the lowest social strata. They are no normative texts; they do not *explain* social status. Nevertheless, we shall first consider social groups involved in possible cases of forced or dependent labor.

This has already been done to some extent. In the West, David N. Keightley has studied certain groups of people in oracle-bone and bronze inscriptions who were “mobilized” to fulfil tasks in construction, agriculture, handicraft, warfare and hunting – these groups were *zhòng* 衆 and *rén* 人, but also *chén* 臣 and others.<sup>62</sup> In his dissertation *Public Work in Ancient China: A Study of Forced Labor in the Shang and Western Chou* of 1969, Keightley stated that “under both dynasties, ancient China was a forced-labor society in which the king’s work was performed by forced laborers of various status, permanently or intermittently attached to the ruling elite in a hierarchy of servitude,”<sup>63</sup> mainly focusing on the problem of their identification as slave societies. After careful re-evaluation of the evidence, published in 2012 under the title *Working for His Majesty: Research Notes on Labor Mobilization in Late Shang China*, he concluded more or less explicitly that labor mobilization during the late Shāng dynasty cannot be understood as “forced”:

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61 *Merriam-Webster dictionary*, s.v. “coercion,” <https://www.merriam-webster.com/dictionary/coercion> [accessed 17.05.2022]. While these terms certainly arose during the medieval period in England and their semantic range is confined to these specific contexts, specificity applies to every single term for social phenomena under scrutiny of the present volume, because a given society naturally has temporal, geographical and other boundaries that make it identifiable and tangible. Any study in social history is therefore comparative in the sense that historians, if I may borrow the words of Joseph C. Miller “live in historical contexts of their own, and so they always add the perspective of the historian trying to make sense of them.” (Miller, *Problem of Slavery as History*: 6.) However, historians by necessity not only work with historical material, but also with terms and concepts, including those of their own time, which they should be careful not to project onto other or earlier societies. As Miller pointedly states, “Being in the present does not exclude constructive engagement with the past; rather, the historian must merely avoid conflating the two.” It should be added and pointed out that, while comparing phenomena in different societies at different times and in different languages, “two” easily becomes “many.”

62 See Keightley, “Public Work in Ancient China”: as well as *Working for His Majesty*.

63 Keightley, “Public Work in Ancient China”: abstract.

There was no phrase in ancient Chinese to express the idea of dependent labor or public work; the unifying concept was the responsibility, shared generally by the king's subjects and diffused downward through the patrimonial and patriarchal political and social ranks, to serve the king and lineage heads. Though there was certainly a fundamental social cleavage between those who benefited from the work and those who labored to provide it, there was also an acknowledged continuum of obligation that required all, high and low alike, to serve their superiors. [ . . . ] The concept of servitude, in fact, seems to have been generally accepted by people at all positions on the social spectrum.<sup>64</sup>

Because of new finds and developments in Western Zhōu epigraphy since 1969, Keightley left out the Western Zhōu evidence. He was a specialist for the late Shāng. Indeed, epigraphic evidence from the Western Zhōu is not easy to interpret.

### 2.1.1 The Hū *dǐng* 鬲鼎 Inscription: “Slavery,” “Bondage” or What?

The long and famous Hū *dǐng* 鬲鼎 inscription (*Jíchéng* #2838), dated to the middle Western Zhōu period (before around 957 BC), has been understood as an example of “slavery” or some other kind of dependency.<sup>65</sup> Some graphs in the rubbings are unreadable or missing, which has led to different understandings. Unfortunately, the vessel was irretrievably lost.<sup>66</sup> The inscription consists of three parts (see Fig. 2). Part one is a “typical” description of Hū’s 鬲 investiture as hereditary official. Parts two and three each document a court case.

<sup>64</sup> Keightley, *Working for His Majesty*: 240.

<sup>65</sup> For different translations and/or discussions of the Hū *dǐng* inscription see Chou Feng-wu (Zhōu Fèngwū) 周鳳五, “Hū *dǐng* míngwén xīnshì 鬲鼎銘文新釋,” *Gùgōng xuéshù jìkān* 故宮學術季刊 / *The National Palace Museum Research Quarterly* 33, no. 2 (2015): 1–18; Ulrich Lau, *Quellenstudien zur Landvergabe und Bodenübertragung in der westlichen Zhou-Dynastie (1045?–771 v. Chr.)*, Monumenta Serica Monograph Series 41 (Nettetal: Steyler Verlag, 1999): 368–83; Lutz Schunk, “Dokumente zur Rechtsgeschichte des alten China: Übersetzung und historisch-philologische Kommentierung juristischer Bronzeinschriften der West-Zhou-Zeit (1045–771 v.Chr.)” (PhD diss., Westfälische Wilhelms-Universität Münster, 1994): 139–65; Laura A. Skosey, “The Legal System and Legal Tradition of the Western Zhou (ca. 1045–771 B.C.E.)” (PhD diss., University of Chicago, 1996): 98–101 and 346–59; Laura A. Skosey, “Hu *dǐng* 鬲鼎,” in *A Source Book of Ancient Chinese Bronze Inscriptions*, Early China Special Monograph Series 7, ed. Constance A. Cook and Paul R. Goldin (Berkeley: The Society for the Study of Early China, 2016): 129–35. For a discussion of epigraphic issues and doubts as to the inscription’s authenticity, see Keightley, “Public Work in Ancient China”: 197–99, n. 1. For the discussion below of parts 2 and 3 of the inscription regarding the identification of social status, compare Adamski, “Sklave oder Dienstmann”: 21–24.

<sup>66</sup> For the circumstances and transmission of the rubbing, see Keightley, “Public Work in Ancient China”: 197–99, n. 1; Skosey, “Legal System and Legal Tradition of the Western Zhou”: 346, n. 90 and Skosey, “Hu *dǐng*”: 129.

The first centered around five men. They had been “redeemed” or “bought” by Hū, at the “price” of a horse and a bolt of silk. But Hū had not received them, thus taking legal action.



Fig. 2: Rubbing of the Hū *dǐng* 召鼎 inscription. From *Yīn Zhōu jīnwén jíchéng* 殷周金文集成 (Shànghǎi 上海: Zhōnghuá Shūjú 中华书局, 1985), vol. 5, no. 2838A, 243. Reproduced with permission. Due to two vertical columns partly left blank, the three parts of the inscription can be made out rather clearly.

The verb used is 賈 (𠄎, 𠄎), which should be transcribed as 賈, often normalized as later *shù* 贖, “to redeem, to ransom,” but possibly an early epigraphic occurrence of *yù* 賈, or variant of epigraphic *yù* 價, in the sense “to buy” or “to redeem.”<sup>67</sup> According to the

67 For the paleographic issues and reasons for this identification, see Adamski, “Sklave oder Dienstmann”: 22, n. 37. Chou Feng-wu states that the graph should be understood in the sense of an “exchange” (*jiāoyì* 交易, *jiāohuàn* 交换), rather than in the later sense “to buy” (Chou Feng-wu, “Hū *dǐng* míngwén xīnshì 召鼎銘文新釋”: 5). Kolb, *Infanterie im alten China*: 118, refers to this transaction as “trade” (*Handel*).

verdict, Hū received the five men, who are each mentioned by name. Following one reading, they were to return to “their settlement(s)” (*jué yì* < \**kot q(r)[ə]p* 𠄎邑) and “their fields” (*jué tián* < \**kot l'ij* 𠄎田),<sup>68</sup> probably meaning those they formerly used to live in and work on, normally, and most likely, affiliated to a certain lineage. They may even have returned to their family “property.” However, according to another reading, the pronoun *jué* 𠄎 does not refer to the five men.<sup>69</sup> It may thus be that either the five individuals themselves had been “bought” or “redeemed,” or, as Laura Skosey 1996 and 2016 suggests, only their labor. Further, the pronoun *jué* here can not even be seen in the transmitted rubbing – which apparently misses characters at the end of several lines –<sup>70</sup> but is merely an emendation, paralleling the preceding chain *jué yì* 𠄎邑.<sup>71</sup> In any case, the individuals in question were objects of the law, not its subjects. They seem to have been “dependents” of either Hū or his lineage, or the opposing party’s lineage. They are not referred to by a specific term designating any social group: the text simply refers to “men” (*rén* < \**ni[ŋ]* 人), or “individuals” (*fū* < \**p(r)a* 夫). Since we lack information on their working and living conditions, their exact status – if there were such differentiations within the non-aristocratic population – cannot be determined.

Part three of the inscription describes another lawsuit, involving, again, Hū. Ten bushels of grain had been stolen from him during a year of famine. The thieves were either the elite member Kuāng 匡 together with twenty of his *chén* 臣, or twenty *chén* of Kuāng’s.<sup>72</sup> These *chén* are translated variously as “slaves”,<sup>73</sup> “servants”,<sup>74</sup> or “*chen*-servants.”<sup>75</sup> Hū sought compensation, in the form of grain, before the judge Dōnggōng 東宮. But neither Kuāng nor his men were able to replace the grain. Instead, he offered Hū altogether seven fields and five men, three of them

68 Skosey, “Legal System and Legal Tradition of the Western Zhou”: 356; Lau, *Quellenstudien*: 372 and 382. Compare Adamski, “Sklave oder Dienstmann”: 24, n. 39.

69 This interpretation can be found in Schunk, *Dokumente zur Rechtsgeschichte*: 147.

70 These are lines 1–4, 7–8, 10–15, and 19–23. Compare the emended transcription in *Yin Zhōu jīn-wén jíchéng shìwén*, vol. 2, no. 2838, 414.

71 Cf. also Schunk, “Dokumente zur Rechtsgeschichte”: 161, n. 91.

72 According to another reading, the twenty *chén* acted on behalf of Kuāng’s *zhòng* 眾 (\**tuŋ-s*), denoting a social status or function and thus referring to an individual under Kuāng’s authority (translated as “commoner” (*Gemeiner*) by Lau, *Quellenstudien*: 372, or “servant” (*Knecht*) by Schunk, “Dokumente zur Rechtsgeschichte”: 148), while Laura Skosey applies the meaning “masses” (“Legal System and Legal Tradition of the Western Zhou”: 357) or “multitudes” [*Hu ding*”: 134]), apparently referring to Kuāng’s “people” in general. By contrast Keightley, “Public Work in Ancient China”: 197–99, n. 1, interprets the inscriptional graph 眾 as a scribal error for the conjunction 眾 (*tà* < \**m-r'əp*).

73 Lau, *Quellenstudien*: 372.

74 Schunk, “Dokumente zur Rechtsgeschichte”: 148.

75 Skosey, “Legal System and Legal Tradition of the Western Zhou”: 357 as well as “*Hu ding*”: 134–35.

*chén* 臣,<sup>76</sup> each also mentioned by name. The verb used is *yòng* 用 田, “to use.” Due to several epigraphic issues, either Kuāng “used” the fields and *chén* to compensate Hū, that is, giving them to Hū, or Hū was going to “use” their labor and the agricultural yield until his loss was compensated. In this case, both fields and *chén* would have remained those of Kuāng.<sup>77</sup>

Because of this apparent “transaction,” as well as their “gift-giving” in other inscriptions, *chén* 臣 has been understood as a status term, denoting “slaves,” or at least a social “class” of “servants.” However, as I have discussed elsewhere, the individual contexts to the various *chén* mentioned in bronze inscriptions point to a great difference in their respective social standing, which makes it likely that this was neither a status term nor descriptive of a specific function, but a general term for *subordination*, from which other compounds denoting more specific functions may have developed. This is consistent with the Shāng evidence as presented by Keightley 2012, with similar Western Zhōu findings made by Raimund Kolb 1991, Vassilij Krjukov 1997 or Wáng Jìnfēng 王进锋 2011, and with the contextual use of *chén* in later Warring States sources as studied by Robert Gassmann in 2006.<sup>78</sup> The individuals named in the Hū *dǐng* inscription were in a relation of asymmetrical dependency in the sense that they were objects of an exchange and served others. But we have no proof of any “force” used on them. Definitions of “serfs”<sup>79</sup> or “villeins”<sup>80</sup> are also too specific: They presume the existence of a determinable social class and require delineating the individuals’ “freedom” or “unfreedom” in relation to other social strata. It

76 “Fields, seven, and men, five.” 田十(七)[田]人五夫.

77 Compare the different readings in Lau, *Quellenstudien*: 372, 382–83; Schunk, “Dokumente zur Rechtsgeschichte”: 142–43, 148–50; Skosey, “Legal System and Legal Tradition of the Western Zhou”: 98–99, 357–59; Skosey, “Hu *dǐng*”: 133–35.

78 Compare Adamski, “Sklave oder Dienstmann”; see the works by Vassilij M. Krjukov, *Ritualnaja komunikacija v drevnem Kitae* (Moscow: Institut Vostokovedeniya RAN, 1997): 62, and Wáng Jìnfēng 王进锋, “Hūchén yǔ cì chén 虎臣与赐臣,” *Sichuan wénwù* 四川文物 5 (2011): 47–52; see also his more recent book-length study of *chén*, *xiǎochén* and society in the Shāng and Western Zhōu dynasties: Wáng Jìnfēng, *Chén, xiǎochén yǔ Shāng Zhōu shèhuì* 臣、小臣与商周社会 (Shànghǎi: Shànghǎi Rénmín Chūbǎnshè 上海人民出版社, 2018). Raimund Kolb, whose *Die Infanterie im alten China* had previously been unavailable to me, very judiciously discusses *chén* of the Shāng and Western Zhōu on pages 48–50 and 115.

79 According to the *Merriam-Webster dictionary*, a “serf” is defined as “a member of a servile feudal class bound to the land and subject to the will of its owner,” its first known use attested for the year 1611 (see *Merriam-Webster dictionary*, s.v. “serf,” <https://www.merriam-webster.com/dictionary/serf> [accessed 17.05.2022]).

80 A “villein” is defined as referring to “a free common villager or village peasant of any of the feudal classes lower in rank than the thane”, “a free peasant of a feudal class higher in rank than a cotter”, and “an unfree peasant standing as the slave of a feudal lord but free in legal relations with respect to all others.” The word’s earliest occurrence in the first sense is not attested until the fourteenth century. See *Merriam-Webster dictionary*, s.v. “villein,” <https://www.merriam-webster.com/dictionary/villein> [accessed 17.05.2022].

remains unclear whether the men, or their families, “owned” the fields they worked on or returned to. The peasant population of the Western Zhōu was normally tied to the land, under jurisdiction of royal lineages or “regional rulers.” So far, the Hū *dǐng* documentation of a transfer of *specific* persons along with fields as the result of a lawsuit is singular. We cannot say that *chén* “in general” could be “bought” or exchanged in commerce.

To further complicate our evidence base, David Keightley 1969 has argued against the genuineness of the inscription, based on character errors and inconsistencies in the alleged provenances of the inscription’s rubbings.<sup>81</sup> We must at least consider this possibility.<sup>82</sup>

### 2.1.2 Indefinite Terms? Problems in Searching for Social Status

There are other terms that are sometimes identified as denoting “slaves” or other subordinate “classes,” such as *rénlì* 人鬲.<sup>83</sup> We need more information on these people than the mere fact that they were personnel “given” to elite members. This is, for the reasons I have given, not sufficient grounds to assign any specific status to them. So far, it is not easy to make out any specific “strata” or “classes” of people denoted by specific epigraphic terms in early ancient China.<sup>84</sup> Some terms are

<sup>81</sup> See Keightley, “Public Work in Ancient China”: 197–99, n. 1.

<sup>82</sup> Another general reason for paleographic and epigraphic irregularities in inscriptions might be the use of blueprint manuscripts on perishable materials in the process of inscription making, as was recently shown by Škrabal for Western Zhōu bronzes (see Ondřej Škrabal, “Writing before In-scribing: On the Use of Manuscripts in the Production of Western Zhou Bronze Inscriptions,” *Early China* 42 (2019): 273–332).

<sup>83</sup> Such an identification can be found in quite recent studies, for instance in Li Feng, “The Western Zhou State”: 101, as already cited; see also Li Feng, *Landscape and Power*: 127, where *rénlì* is directly translated as “slaves.” Also compare its lexicalization as “captives or slaves” 俘虜或奴隸 in *Jīnwén chángyòng zìdiǎn* 金文常用字典 (Xi’an 西安: Shānxī Rénmín Chūbǎnshè 陕西人民出版社, 2004): 766.

<sup>84</sup> As an aside, “class” and “stratum” are modern social concepts that developed in nineteenth-century Europe while estate-based society dissolved; according to Reinhart Koselleck, the traditional German concept *Stand* (“estate, degree”) in 1807 in Prussia, for instance, comprised a vast array of meanings, while the rather new term *Klasse* seems to have been defined mostly by economical and legal criteria; neither being a clear-cut concept: “Der Begriff des Standes enthielt um die damalige Jahrhundertwende unendlich viele Bedeutungsstreifen politischer, wirtschaftlicher und rechtlicher Art, so daß aus dem Wort selber keine eindeutige Zuordnung abzuleiten ist. [. . .] Der Begriff ‘Klasse’ enthielt damals ebenso mannigfaltige Bedeutungen, die sich streckenweise mit dem von ‘Stand’ überlappten. Immerhin kann für den deutschen, speziell den preußischen Sprachgebrauch der Bürokratie gesagt werden, daß damals eine Klasse eher durch wirtschaftliche und verwaltungsrechtliche Kriterien bestimmt wurde als durch politische oder gar geburtsständische Kriterien.” Reinhart Koselleck, “Begriffsgeschichte und Sozialgeschichte,” in *Historische Semantik und Begriffsgeschichte*, ed. Reinhart Koselleck (Stuttgart: Klett-Cotta, 1978): 22. According to the

obviously used as official titles; some seem to denote certain functions, and may then have been used as so-called “official titles,” too.

To give an example of the broad social connotations of Shāng and Western Zhōu terms, I should like to make some additional comments on two terms which are known throughout the pre-imperial and imperial written sources: *chén* 臣, commonly in the sense of “minister” or “servant,” and *qiè* 妾, meaning “spouse” in the earliest inscriptions, and “concubine” in later historical sources.<sup>85</sup> These terms were often used together, already in the early Western Zhōu period, implying a close connection of the two. As a compound, *chén qiè* 臣妾 is lexicalized as male and female “slaves” already for early periods in Chinese history, for example in the comprehensive Chinese language dictionary *Hànyǔ dà cídiǎn* 汉语大词典 (2006), or in the dictionary of commonly used bronze inscriptional characters *Jīnwén chángyòng zìdiǎn* 金文常用字典 of 2004.<sup>86</sup> As we have seen so far, and as has been criticized by Huáng Xiànfán already prior to the 1980s,<sup>87</sup> such an identification should be questioned for the earliest Chinese periods.

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Merriam-Webster dictionary, the English noun “class” is first attested for 1583 in the meaning “a group, set, or kind sharing common attributes,” and not yet in the sense of “a group sharing the same economic or social status” or “social rank” (*Merriam-Webster dictionary*, s.v. “Class,” <https://www.merriam-webster.com/dictionary/class#h1> [accessed 17.05.2022]). The first known use of “stratum” was in 1599 in the sense “a bed or layer artificially made” (*Merriam-Webster dictionary*, s.v. “Stratum,” <https://www.merriam-webster.com/dictionary/stratum> [accessed 17.05.2022]). The term “class” (French *classe*, German *Klasse*) was first used in the biological classification of plants, “[a]ls Konzept zur Analyse der Gesellschaft tauchte er erstmals bei den Physiokraten im 18. Jh. auf (Physiokratie). In ähnlicher Weise übernahm ihn zu Beginn des 19. Jh. Claude Henri de Saint-Simon zur Bezeichnung der einzig produktiven industriellen Klasse. Für Karl Marx, der den modernen Begriff der Klasse prägte, war der Besitz an den Produktionsmitteln das entscheidende Kriterium, das in der bürgerlichen Gesellschaft die Zuordnung zur Arbeiter- oder Kapitalistenklasse bestimmte” (Ruedi Brassel-Moser, “Klassengesellschaft,” June 13 2012, in *Historisches Lexikon der Schweiz (HLS)*, <https://hls-dhs-dss.ch/de/articles/015984/2012-06-13/> [accessed 17.05.2022]). The word was borrowed from Latin *classis*, “fleet, class, division,” there also denoting “a class, into six of which Servius Tullius divided the whole Roman people” (see John Rely Beard, *Cassell’s Latin dictionary*, by J.R. and C. Beard (London: John Cassell, 1854): 66), compare Wolfgang Pfeifer, “Klasse,” in *Digitales Wörterbuch der deutschen Sprache (DWDS)*, <https://www.dwds.de/wb/Klasse> [accessed 17.05.2022].

**85** See also the earlier discussion of the two in Huáng Xiànfán, *Zhōngguó lǐshǐ měi yǒu nǚlǐ shèhuì*: 16–17. For semantics of the term *qiè* in early and later imperial sources, see Griet Vankeerberghen, “A Sexual Order in the Making: Wives and Slaves in Early Imperial China,” in *Sex, Power and Slavery*, ed. Gwyn Campbell and Elizabeth Elbourne (Athens, OH: Ohio University Press, 2014): 121–39.

**86** *Jīnwén chángyòng zìdiǎn*: 349. See also the comprehensive Chinese language dictionary edited by Luó Zhúfēng 罗竹凤, *Hànyǔ dà cídiǎn* 汉语大词典, vol. 8 (Shànghǎi: Hànyǔ Dà Cídiǎn Chūbǎnshè 汉语大词典出版社, 2006): 720.

**87** In the collocation *chén qiè*, Huáng sees a clear distinction of “male” and “female” in transmitted texts, where it appears to have denoted poor, ordinary servants, or poor and common people, and

While this composite can already be found in Western Zhōu bronze inscriptions, it does not yet occur in excavated oracle-bone corpora from the last Shāng capital Yīn 殷.<sup>88</sup> However, some divination inscriptions prove that *chén* 臣 and *qiè* 妾 were already correlated, such as piece *Huādōng* 409 (27), belonging to a corpus of oracle-bones and turtle shells excavated in 1991 at Huāyuánzhuāng 花园庄 village, Hénán 河南 province, which was published in 2003:

己卜：夷臣又妾禦子馘妣庚。<sup>89</sup>

Cracks made on *jǐ* 己(-day): It should be captive *chén* 臣 and *qiè* 妾 to make the exorcism rite for prince Guó 馘 (to) ancestress Gēng 庚.<sup>90</sup>

Another example is *Héjǐ* 629 (2):

貞今庚辰，夕用鬮小臣三十，小妾三十于帚。九月。<sup>91</sup>

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within some contexts referred to the conquered and captured populace in war; according to him, its predominant notion as “male and female slaves” and as a status term is therefore a modern misinterpretation of old commentaries. Compare Huáng Xiànfán, *Zhōngguó lǐshǐ méi yǒu nǚlǐ shèhuì*: 19–20.

**88** For this paper, I consulted the following oracle-bone corpora: *Jiǎgǔwén héjí* (abbreviated *Héjǐ* 合集), 13 vols. (Běijīng: Zhōnghuá Shūjú, 1999); *Xiǎotún nándì jiǎgǔ* 小屯南地甲骨 (abbreviated *Túnnán* 屯南), 2 parts (5 vols.) (Běijīng: Zhōnghuá Shūjú, 1983); *Yīnxū Huāyuánzhuāng dōngdì jiǎgǔ* 殷墟花园庄东地甲骨 (abbreviated *Huādōng* 花东), 6 vols. (Kūnmíng 昆明: Yúnnán Rénmín Chūbǎnshè 云南人民出版社, 2003); and *Yīnxū Xiǎotún cūnzōng cūnnán jiǎgǔ* 殷墟小屯村中村南甲骨 (abbreviated *Túnzhōngnán* 屯中南), 2 vols. (Kūnmíng: Yúnnán Rénmín Chūbǎnshè, 2012), as well as their respective concordances: *Yīnxū jiǎgǔ kècí lèizhuǎn* 殷墟甲骨刻辞类纂, 3 vols. (Běijīng: Zhōnghuá Shūjú, 1989); *Yīnxū Huāyuánzhuāng dōngdì jiǎgǔ kècí lèizhuǎn* (Běijīng: Xiànzhuāng Shūjú, 2011); *Yīnxū Huāyuánzhuāng dōngdì jiǎgǔwén lèizhuǎn* (Fúzhōu: Fújiàn Rénmín Chūbǎnshè, 2016); *Yīnxū Xiǎotún cūnzōng cūnnán jiǎgǔ kècí lèizhuǎn* (Běijīng: Zhōnghuá Shūjú, 2017). I did not consider collections that date back to before academic excavations, in particular those in the Royal Ontario Museum and the British Library, since forgeries are not securely identifiable in every single case.

**89** See rubbing in *Yīnxū Huāyuánzhuāng dōngdì jiǎgǔ*, vol. 3, no. 409, 820 (the inscription can be found on the upper left side of the turtle shell, the graphs running from right to left, then downwards, and again from left to right). Transcription follows *Yīnxū Huāyuánzhuāng dōngdì jiǎgǔwén lèizhuǎn*, 95. Also see *Yīnxū jiǎgǔwén móshì quánbiān* 殷墟甲骨文摹释全编, vol. 10 (Běijīng: Xiànzhuāng Shūjú 线装书局, 2010), 5670 and Adam Craig Schwartz, *The Oracle Bone Inscriptions from Huayuanzhuang East: Translated with an Introduction and Commentary*, Library of Sinology 3 (Boston and Berlin: De Gruyter Mouton, 2019): 341 (HYZ 409), both of which transcribe the graph  as “Ēr” 而; I follow Schwartz, however, in reading it as “Guó” 馘 in the Huādōng corpus (for the identification see: 81, n. 18).

**90** Cf. the translation by Schwartz, *The Oracle Bone Inscriptions from Huayuanzhuang East*: 341 (HYZ 409).

**91** See rubbing in *Jiǎgǔwén héjí*, vol. 1, no. 629, 150. Transcription follows *Jiǎgǔwén héjí shìwén*, vol. 1, no. 00629.

Divined: This *gēngchén* (day), in the evening (we) use as sacrificial offering thirty minor *chén* (and) thirty minor *qiè* to (the king's deceased) wife.<sup>92</sup>

A parallel structure in *Héjǐ* 630 (1) indicates that *qiè* could refer to “women” in general, because it contains both *chén* and *nǚ* 女, “woman”:

癸酉卜, 鼎(貞): 多匕(妣)鬲小臣三十, 小女三十[于]帚(婦).<sup>93</sup>

Cracks made on (day) *guǐyǒu*, divined: (To) the many ancestresses offer thirty minor servants [小臣] (and) thirty minor women [小女], or: girls to the (king's deceased) wife.

Thus, *qiè* 妾 seem to be female equivalents of the male *chén* 臣, which would explain their later collocation. During the 1950s there was already some debate among scholars about the social status of *qiè* in oracle-bone inscriptions: Most believed that *qiè* obviously accompanied the king, apparently being wives and concubines and not slaves; others held that those *qiè* who were not referred to as the king's wives could be killed like cattle, and were sacrificed together with animals, and thus certainly were “slaves.”<sup>94</sup> Because the term *chén* had a very broad range and could even refer to high-ranking officers or “officials,” sometimes even translated as “ministers,” it stands to reason that the word *qiè* 妾 is also used in a broad sense. Although it was sometimes synonymous to *qī* 妻, “wife,” I would suggest a translation as “female servants” in the Shāng context, wherever the meaning “wife” is unclear.<sup>95</sup> But we know nothing about their living conditions except the fact that some *qiè* and some *chén* were offered as human sacrifices. This, however, was an important argument in their identification as “slaves,” for example by Wáng Chéngshào 王承祜 1955, which is only seldom disputed.<sup>96</sup> We also often find the assumption that all victims of human sacrifice must have been of “low status” and “humble origin.”<sup>97</sup> But human

<sup>92</sup> Cf. the translation by Christian Schwermann and Wang Ping 王平, “Female Human Sacrifice in Shang-Dynasty Oracle-Bone Inscriptions” (unpublished manuscript, September 29, 2014): 63.

<sup>93</sup> See rubbing in *Jiǎgǔwén héjǐ*, vol. 1, no. 630, 150. Transcription following *Jiǎgǔwén héjǐ shìwén*, vol. 1, no. 00630. Compare translation in Schwermann/Wang, “Female Human Sacrifice”: 54.

<sup>94</sup> For example Wáng Chéngshào 王承祜, “Shìlùn Yīndài ‘xī’, ‘qiè’, ‘fú’ de shèhuì shēnfèn 试论殷代‘奚’、‘妾’、‘覓’的社会身份,” *Běijīng dàxué xuébào* 北京大学学报 1955, no. 1: 114–21; for quotes of this and other works see Yú Xīngwú 于省吾 vol. 1, ed., *Jiǎgǔwénzì gǔlín* 甲骨文字詁林 (Běijīng: Zhōnghuá Shūjú 中華書局, 1999): no. 0428, 453.

<sup>95</sup> Compare other translations, for example “maid-servants”, in Schwermann/Wang, “Female Human Sacrifice”: 17–19.

<sup>96</sup> See Wáng Chéngshào, “Shìlùn Yīndài ‘xī’, ‘qiè’, ‘fú’.” Aside from Huáng Xiànfán, *Zhōngguó lìshǐ méi yǒu nǚlǐ shèhuì*, on the respective Shāng terminology (see especially 16–24), cautious treatment of Shāng and Zhōu epigraphic social terms can be found in Kolb, *Die Infanterie im Alten China*, and Kolb, “Bemerkungen zu Ulrich Lau.”

<sup>97</sup> For example, the reference work “History of the Shāng-Yin Period” (*Yīn Shāng shǐ* 殷商史) published in 2003 classifies the archaeologically excavated remains of Shāng human sacrifice and accompanying-in-death as clearly belonging to a class of “slaves,” identifying them in the epigraphic record as well (in particular *chén qiè* 臣妾); an entire chapter of the book is dedicated to “slaves”

victims need not automatically be of low status.<sup>98</sup> This fails to consider various possible motives of Shāng sacrifice that still need to be studied in detail.

Bronze inscriptions also mention *chén* and *qiè* in connection: In Western Zhōu evidence, *chén qiè* occurs six times as a collocation, once in an early (before ca. 957 BC) and five times in late Western Zhōu bronze inscriptions (ca. 857–771 BC).<sup>99</sup> From the contexts, we can make out *chén qiè* as subordinate people that are in some way dependent:

In the short Fù Zuò Fù Yǐ zūn 复作父乙尊 inscription (*Jíchéng* #5978), the “regional ruler” of Yàn 燕 bestowed on Fù 复: “a cap, an overcoat, *chén qiè* 臣妾, and cowry shells” 冂衣臣妾貝 as gifts.<sup>100</sup> These kinds of gifts are known from early

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(Chapter 8, “Núli zāoyù 奴隶遭遇”; see Hú Hòuxuān 胡厚宣 and Hú Zhènyǔ 胡振宇, eds., *Yīn Shāng shǐ* 殷商史 (Shànghǎi: Shànghǎi Rénmín Chūbǎnshè, 2003): 149–211). This assumption is mainly based on the fact that many of these victims seem to have been captives from non-Shāng tribes.

**98** In ancient China, we have transmitted accounts of high-ranking officials being buried together with their lord, for instance the three brothers Zíchē (or: Zijū) Yǎnxī 子車奄息, Zíchē Zhōngháng 子車仲行, and Zíchē Zhēnhǔ (or: Qiánhǔ) 子車鍼虎, who in 621 BC followed Duke Mù 穆公 of Qín into the grave (purportedly among altogether 177 victims), their deaths being lamented in the well-known poem “Yellow Bird,” or “Oriole” (“Huáng niǎo” 黄鳥), which is included in the “Book of Songs” (Ode #131 in the Máo 毛 tradition). See *Zuǒ zhuàn*, chapter “Lord Wén sixth year (621 BC)” (“Wén Gōng liù nián 文公六年”), which states disapprovingly: “All were good men of Qin.” 皆秦之良也. See text and annotated translation in Durrant, Li and Schaberg, *Zuo Tradition / Zuozhuan* 左傳: 490–91. See also the interesting analysis by Griet Vankeerberghen, “‘Yellow Bird’ and the Discourse of Retainer Sacrifice in China,” in *Sacrifices humains: Perspectives croisées et représentations. Human Sacrifice: Cross-cultural Perspectives and Representations*, Religions 2, ed. Pierre Bonnechere and Renaud Gagné (Liège: Presses universitaires de Liège, 2013): 175–203. Although strictly speaking, these “accompaniers-in-death” (*rénxùn* 人殉) differ somewhat from the “human sacrifices” (*rénjì* 人祭) found in great numbers in pits in the Shāng royal cemetery at Anyáng 安阳, their high social standing clearly did not prevent them from being killed; instead, their very position seems to have been the reason why they were chosen as victims. Still useful as an overview of human sacrifice and accompanying-in-death in Chinese transmitted sources is Eduard Erkes, “Menschenopfer und Kannibalismus im alten China,” *Der Erdball: Illustrierte Zeitschrift für Menschen- und Völkerkunde* 1, no. 1 (1926): 1–6. Outside of China, human sacrificial victims in the pre-Columbian Americas could be of high social status, such as Inca children sacrificed on Andean mountains (see Patrick Tierney, *The Highest Altar: The Story of Human Sacrifice* [New York: Viking, 1989], and, more recently, Maria Constanza Ceruti, “Frozen Mummies from Andean Mountaintop Shrines: Bioarchaeology and Ethnohistory of Inca Human Sacrifice,” *BioMed Research International* (2015), <https://doi.org/10.1155/2015/439428> [accessed 17.05.2022]).

**99** Western Zhōu reign dates follow Edward L. Shaughnessy, *Sources of Western Zhou History: Inscribed Bronze Vessels* (Berkeley: University of California Press, 1991): xix, and periodization as given in Li Feng, *Landscape and Power*: xvii.

**100** For the identification of the graph 冂 as a variant of *mì* < \**m*<sup>4</sup>[e]k?, “cover,” possibly “cap,” see Susanne Adamski, *Die Darstellung des Bogenschießens in Bronzinschriften der West-Zhōu-Zeit (1045–771 v.Chr.): Eine philologische Quellenanalyse*, Veröffentlichungen des Ostasieninstituts der Ruhr-Universität Bochum 66 (Wiesbaden: Harrassowitz, 2017): 66–67. Compare the rubbing and

investiture inscriptions.<sup>101</sup> The long and famous *Dà Kè dǐng* 大克鼎 inscription (*Jīchéng* #2836) describes the investiture of the official Kè 克. The king bestows on him settlements and fields at different locations, belonging to different families, which was clearly a practice of the late Western Zhōu:<sup>102</sup>

易(賜)女(汝)田于埜. 易(賜)女(汝)田于淠. 易(賜)女(汝)井家鬲田于訖. 目(以)昏臣妾. 易(賜)女(汝)田于康(康).<sup>103</sup>

I bestow on you fields at Yě 埜. I bestow on you fields at X 淠. I bestow on you X 鬲 fields at X 訖 belonging to the Jǐng 井 lineage, along with their *chén qiè* 臣妾. I bestow on you fields at Kāng 康.<sup>104</sup>

Here, the *chén qiè* 臣妾 are tied to the fields they apparently live and work on. On the *Shī Huǐ guǐ* 師毀簋 vessel (*Shī X guǐ* 師馱簋) (*Jīchéng* #4311), dated to 841 BC but unfortunately lost, the minister Bó Héfù 伯穌父,<sup>105</sup> orders Shī Huǐ 師毀 to:

覲(司)我西扁(偏)東扁(偏)僕馭(馭)百工牧臣妾. 東(董)載(載)內外.<sup>106</sup>

Supervise and administer the *pú* and the charioteers, the artisans, the herders, and the *chén qiè* 臣妾 of the eastern and western wings of my armies, managing internal and external affairs.<sup>107</sup>

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transcription in *Yīn Zhōu jīnwén jīchéng shìwén*, vol. 4, no. 5978, 257, as well as the transcription in *Jīnwén yǐndé*, no. 2090, 113–14.

**101** On “gifts” of various kinds Virginia Kane in 1982 noted that “in Western Chou bronze inscriptions, it seems important to bear in mind the fundamental distinction between those presented as a reward for services already rendered or military valor already displayed, and those ‘gifts’ which accompanied a charge or appointment whose duties and services were yet to be performed. It seems that only the former – the rewards or recompense for services already rendered – should actually be considered as gifts (understood as objects which the recipient may keep and use as he wishes), while the latter comprised instead the insignia and accouterments essential to the official duties being assigned and as such were always, at least in theory, subject to return to the superior.” Virginia C. Kane, “Aspects of Western Chou Appointment Inscriptions: The Charge, the Gifts, and the Response,” *Early China* 8 (1982–83): 14.

**102** For developments in the Western Zhōu granting of land, see Li Feng, *Landscape and Power*: 125–26.

**103** Punctuated transcription from *Jīnwén yǐndé*, no. 4023, 253; compare rubbing and transcription in *Yīn Zhōu jīnwén jīchéng shìwén*, vol. 2, no. 2836, 408–9.

**104** Compare the transcription, translation and discussion by Constance A. Cook, “Da Ke ding 大克鼎 and related inscriptions,” in *A Source Book of Ancient Chinese Bronze Inscriptions*, Early China Special Monograph Series 7, ed. Constance A. Cook and Paul R. Goldin (Berkeley: The Society for the Study of Early China, 2016): 172–79, especially 177–79.

**105** Identified as Gòngbó Hé 共伯和, Firstborn and head of the Gòng lineage. For the historical context as well as the dating of the inscription, compare Li Feng, *Landscape and Power*: 106.

**106** Punctuated transcription from *Jīnwén yǐndé*, no. 5041, 324. Compare rubbing and transcription in *Yīn Zhōu jīnwén jīchéng shìwén*, vol. 3, no. 4311, 439.

**107** Compare the translation in Li Feng, *Landscape and Power*: 106; another translation can be found in the freely available class text readings by Robert Eno, “Inscriptional Records of the

The late Western Zhōu Nì zhōng 逆鐘 (*Jíchéng* #0062) records how Shū Shì 叔氏 orders Nì 逆 to:

用鞞于公室僕庸臣妾小子室家。母(毋)又(有)不聞(聞)智(智)。<sup>108</sup>

Supervise the *pú* 僕 and *yōng* 庸 and *chén qiè* 臣妾 of the lord's house, and the houses and families of the minor sons (*xiǎozǐ* 小子). Let there be nothing you do not hear or know.

According to two other inscriptions, *chén qiè* were part of the royal household at the Kāng 康 palace or palace-temple: In the Zǎi Shòu *guǐ* 宰獸簋 inscription, from the late middle or late Western Zhōu,<sup>109</sup> the king orders Zǎi Shòu 宰獸 to:

欽(兼)嗣(司)康宮王家臣妾夏章(庸). 外入(內)母(毋)敢無聞(聞)曆(知).<sup>110</sup>

Administer the *chén qiè* 臣妾 as well as the X and *yōng* of the Kāng 康 palace and the royal household. Do not dare not to hear and know of inner and outer affairs.

And on the transmitted rubbing of the Yī *guǐ* 伊簋 (*Jíchéng* #4287), dated to the late Western Zhōu:

王[. . .]命伊綏官嗣(司)康宮王臣妾百工。<sup>111</sup>

The king [. . .] orders Yī 伊 to x supervise and administer the king's *chén qiè* 臣妾 as well as the hundred artisans at (or of) the Kāng palace.

Obviously, *chén qiè* belong to the personnel of the king's and other lineages' households alongside other more specified personnel.<sup>112</sup> Therefore, *chén qiè* seem to denote

Western Zhou," Indiana University, IUScholarWorks Repository, Fall 2012: 68–69, <http://hdl.handle.net/2022/23466> [accessed 17.05.2022].

108 Punctuated transcription from *Jīnwén yǐndé*, no. 0056, 4. Compare rubbing and transcription in *Yīn Zhōu jīnwén jíchéng shìwén*, vol. 1, no. 0062, 35.

109 The vessel was found 1997 in Dàtóngcūn 大同村, Fúfēng 扶風 county, Shǎnxī 陝西 province, and is held in the province's Zhōuyuán Museum 周原博物館 in the city of Bǎoji 寶雞. See Luò Xīzhang 羅西章, "Zǎi Shòu *guǐ* míng lüèkǎo 宰獸簋銘略考," *Wénwù* 文物 1998, no. 8: 83–87.

110 Punctuated transcription from *Jīnwén yǐndé*, no. 5048, 325. For the rubbing see Luò Xīzhang, "Zǎi Shòu *guǐ* míng lüèkǎo 宰獸簋銘略考": 85, Fig. 3.

111 Transcription from *Jīnwén yǐndé*, no. 5030, 322; compare rubbing and transcription in *Yīn Zhōu jīnwén jíchéng shìwén*, vol. 3, no. 4287, 406.

112 Early transmitted literature in a few instances also refers to *chén qiè* 臣妾 as a pair. While the chain does not occur in the anthology of poetry "Book of Songs" (*Shī jīng*), it can be found twice in the divination classic "Book of Changes" (*Yī jīng* 易經), without however many contextual clues as to the semantics of the collocated words. In the "Book of Documents" (*Shàng shū*), chapter "Harangue at Bi" ("Bì shì" 費誓), *chén qiè* are mentioned in the context of military campaigns. In a speech attributed to Bó Qín 伯禽, the Prince of Lǔ 魯, son of the Duke of Zhōu 周公 (reigned 1042–1036 BC for young King Chéng 成), before a campaign against the Xúróng 徐戎 and Huáiyí 淮夷 he warns his officers and soldiers, as well as the people of Lǔ: "When horses and cattle abscond, and *chén* and *qiè* (male and female servants) flee, do not dare to get over (the entrenchments) and chase them. If you respectfully restore them, I will commensurately reward you. If you trespass and

male and female people who are attached to elite households which they serve in one way or another. They are administered and supervised. Aside from their “administration,” we lack information on the personal relations between these “serving” people and their official superiors. Can we securely identify this social asymmetry as “strong”? I think not. This reflects a problem of our sources.

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pursue or do not return them, you will receive the usual punishment. Do not dare to plunder or steal. If you pass over enclosures or walls to steal horses and cattle, or lure away *chén* and *qiè* (male and female servants), you will receive the usual punishment.” 馬牛其風，臣妾遁逃，勿敢越逐。祇復之，我商賚汝。乃越逐不復，汝則有常刑。無敢寇攘，逾垣牆，竊馬牛，誘臣妾，汝則有常刑。 *Sibù cóngkān* 四部叢刊, *Shàng shū* 尚書, *juàn* 卷 13 (my punctuation); compare the translations by Séraphin Couvreur, *Chou king* 書經: *Les Annales de la Chine*, Humanités d’extrême-Orient: Série Culturelle des Hautes Études de Tien-Tsin (Leiden: Brill/Les Belles Lettres; Paris: Cathasia, 1950): 393–96, and James Legge, *The Chinese Classics, with a Translation, Critical and Exegetical Notes, Prolegomena, and Copious Indexes*, vol. 3, part 2, *Containing the Fifth Part of the Shoo King, or the Books of Chow; and the Indexes* (Hongkong: At the Author’s; London: Trübner & Co., 1865): 621–25, and Maria Khayutina, “‘Bi shi’ 桀誓, Western Zhou Oath Texts, and the Legal Culture of Early China,” in *Origins of Chinese Political Philosophy: Studies in the Composition and Thought of the Shangshu (Classic of Documents)*, ed. Martin Kern and Dirk Meyer (Leiden: Brill, 2017): 416–45. This text, at least in its wording, cannot be regarded as an authentic Western Zhōu “document” (compare Khayutina, “‘Bi shi’ 桀誓,” as well as Shaughnessy, “*Shàng shū* 尚書”). However, if we treat this speech, or “oath,” as reflecting some of the circumstances of that period, it indicates that *chén* and *qiè* also served in the military, following warriors on campaigns, the use of the chain pointing to unspecified male and female “servants” or “retainers” at large, perhaps being responsible for tasks such as cooking, tending animals, etc. (also compare Legge, *The Shoo King*: 623–24, n. 4). Interpretations as “slaves” in this context may have arisen because the commentary attributed to the Western Hàn scholar Kǒng Ānguó 孔安國 (156–74 BC) explains *chén qiè* as “*nú bì* 奴婢,” commonly understood and translated as “slaves,” or due to their collocation with livestock and possibility of absconding. For another recent translation and study of this chapter regarding its composition, historical background, and questions of authenticity, see Khayutina, “‘Bi shi’ 桀誓.” All in all, this occurrence of *chén qiè* seems largely in accord with the usage of the collocation in Western Zhōu bronze inscriptions (search performed using the electronic collectanea *Sibù cóngkān* 四部叢刊 provided by the Unihan Ancient Books Database 書同文古籍數據庫, <https://guji.unihan.com.cn/>, via CrossAsia [crossasia.org]). A glimpse into digitalized manuscript sources shows that in Qín Shuìhǔdì legal bamboo manuscripts, we still find the collocation *chén qiè* 臣妾 (altogether 22 times, either in legal statutes [*Qínlǜ shíbā zhǒng* 秦律十八種], questions and answers on them [*Fǎlǚ dáwèn* 法律答問], or model cases for sealing and investigating [*Fēngzhěn shì* 封診式]); not always as part of the now frequently used chain *lìchén qiè* 隸臣妾, but apparently also as a generic term for dependent “servants,” see for example the following coordination in *Fēngzhěn shì*, section “Sealing and Guarding” (“Fēngshǒu” 封守): “*shìwǔ* A’s household, wives, children, *chén* and *qiè* (male and female servants), clothes, vessels and tools, and livestock” 士五(伍)甲家室、妻、子、臣妾、衣物、畜產. Punctuated transcription from *Shuìhǔdì Qín mù zhújiǎn*, 149, slip no. 8. As such it is at present not, and perhaps no longer, found in excavated Hàn legal manuscripts. The database search was performed on August 25, 2020 using the Chinese Ancient Texts (CHANT) Jianbo databases 竹簡帛書 1–3. For information on the various manuscript corpora, see the Manuscripts Database provided by the Institute of Chinese Studies, Heidelberg University (<http://projects.zo.uni-heidelberg.de/manuscript/index.php/sites/find> [accessed 17.05.2022]).

## 2.2 Problems of the Sources

If we choose to identify “slavery” and other forms of “human bondage and coercion” on the level of personal relations, as Patterson does, we need information on the nature of these relations. For example, official texts or statutes by which society is described or legally structured, or personal written accounts of the living conditions of the lowest members of society. Excavated legal texts from the Qín and early Hàn not only speak of dependents who could be “manumitted,” *miǎn* 免,<sup>113</sup> thereby changing their legal, and apparently also their social, status; the legal manuscripts also mention a stratum of so-called “commoners” or “free men,” *shùrén* 庶人. Here is one example from the “Statutes on Abscondance” (“Wáng lǜ” 亡律) found at the early Hàn Zhāngjiāshān 張家山 tomb 247, as cited and translated by Yates 2014:

奴婢為善而主欲免者，許之，奴命曰私屬，婢為庶人，皆復使，及筭事之如奴婢。

If a male or female slave is good and the master wishes to manumit (*mian*) [them], permit it, and male [sic] slave is [then] called a “private dependent” (*sishu*) and the female slave is made a freedman (*shuren*); in all cases they may again employ [them] as well as pay the poll tax (*suan*), and make them serve like male and female slaves.<sup>114</sup>

While Cáo Lǚníng 曹旅宁 2007 has argued that *shùrén*, according to the legal bamboo and wooden slips of the Qín and Hàn, also showed clear signs of personal bondage, therefore translating them as “subordinate people” instead of “commoners,”<sup>115</sup> more recent studies further problematize reading *shùrén* as a “status”: Jiǎ Liyīng 贾丽英 2019 and Takatori Yūji 鷹取祐司 2019 both emphasize that the term *shùrén*, while found as referring to certain people in a legal context, generally is not used to designate specific persons (such as “*shùrén* X,” in contrast to “*lìchén* 隶臣 X” or “*chéngdàn* 城旦 X”), based in part on the recently published legal texts

**113** For certain regulations on “manumitted” *lìchén qiè* 隸臣妾, see for instance the “Statutes on Granaries” (Cāng lǜ 倉律) in the Shuǐhǔdì manuscript “Eighteen Statutes of the Qín” (*Qín lǜ shíbā zhǒng* 秦律十八種): “As to manumitted *lìchén qiè* and wall-building *lìchén qiè* as well as those who fulfill tasks that equal wall-building, a male receives half a food portion in the morning and three in the evening, a female three.” 免隸臣妾、隸臣妾垣及為它事與垣等者，食男子旦半夕參，女子參。Punctuated transcription from *Shuǐhǔdì Qín mù zhǔjiǎn*, 34, slip no. 59. Robin Yates generally translates *lìchén qiè* as “male and female bondservants,” noting however that this term is much debated: “either, most likely, three-year hard-labor convicts or types of slave” (Robin D.S. Yates, “The Qin Slips and Boards From Well No. 1, Liye, Hunan: A Brief Introduction to the Qin Qianling County Archives,” *Early China* 35–36 (2012–13): 299).

**114** Yates, “The Changing Status of Slaves”: 210. Here, “male or female slave” is the translation of *núbì* 奴婢. Yates translates the term *shùrén* as “freedman,” regardless of whether it refers to a man or a woman.

**115** See Cáo Lǚníng 曹旅宁, “Qín Hàn fǎlǜ jiǎndú zhōng de ‘shùrén’ shēnfēn jī fǎlǜ dìwèi wèntí 秦汉法律简牍中的‘庶人’身份及法律地位问题,” *Xiányáng shīfān xuéyuàn bào* 咸阳师范学院报 22, no. 3 (2007): 12–14 (translation from the English abstract).

in the Yuèlù Academy Collection of Qín bamboo strips 嶽麓書院藏秦簡 acquired in 2007 and 2008 (unfortunately not archaeologically excavated, but bought on the Hong Kong antiques market); Takatori therefore takes issue with its “treatment as a specific social identity.”<sup>116</sup>

Regardless of whether *shùrén* in early imperial China should be regarded as a distinct “status” or as a broader generic term for several social categories, in the Qín and Hàn periods we clearly find terminologically specified social categories as distinguished by law, including the lowest strata such as *núbì* 奴婢 or *lichén qiè* 隸臣妾, who certainly were “unfree,” the former of which evidently could be bought and sold.<sup>117</sup> In view of new evidence, Robin Yates 2014 partly revised his earlier conclusions on Qín and Hàn “slavery,” stating that “it seems that the early Han made some significant alterations in the nomenclature and legal status of slaves, simplifying the complex and harsher Qín system. [. . .] It is also clear from the evidence that violence was not always a feature of slavery in early times. [. . . T]he Han made a conscious effort to assimilate slaves into the family system,”<sup>118</sup> and that “[a]nother important difference between the Qín and the Han is that the Han recognized the legality of a slave’s marriage. [. . .] [W]omen who married slaves as wives were not ‘dishonored persons,’ as in Orlando Patterson’s terminology.”<sup>119</sup> Regarding the new evidence it seems thus necessary to either modify Patterson’s definition of “slavery” – including, for example, some of the rejected Marxist views such as the tradeability of people as a feature –, or to embrace the possibility that the different Qín and Hàn *rénnú qiè* 人奴妾, *nú* 奴 and *bì* 婢, *lichén* 隸臣 and *liqiè* 隸妾 and other designations reflect further gradations of dependency at its lower end, thus needing further research into early imperial social structure before categorizing them as “slaves.”<sup>120</sup> This issue certainly cannot be solved within a short time. Suffice it to say that in early imperial China, marked low status is evident from indigenous texts which sought to regulate the population and their relations towards the government.

**116** See Jiǎ Liyīng 贾丽英, “Shùrén: Qín Hàn shèhuì juézhi shēnfèn yǔ túlì shēnfèn de xiánjiē 庶人: 秦汉社会爵制身份与徒隶身份的衔接,” *Shānxī dàxué xuébào* 山西大学学报 2019, no. 11: 16–25, and Takatori Yūji 鷹取祐司, “Qín Hàn shídài de shùrén zàikǎo – duì tèdìng shēnfèn shuō de pīpíng 秦漢時代的庶人再考 – 對特定身份說的批評,” *Jiǎnbó* 簡帛 18 (2019) / *Bamboo and Silk Manuscripts* 2019, no. 1: 75–89.

**117** Compare the prices for individual *nú* 奴 given in the Qín Lǐyè 里耶 legal documents, as translated by Yates, “The Changing Status of Slaves”: 208.

**118** Yates, “The Changing Status of Slaves”: 207.

**119** Yates, “The Changing Status of Slaves”: 213.

**120** Terminological ambivalence has already been observed by Yates, who, for instance, identifies “*renmu* 人奴, *renchen* 人臣, or *chen* 臣” in Qín legal texts as “a person’s male slave or servant,” and “*renqie* 人妾 or *qie* 妾” as “a person’s female slave or servant.” (Yates, “Slavery in Early China”: 304).

Problematically, the epigraphic texts of the Shāng and Western Zhōu lack this kind of information: Certain terms and circumstances indicate the social dependency of both groups of people and individuals, but do not explain their social ties or even their everyday lives. Thus, even when legal cases are recorded, as in the Hū *dǐng* inscription, the social situations and the exact status of apparently dependent individuals or groups remain unclear. This is mainly due to the form and content of the inscriptions. They are either records of divinations, particularly important during the Shāng dynasty, or dedications and documentations cast in bronze, to be used within the ruling Shāng and Zhōu élite. They were not made to legally structure society in written form.<sup>121</sup> I therefore believe, as a hypothesis, that their social terminology is not yet shaped by legal definitions, but by the social conventions of the time.

Most recently, Ernest Caldwell 2018 and Li Feng 2016 and 2018b convincingly demonstrated that: a) the development of statutory written law was mainly a process of the Spring and Autumn (Chūnqiū 春秋, 771–481 BC) and Warring States (Zhànguó 戰國, 481–221 BC) periods, as a reaction to the vast social transformation and disorder within now independent territorial states;<sup>122</sup> and b) this transformation necessitated, in the words of Li Feng, “the establishment of new social institutions such as taxation, household registration, and codification of law,” in order to totally control the population.<sup>123</sup>

This population had changed over time. After the military defeat in 771 BC, the Western Zhōu royal house had to flee from its Western domain towards the east, together with some of the “regional states,” offspring of the Zhōu royal lineage. During the Spring and Autumn period, these states competed for hegemony and influence, the Zhōu royal power in decline. After 481 BC, the now independent polities annexed and eliminated one another as the “Warring States,” until military unification under Qín in 221 BC. Within these competing states, an “impersonal” bureaucracy developed;

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**121** Some inscriptions seem to have functioned as “contracts,” for instance recording transactions of land between lineages and/or states, as on the late Western Zhōu Sànsì *pán* 散氏盤 (*Jíchéng* #10176) vessel (for a translation and discussion, see Li Feng, “Literacy and the Social Contexts of Writing in the Western Zhou,” in *Writing & Literacy in Early China*, ed. Li Feng and David Prager Branner (Seattle: University of Washington Press, 2011): 287–93; for rubbing and transcription see *Yīn Zhōu jīnwén jíchéng shìwén*, vol. 6, no. 10176, 134–35); but Shāng and Western Zhōu bronze inscriptions usually have one “donor,” and generally refer to his or her (living and future) descendants, thus being “documents” to be used within the respective donor’s lineage. A summary of the multiple uses of Western Zhōu bronze inscriptions is given by Li Feng, “The Development of Literacy in Early China: With the Nature and Uses of Bronze Inscriptions in Context, and More,” in *Literacy in Ancient Everyday Life*, ed. Anne Kolb (Berlin: De Gruyter, 2018): 26–32.

**122** See Ernest Caldwell, *Writing Chinese Laws: The Form and Function of Legal Statutes found in the Qín Shuǐhudi Corpus* (London and New York: Routledge, 2018); see also Lǐ Fēng 李峰, “Zhōngguó gǔdài guójiā xíngtài de biànyǎn hé chéngwén fǎlǜ xíngchéng de shèhuì jīchǔ 中国古代国家形态的变迁和成文法律形成的社会基础,” *Huádōng zhèngfǎ dàxué xuébào* 华东政法大学学报 2016, no. 4: 20–32.

**123** Li Feng, “The Development of Literacy”: 34.

philosophy evolved, which was often concerned with moral and efficient ways to rule.<sup>124</sup> Over time, many states with their ruling aristocratic lines had vanished – but their offspring lived on. This resulted in enormous downward social mobility,<sup>125</sup> and in masses of free peasants and craftsmen who were no longer tied to aristocratic lineages.<sup>126</sup> Therefore it was only the newly developed *impersonal* bureaucratic governments that found it necessary to register, legally structure and terminologically define society, which meant, as Li Feng emphasizes, every single member of society.<sup>127</sup>

This was not yet the case during the Shāng and Western Zhōu periods.<sup>128</sup> I think it is therefore unlikely that we may find a terminologically clearly distinguished “social class” or “status” during these periods, as it seems that these categories were not

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**124** For highly readable overviews of these periods, see Cho-yun Hsu, “The Spring and Autumn Period,” in *The Cambridge History of Ancient China: From the Origins of Civilization to 221 BC.*, ed. Michael Loewe and Edward L. Shaughnessy (Cambridge: Cambridge University Press, 1999): 545–86, and Mark Edward Lewis, “Warring States Political History,” in *Cambridge History of Ancient China: 587–650*. A well-known example for political philosophical texts from the Warring states period is the “Book of Lord Shang” (*Shāngjūn shū* 商君書), which mirrors the legal and economic principles applied by the government in the state of Qín, see for instance Chapter 20.10, “Weakening the People” (“Ruò mín” 弱民), translated by Yuri Pines: “When the government does whatever the people detest, the people are weak; when the government does whatever the people delight in, the people are strong. When the people are weak, the state is strong; when the people are strong, the state is weak. [. . .] Hence, employing the strong multiplies weakness; [employing] the weak multiplies strength and turns one into the [True] Monarch.” (Shang Yang, *The Book of Lord Shang: Apologetics of State Power in Early China*, ed. and trans. Yuri Pines [New York: Columbia University Press, 2017]: 146.) Unpunctuated original in *Sibù cóngkān, Shāng zǐ* 商子, *juàn* 卷 5: 政作民之所惡, 民弱; 政作民之所樂, 民強. 民弱國強; 民強國弱. [. . .] 故以強重弱; 弱重強, 王. (Ellipsis and punctuation added, following Pines. Electronic version: <https://guji.unihan.com.cn/>, accessed via Unihan Ancient Books Database 書同文古籍數據庫 on September 27, 2020.)

**125** A thorough study of the Spring and Autumn period’s social structure as seen from transmitted sources, especially the *Zuǒ zhuàn*, can be found in Robert Gassmann, *Verwandschaft und Gesellschaft im alten China: Begriffe, Strukturen und Prozesse* (Bern: Peter Lang, 2006).

**126** Cf. Li Feng, “The Development of Literacy”: 34.

**127** Cf. Li Feng, “Zhōngguó gǔdài guójiā xíngtài”: 31, and Caldwell, *Writing Chinese Laws*, which is more detailed with regard to Qín practice, see 45–92 (“Inscribing control in Qin”); especially for the role of written law in controlling commoners, see 81–85.

**128** This is not to say that there were no records at all of any personnel attached to households (see also n. 129 below); bronze inscriptions also show that people who appear to belong to certain categories had been counted, at least when being transferred to a new jurisdiction (for example on the early Western Zhōu Yíhóu Zè guǐ 宜侯矢簋 vessel (*Jíchéng* #4320), where the new regional ruler of the state Yí 宜 is awarded land and people, see *Yīn Zhōu jīnwén jíchéng shìwén*, vol. 3, no. 4320, 452); just as enemies killed in battle and war booty were counted, too (for instance on the late Western Zhōu Duō Yǒu dǐng 多友鼎 (*Jíchéng* #2835), see *Yīn Zhōu jīnwén jíchéng shìwén*, vol. 2, no. 2835, 406). However, categorizations of people do not imply the existence of full-fledged social *status*es or *classes*, and the population still appears to have been attached to land and lineage, their respective lord and overlord. In this regard, structures were far more “personal” than under later Qín and Hàn rule.

yet conceptualized, or only in the process of being conceptualized. It is possible that the late Western Zhōu evidence already reflects certain social developments, because ongoing lineage segmentation rendered elite society more complex, and therefore possibly also elite relations towards their attached peasants and personnel.<sup>129</sup> But on the whole, it seems that late Shāng and Western Zhōu terms for “social groups” are

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**129** Intra-lineage conflicts involving land and personnel can be seen, for instance, in the recently excavated Diāo Shēng *zūn* 琯生尊 inscription, the subject of which was a land dispute between two branches of the Shào 召 lineage, the “ducal” branch, and the junior branch headed by Diāo Shēng 琯生 (see Edward L. Shaughnessy, “The Dowager v. the Royal Court: A Ninth-Century BCE Case of Family Law Recorded in Chinese Bronze Inscriptions,” in *Structures of Power: Law and Gender Across the Ancient Near East and Beyond*, Oriental Institute Seminars 12, ed. Ilan Peled [Chicago: The Oriental Institute of the University of Chicago, 2018]). As transcribed and translated by Shaughnessy: “I have grown aged. Our laborers and field bosses have many complaints. Would that you assent and not let them disperse and abscond. We will be allotted three parts of them and you will be allotted two parts of them.” 余老之。我僕庸土田多柔；弋許，勿使散亡。余宥其三，汝宥其貳。(Shaughnessy, “The Dowager v. the Royal Court”: 164; compare also, with slight differences, Edward L. Shaughnessy, “Newest Sources of Western Zhou History: Inscribed Bronze Vessels, 2000–2010,” in *Imprints of Kinship: Studies of Recently Discovered Bronze Inscriptions from Ancient China*, Institute of Chinese Studies, The Chinese University of Hong Kong Monographs Series 17, ed. Edward L. Shaughnessy [Hong Kong: The Chinese University of Hong Kong Press, 2017]: 169–70, where he transcribes 僕庸土田多刺, tentatively translating: “Our retainers and fields are much litigious”; for the rubbing see *Jīnchū Yīn Zhōu jīnwén jǔlù èrbān* 近出殷周金文集录二编, vol. 2 [Beijing: Zhōnghuá Shūjú, 2010]: no. 587, 273–74). The inscription uses the terms *pú yōng* 僕庸 as a collocation, translated by Shaughnessy as “laborers,” and it shows that control over such “laborers” was at least limited. In the already cited late Western Zhōu Nǐ zhōng 逆鐘 inscription, *pú yōng* are attested together with *chénqiè* 臣妾: “Supervise the *pú* and *yōng* and *chén qiè* of the lord’s house” 用鞮于公室僕庸臣妾小子室家, indicating their function in service or menial tasks of various kinds. Note that the plausible understanding of 僕庸土田 as a coordination of “laborers/retainers” (*pú yōng*) and “land and fields” (*tǔ tián* 土田) marks this conflict as a dispute primarily over land, or at least equally over land and people. Although he gives a different translation in his 2018 essay cited above, Shaughnessy expects “40 percent of all of the property or its produce” to have been allotted to Diāo Shēng’s junior branch, instead of only personnel as implied by the chosen translation “laborers and field bosses” (see Shaughnessy, “The Dowager v. the Royal Court”: 167). This latter interpretation, on the other hand, would imply not only the use of land registers but also – even primarily – registers of personnel. It is therefore an interesting question how the circumstances recorded in this inscription should be interpreted. As it appears from two related vessel inscriptions concerning Diāo Shēng, the head of the senior branch further had to “formalize the agreement with the royal authorities,” finally signing “records” (*diǎn* 典) which “must have been deeds or land registers, which Duke Hu then turned over to Diao Sheng” (Shaughnessy, “The Dowager v. the Royal Court”: 167). In view of the fact that the allocation of land was crucial in granting authority within the Western Zhōu elite, it seems likely that the main focus here is on the land being divided and officially registered, the people being attached to it (compare, for instance, the same interpretation in Xú Yihuá 徐义华, “Diāo Shēng sān qì míngwén bǔshì 琯生三器铭文补释,” *Nánfāng wénwù* 南方文物 2015, no. 3: 102–6, here 105–6): If it had become unclear to which branch lineage the land and fields (and, in consequence, their produce) actually belonged, and to whom the *pú* and *yōng* working on it owed their allegiance, a clear solution was needed, lest the situation become chaotic.

broadier in their semantic scope than the social terminology of later periods in Chinese history.

The mere continuity of certain terms used within social contexts in the written sources, not only over centuries but even millennia beginning from the late Shāng and Western Zhōu, often obscures possible semantic shifts that can be hard to trace, but which need to be borne in mind as a strong probability.<sup>130</sup> For instance, in her 2014 article “A Sexual Order in the Making: Wives and Slaves in Early Imperial China,” Griet Vankeerberghen argues that the differences between primary and secondary wives in Qín and Hàn élite households apparently were less strict at the beginning, but the distinctions between them were actively defined and hardened by a scholarly discourse on “wifely virtue” starting during the late Western Hàn dynasty (206 BC–9 AD).<sup>131</sup> This seems to have prepared a “semantic shift in the word *qiè* 妾,” meaning “secondary wife” in early imperial sources, but in later sources such as the Táng 唐 (618–907) legal code denoting “concubine” that was being bought into the household.<sup>132</sup> While in early imperial China, secondary wives could actually replace a primary wife regardless of their social background, even including “slaves” (*bì* 婢), this was no longer possible in later times, where the primary wife now was the rightful “wife,” élite marriage having shifted towards “polygynous monogamy.”<sup>133</sup> Processes of conceptualization and semantic change thus could be the result of conscious efforts.

It is unsurprising that social concepts and definitions seem to have become more specified and elaborate over the course of Chinese pre-imperial and imperial history, since the state bureaucracy became more systematized and society grew more and more complex, becoming, in the eyes of the rulers, an “impersonal” mass

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The Shào 召 lineage’s explicit concern that the “laborers,” “retainers” and/or “servants” might “disperse and abscond” (*sàn wáng* 散亡) may therefore suggest that they had not been formally registered as such, but had simply fulfilled that role, and would thus become untraceable. Perhaps this late Western Zhōu case already reflects general circumstances of people’s detachment from lineages; further studies and future evidence will certainly reveal more about Western Zhōu relationships between lineages and their attached personnel at different times.

**130** As to the well-known transfer of Western concepts and word fields to China, often via Japan, during the process of modernization, for which – inter alia – indigenous terminology was used, see Frederico Masini, *The Formation of Modern Chinese Lexicon and its Evolution toward a National Language: The Period from 1840 to 1898*, Journal of Chinese Linguistics Monograph Series 6 (Berkeley: Project on Linguistic Analysis, University of California Press, 1993); compare also Huáng Xiànfán, *Zhōngguó lǐshǐ méi yǒu nǚlì shèhuì*: 76, who emphasizes that the terms “slave” (*núli*), “slave system” (*núlizhì*) and “slave society” (*núli shèhuì*) are foreign modern historiographical terms, which have become widely used within Chinese scholarship during the second half of the twentieth century.

**131** This being in the interest of families bringing daughters in the imperial harem and struggling for lasting influence (compare Vankeerberghen, “Sexual Order in the Making”: 122).

**132** Since terminologically they were all “spouses,” *fūrén* 夫人, or “wives,” *qī* 妻 (cf. Vankeerberghen, “Sexual Order in the Making”: 123 and 125).

**133** Vankeerberghen, “Sexual Order in the Making”: 123–24.

that needed to be controlled.<sup>134</sup> In other words: it is not necessary to clarify social conventions, but there is a need to clarify what has become disordered and ill-defined, due to unprecedented developments.

Important developments took place during the late pre-imperial period and the early Chinese empire, which can be studied from a relative abundance of indigenous sources. In fact, state-organized unfree labor outweighed private forms of dependency during the early Chinese empire, the former of which especially the Qín state drew heavily upon, while the state apparently sought to minimize the latter, as was suggested by Walter Scheidel in a comparative perspective, and discussed in detail by Maxim Korolkov with regard to Qín political economy and the role of the early imperial state in market formation, with particular focus on the economic and social effects of the Qín government lending system.<sup>135</sup> In this regard, as Korolkov suggested after analyzing legal and administrative documents, “the concept of labour as a quantifiable and tradable commodity took shape in Qin law,”<sup>136</sup> playing an important role in strengthening the early Qín empire via infrastructure construction projects; and these already were a feature of the competing Warring States.<sup>137</sup> In spite of David Keightley’s attempts in 1969 to prove the existence of state-managed “forced labour” for the Shāng and Western Zhōu dynasty, the concept of labor as a commodity is not yet evident in the written sources of these far earlier, administratively and economically less developed states. Looking at our extant sources and their mentioned limitations, so far we have not been able to find clear cases of either “slavery” or “strong asymmetrical dependency” in early ancient China.

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**134** One important element in strengthening the political authority of the emergent Qín empire was the common acceptance of the legal system, which was to prevail over other forms of administering justice traditionally carried out within families and community structures (cf. Maxim Korolkov, “Arguing about Law: Interrogation Procedure under the Qin and Former Han Dynasties,” *Études chinoises* 30 (2011): 37–71). For an earlier example of the royal court’s ultimate legal authority over family property during the late Western Zhōu see Shaughnessy, “The Dowager v. the Royal Court.” On developments of “Confucianization” of law during the Hān dynasty see Paul R. Goldin, “Han Law and the Regulation of Interpersonal Relations: ‘The Confucianization of the Law’ Revisited,” *Asia Major (third Series)* 25, no. 1 (2012): 1–31.

**135** I am indebted to Maxim Korolkov for drawing my attention to this fact and to the works mentioned; see Walter Scheidel, “Slavery and forced labor in early China and the Roman world,” Version 1.0, Princeton/Stanford Working Papers in Classics, Stanford University, April 2013, <http://www.princeton.edu/~pswpc/papers/authorMZ/scheidel/scheidel.html> [accessed 17.05.2022] (published in *Eurasian Empires in Antiquity and the Early Middle Ages: Contacts and Exchange Between the Graeco-Roman World, Inner Asia and China*, ed. Hyun J. Kim, Frederik J. Vervaeke, and Selim F. Adali [Cambridge University Press: Cambridge, 2017]: 133–50); Korolkov, “Between Command and Market.”

**136** Korolkov, “Between Command and Market”: 221.

**137** Korolkov, “Between Command and Market”: 30 and the following on labor as a commodity.

### 3 Did “Strong Asymmetrical Dependency” Exist in Shāng and Western Zhōu China?

Nevertheless, I agree with many scholars that it is possible to *assume* relations of “strong asymmetrical dependency” already in early Chinese antiquity. Forms of “human bondage and coercion” seem highly imaginable or even plausible during the Shāng and Western Zhōu periods, due to the nature of the extant sources: oracle-bone inscriptions abound with sacrificial violence offered to the ancestors and spirits, and Western Zhōu bronze inscriptions – even if their production might have been meant to stress the donor’s or lineage’s position within the aristocracy as well as to delight the spirits – exalt the merits of a ruling élite. In particular forms of “slavery,” as defined above, namely as “the permanent, violent domination of natively alienated and generally dishonored persons” or, as usefully modified by Miller 2012 with regard to Patterson’s own thesis, “*the violent domination of permanently natively alienated and socially dishonored persons*” seem conceivable.<sup>138</sup> As shown by Robert Gassmann 2006, Robin Yates 2001 and 2014 and others based on the received sources and indigenous manuscripts, social strata were clearly distinguished at the latest by the late Warring States, specific groups of people were traded in private and by the state, and convict labor, as demonstrated by Maxim Korolkov 2015, was commonly used on district level by the Qín and early Hàn dynasty, as was debt labor during the Qín empire.<sup>139</sup> It thus stands to reason that already before any terminological conceptualization and legal definition of dependent “slaves,” “bondservants” or “convicts” by a state bureaucracy, there might have been individual forms of “human bondage and coercion” in early ancient China. We can *assume* that they existed because people from other tribes or states were taken captive, and individual children, women or also men in certain situations may have lost the protection of their families. According to Michael Zeuske 2013, there must have been early forms of “slavery” at certain points in pre-modern societies, which may eventually have led to its later institutionalization, and which in general were kin-slaveryes: “Zunächst werden ‘innere’ (endogene) Formen dieses Status wichtiger gewesen sein. Mit der Ausbreitung von Konflikten und Kriegen gegen andere Gruppen mögen [sich] ‘äußere’ (exogene) Vorformen des Sklavenstatus entwickelt

<sup>138</sup> See Miller, *Problem of Slavery as History*: 32.

<sup>139</sup> Bamboo slips excavated from a disused well at Liyè 里耶, Húnán Province, in 2002 (published in 2012) provide evidence that convict labor was administered on Qín local government level and that, according to Korolkov, “the operation of convict labor was among the main functions of local government.” See Maxim Korolkov, “Convict labor in the Qin Empire: A preliminary study of the ‘Registers of convict laborers’ from Liye,” in *Jiǎnbó wénxiàn yǔ gǔdài shǐ: Dì èr jiè chūtǔ wénxiàn qīngnián xuézhě guōjì lùntán lùnwénjí* 简帛文献与古代史: 第二届出土文献青年学者国际论坛论文集, ed. Fùdàn dàxué lìshǐxué xì 复旦大学历史学系 and Fùdàn dàxué chūtǔ wénxiàn yǔ gǔwénzì yánjiū zhōngxīn 复旦大学出土文献与古文字研究中心 (Shànghǎi: Zhōngxī Shūjù 中西书局, 2015): 20.

haben.”<sup>140</sup> According to Zeuske, early situations of “slavery” almost always involved women and children who lost the protection of their families or kin groups, due to abandonment or violence, but also those who were taken prisoner in raids or battle.<sup>141</sup> A point worth noting is that these kin-slaves or female slaves “without institutionalized slavery” are not to be found in early written documents: “Die Masse der Kin-Sklaven und gar Sklavinnen ‘ohne Institution Sklaverei’ oder Schuldsklaven kommen nicht in Texten vor.”<sup>142</sup> If so, how can we ever prove they existed?

From a cross-cultural historical perspective, the enslavement of captives and prisoners of war is known from other early societies and so-called primitive cultures, especially of women and children, as for example John Gillingham 2012 has shown for early medieval Europe, and Fàn Chuánxián 范传贤 1988 for indigenous peoples of North and South America.<sup>143</sup> Following this, and taking Orlando Patterson’s definition of “slavery” as a basis, Shāng- and Western Zhōu “slaves” might perhaps be identified within the context of battle and tribute, when people were *torn from their societies of origin*, which would have produced “natal alienation.” In an as-yet unpublished paper<sup>144</sup> I presented evidence from late Shāng oracle-bone inscriptions for the so-called “taking” of women, *qǔ nǚ* 取女, in altogether ten divinations on seven bones or plastrons of the *Héjǐ* 合集 and *Tǔnnán* 屯南 corpora, for example on turtle shell *Héjǐ* 09741 *recto*: “(We) order to take women / a woman” 乎取女,<sup>145</sup> or on the bone piece *Héjǐ* 19982: “Take X women / an X woman” 取X女<sup>146</sup> (Fig. 3).

From the analysis of these inscriptions we can see that these women apparently were welcome “goods” at the royal court, either just “taken” or “taken by order” of the king, apparently from other, allied peoples or states.<sup>147</sup> They were perhaps gifts

140 Zeuske, *Handbuch Geschichte der Sklaverei*: 100.

141 Compare Zeuske, *Handbuch Geschichte der Sklaverei*: 99.

142 Zeuske, *Handbuch Geschichte der Sklaverei*: 227–28.

143 John Gillingham, “Women, children and the profits of war,” in *Gender and Historiography. Studies in the Earlier Middle Ages in Honour of Pauline Stafford*, ed. Janet L. Nelson, Susan Reynolds and Susan M. Johns (London: Institute of Historical Research, 2012): 61–74; Fàn Chuánxián 范传贤, “Lüèlùn yuánshǐ shèhuì fúlǚ de mìngyùn 略论原始社会俘虏的命运,” *Dōngběi shīdà xuébào* 东北师大学报 1988, no. 1: 59–63.

144 See Susanne Adamski, “‘Qǔ nǚ 取女’: Weibliche Gefangene während der späten Shāng-Zeit (13.–11. Jh. v.Chr.),” paper presented at the 29th annual conference of the Deutsche Vereinigung für Chinastudien e.V. (DVCS) at the Center for Cultural Studies on Science and Technology in China, Technical University of Berlin, November 30 – December 1, 2018.

145 Compare transcription in *Jiǎgǔwén héjǐ shìwén*, vol. 1, no. 09741 *recto* (16). In the rubbing, the graph *hū* < \**q<sup>h</sup>a* 乎, “to call, to order” (often normalized to its later form 呼, distinguished by the component “mouth”), is a little obscured by underlying cracks and fissures in the shell, but still recognizable (compare the oracle-bone and bronze inscriptional forms given in Liú Xīnglóng 刘兴隆, *Xīnbīān jiǎgǔwén zìdiǎn* 新编甲骨文字典 (Běijīng: Guójì Wénhuà Chūbǎn Gōngsī 国际文化出版公司, 1993): 276–77).

146 Cf. the transcription in *Jiǎgǔwén héjǐ shìwén*, vol. 2, no. 19982.

147 For this and the following paragraph, cf. Adamski, “‘Qǔ nǚ 取女.’”



**Fig. 3:** Left: *Héjǐ* #09741 *recto* (detail). From *Jiǎgǔwén héjǐ* 甲骨文合集, ed. Guō Mòruò 郭沫若, Hú Hòuxuān 胡厚宣 and Zhōngguó shèhuì kēxuéyuàn lìshǐ yánjiūsuǒ 中国社会科学院历史研究所 (Běijīng: Zhōnghuá Shūjú, 1999), 13 vols., vol. 4, no. 09741, 1417. Reproduced with permission. Right: *Héjǐ* #19982 (detail). From *Jiǎgǔwén héjǐ*, vol. 7, no. 19982, 2599. Reproduced with permission.

or tributes, but we cannot exclude the possibility that violence was involved; there is a certain probability that these women were not “taken” voluntarily, and came to live in slave-like conditions. But the inscriptions do not inform us about the intended use of these “naturally alienated” women, and so we still cannot securely identify them as “slaves” in the sense of “permanently, violently dominated and generally dishonored persons.” The same goes for prisoners of war mentioned in oracle-bone and Western Zhōu bronze inscriptions, because we do not know whether they were actually turned into “slaves” after being caught.

Other scholars see evidence for practices of “slavery” even long before the social phenomenon is ascertainable through any textual or archaeological sources. Arguing against the treatment of “slavery as an institution,” Joseph C. Miller 2012 in his book *The Problem of Slavery as History* problematizes “slavery as a historical strategy,” which he outlines in broad terms, using the term *slaving*: “I propose strategies of introducing outsiders for private local purposes that recurred in infinitely variable particulars throughout the history of the world.”<sup>148</sup> Perhaps deliberately, Miller does not precisely define the subject of his book, “slavery,” because “slavery as an institution,” he argues, is a *cliché* and a construct. Thus, Miller does not problematize the identification of “slavery” as a social constellation distinct from other

<sup>148</sup> Miller, *Problem of Slavery as History*: 8.

phenomena such as “serfdom” or “forced labor.”<sup>149</sup> According to his global history approach, “slaving arguably contributed to the very beginnings of human history, tens of thousands of years before times recorded in any conventional document-based sense.”<sup>150</sup> Miller’s arguments, therefore, are hypothetical in nature:

An approximate date for when history in this inclusive sense may be said to have begun is roughly forty thousand to twenty thousand years ago. I propose that date partly for purposes of debate, but also with a degree of consideration that leaves me confident that the remote era I suggest is at least a professionally responsible estimate. It is the threshold of both humanity and history, marked by abilities to strategize collectively, in contexts of shared meaning. The marker of such strategically effective collectivity is functionally syntactical language: that is, language sufficiently grammatical that speakers can wield it flexibly enough to succeed in confronting novel, unexpected historical contexts. [ . . . ] That remote epoch is also an analytically considered starting point for slaving. With language, early humans learned to strategize together [ . . . ].<sup>151</sup>

This reasoning is problematic in several ways. Historical linguistics, providing the “primary evidence” for Miller’s “dating of the beginning of efficaciously historical strategizing,”<sup>152</sup> is in itself a field struggling with many theories. Miller does not provide the evidence, but refers to an article by Patrick Manning, “*Homo sapiens* Populates the Earth: A Provisonal Synthesis, Privileging Linguistic Evidence,” who also follows a world-historical approach.<sup>153</sup> Thus, we can assume that Miller bases his considerations on paleolinguistic and evolutionary approaches to the origins of human language. There has been, however, some evidence against a “genetic-based

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**149** While speaking of “enslaved,” “slaves,” “slavery,” Miller apparently has “historically varying local results of slaving” in mind (Miller, *Problem of Slavery as History*: 22). In his very conception of “slavery,” however, Miller seems to think along similar lines as Orlando Patterson: in contrast, but perhaps also in addition to the latter’s definition of “slavery” from “the perspective of the masters, not of the enslaved,” he particularly emphasizes the “isolation of the enslaved” (33).

**150** Miller, *Problem of Slavery as History*: 41.

**151** Miller, *Problem of Slavery as History*: 41, further states: “Slaving was arguably one successful strategy that these earliest peoples hit upon as a means of creating and maintaining the commitment to mutual loyalties that gave such humans the edge in confronting other, contemporary, but less inventive, hominids, as well as the changing environmental and other contextual challenges that have brought us to where we are today. That is, humanity, history, and slaving were inherently linked; they were fundamentally mutually constituted. Slaving has also proved exquisitely adaptively efficacious, including subsequent resort to slaving by key initiators in new ways in new contexts during the last twenty thousand years. This deep imbrication ought to be obvious, given the ubiquity of the practice, even today, though our progressivist conviction in our own slavery-freed perfectibility has tended to obscure its elementally human temptation.”

**152** Miller, *Problem of Slavery as History*: 41.

**153** See Patrick Manning, “*Homo sapiens* Populates the Earth: A Provisonal Synthesis, Privileging Linguistic Evidence,” *Journal of World History* 17, no. 2 (2006): 115–58.

revolution 50,000 years ago” (often attributed to the gene FOXP2).<sup>154</sup> Miller’s theory that the development of “functionally syntactical” language in a remote epoch of some forty to twenty thousand years ago (a period usually regarded, due to the lack of any textual sources, as prehistoric) can be seen as a “starting point for slaving”<sup>155</sup> just because “slaving” seems to have become a mere *possibility*, is therefore questionable; and it is certainly not sufficient grounds for his firm conclusion that “humanity, history, and slaving were inherently linked” and “fundamentally mutually constituted,” asserting that the latter is an inherent human characteristic. This strikes me as highly problematic. Ancient Chinese philosophers would have a lot to say about this, as the Warring States period saw the beginning of a prominent discourse on human nature (*xìng* 性) in Confucian philosophy, led by Mencius (Mèngzǐ 孟子, ca. 372–289 BC) and Xúnzǐ 荀子 (ca. 310–ca. 235/217 BC), the former arguing that human nature was inherently good, the latter that it was evil.<sup>156</sup> As Miller concedes in the

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**154** See Carl C. Diller and Rebecca L. Cann, “Evidence against a genetic-based revolution in language 50,000 years ago,” in *The Cradle of Language: Studies in the Evolution of Language*, ed. Rudolf Botha and Chris Knight (Oxford: Oxford University Press, 2009): 135–49: “[M]any people speculate or argue that there was a revolution in language, one important genetic mutation for language, about 50,000 years ago, that brought about a revolution in culture and allowed modern humans to leave Africa for Europe and the rest of the world. [. . .] We present genetic evidence that the mutations in FOXP2, the gene at issue, may actually have occurred some 1.8 million years ago” (135); “The archaeological and anthropological evidence accumulating in the last decade and a half does not support the claim that there was a revolutionary behavioural change in humans 50,000 years ago.” (148); “The capacity for modern language needed a long time to evolve before anatomically modern humans emerged some 200,000 years ago. The date we present of 1.8 or 1.9 million years ago for the selective sweep at FOXP2 supports this neurolinguistic scenario of the co-evolution of speech and language with the neural and anatomical substrates of language.” (149); more recently: Elizabeth Atkinson et al., “No evidence for recent selection at FOXP2 among diverse human populations,” *Cell* 174 (2018): 1424–35, <https://doi.org/10.1016/j.cell.2018.06.048> [accessed 17.05.2022]: “[W]e show that recent natural selection in the ancestral Homo sapiens population cannot be attributed to the FOXP2 locus and thus Homo sapiens’ development of spoken language.” (1432). See also Francesco d’Errico et al., “Archaeological Evidence for the Emergence of Language, Symbolism, and Music – an Alternative Multidisciplinary Perspective,” *Journal of World-History* 17, no. 1 (2003): 1–70: “This critical reappraisal contradicts the hypothesis of a symbolic revolution coinciding with the arrival of anatomically modern humans in Europe some 40,000 years ago, but also highlights inconsistencies in the anatomically-culturally modern equation and the potential contribution of anatomically ‘pre-modern’ human populations to the emergence of these abilities. No firm evidence of conscious symbolic storage and musical traditions are found before the Upper Paleolithic. However, the oldest known European objects that testify to these practices already show a high degree of complexity and geographic variability suggestive of possible earlier, and still unrecorded, phases of development.” (2).

**155** See further Miller, *Problem of Slavery as History*: 181–82, n. 14.

**156** For translations into English, readers may be referred to Bryan W. Van Norden, *Mengzi: With Selections from Traditional Commentaries* (Indianapolis: Hackett Publishing Company, 2008), and John Knoblock, *Xunzi: A Translation and Study of the Complete Works* (Stanford: Stanford University Press, 1988).

following chapter, “[m]uch of the insight into the possible (plausible?) beginnings of slaving in creating coherent communities presented in Chapter 2 in fact come from African materials.”<sup>157</sup> In his synthesis of African motives and strategies of slaving, Miller’s theories seem, at least from the perspective of a non-specialist, plausibly applied to African (pre-)history. But while historians of Africa may indeed “now have sufficient density of possibilities, even probabilities, based on these radically independent and thereby also increasingly revealing [archaeological, linguistic, etc.] sources that they cohere around a plausible broad narrative, several thousand years in depth, of slaving as a historical strategy,”<sup>158</sup> these possibilities are clearly rooted in specific social and cultural traditional contexts. We learn that “the evidence of meanings in Africa’s past, particularly for its earlier eras, is significantly linguistic,” “orally transmitted memories may allude to innovations far back in time, apparently as much as seven or eight centuries”; “in Africa wealth was people, and people were power,” and that “the key strategies were and continue to be directed at forming collectivities and then, in reaction, for individuals marginal to these groups to attract and integrate personal dependents who might allow them to secure positions more central in them: wives were the most accessible and (re)productive dependents of this sort.”<sup>159</sup> All these social specificities would need to be verified for other societies and cultures around the world, if one intended to formulate a broad narrative of “slaving as a historical strategy” even in conventionally termed historical times, particularly if one wants to postulate “slaving” as an “elementally human temptation.” I stress this point, because Miller sees a direct link between the development of a) “functionally syntactical language,” b) “the abilities to strategize collectively,” and, at the same time, c) the beginnings of “slaving” practices.

More recently in 2016, David M. Lewis addressed Orlando Patterson’s rejection of the traditional approach of defining a “slave” as “property,” criticizing it as being based on a misconception of the latter. While Patterson thought “the property approach cannot designate a specific category of persons, and is cross-culturally inconsistent,”<sup>160</sup> Lewis sees the theory of “ownership” by Anthony M. Honoré of 1961 applicable to the legal concept of slavery in both classical Athens and Babylonia “during the seventh through fourth centuries BCE,” for which he presents two case studies; and he regards Honoré’s theory as useful in a comparative approach.<sup>161</sup>

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**157** Miller, *Problem of Slavery as History*: 90.

**158** Miller, *Problem of Slavery as History*: 90. My comment.

**159** Miller, *Problem of Slavery as History*: 88, 89, 91.

**160** David M. Lewis, “Patterson, Property, and Ancient Slavery: The Definitional Problem Revisited,” in *On Human Bondage: After Slavery and Social Death*, ed. John Bodel and Walter Scheidel (Malden, MA: Wiley-Blackwell, 2017): 31–54, here 34.

**161** In this regard, Lewis also argues against the rejection of the definition of “slaves” as “property” by several Africanists during the 1970s, citing Moses Finley in support, who proposed that “the appellation ‘slaves’” should be reconsidered for some “African statuses and status terms,” instead of criticizing “western’ historians” for their “ethnocentrism” (Lewis, “Patterson, Property,

Lewis does not inform his readers if the Babylonian and Greek “slaves” from his examples are translations of one or more particular terms, instead concentrating on the similarities in the notion of their “ownership” and usage for various kinds of labor. His reasoning, however, seems convincing.

Taking a cross-cultural view, Honoré analyzed the concept of ownership, meaning “the ‘liberal’ concept of ‘full’ individual ownership, rather than any more restricted notion to which the same label may be attached in certain contexts.”<sup>162</sup> According to Honoré, “ownership” is “provisionally defined as the *greatest possible interest in a thing which a mature system of law recognizes*,” comprising “the right to possess, the right to use, the right to manage, the right to the income of the thing, the right to the capital, the right to security, the rights or incidents of transmissibility and absence of term, the prohibition of harmful use, liability to execution, and the incident of residuary.”<sup>163</sup> These eleven legal incidents (i.e. “legal rights, duties and other incidents”) constitute the common features of ownership, “in the sense that, if a system did not admit them, and did not provide for them to be united in a single person, we would conclude that it did not know the liberal concept of ownership, though it might still have a modified version of ownership, either of a primitive or sophisticated sort.”<sup>164</sup>

Such a clear concept of “ownership” would make for a narrow and clear definition of “slavery”; for the identification of “slavery” in Shāng and Western Zhōu China, we would then need to determine whether these societies a) had a “mature”

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and Ancient Slavery”: 45). To show that “[i]n fact, the property approach works perfectly well for African societies” (50, n. 14), Lewis refers to the work of Paul E. Lovejoy, *Transformations in Slavery: A History of Slavery in Africa*, 3rd ed. (Cambridge: Cambridge University Press, 2012), without however specifying which period he means: as the book description informs us, Lovejoy deals with “the history of African slavery from the fifteenth to the early twentieth centuries” (this being the time span of the Atlantic slave trade), examining in particular “how indigenous African slavery developed within an international context.” Thus, originally “non-African” features of “slavery” may already have found their way to Africa, and the property approach perhaps does not work for earlier African societies or the whole continent. Further, Lovejoy does not limit his definition of slavery to a property relation: “Slavery is one form of exploitation. Its special characteristics include the idea that slaves are property; that they are outsiders [ . . . ]; that coercion can be used at will; that their labor power is at the complete disposal of a master; that they do not have the right to their own sexuality and [ . . . ] their own reproductive capacities; and that the slave status is inherited [ . . . ],” and: “Slavery is fundamentally tied to labor.” Lovejoy, *Transformations in Slavery*: 1 and 4.

**162** Anthony M. Honoré, “Ownership,” in *The Nature and Process of Law: An Introduction to Legal Philosophy*, ed. Patricia Smith (New York and Oxford: Oxford University Press, 1993): 370, previously published in *Oxford Essays in Jurisprudence*, ed. Anthony G. Guest (London: Oxford University Press, 1961): 107–47.

**163** Honoré, “Ownership”: 370.

**164** However, “the listed incidents are not individually necessary, though they may be together sufficient, conditions for the person of inherence to be designated ‘owner’ of a particular thing in a given system. [ . . . ] The use of ‘owner’ will extend to cases in which not all the listed incidents are present.” Honoré, “Ownership”: 370.

legal system; b) did “know the liberal concept of full individual ownership”; and c) if so, whether or not this concept was actually applied to humans, i.e. if humans were treated as “property” of individual persons. It is neither possible nor part of the object of this paper to make a full re-evaluation of the whole extant epigraphic record in this regard; we can at any rate answer the first question in the negative.<sup>165</sup> As to individual property, at first glance the “ownership” over fields, their products and other items – including people, as already discussed – seems to be rather straightforward in bronze inscriptions of the Western Zhōu, some of which document the settling of legal disputes: very often the king or head of a lineage “gave” land or other items to particular officials or other elite members, and fields, for instance, were sometimes transferred between private individuals; “property” issues concerning land were either solved by the king himself or his officials (for example on the unprovenanced late Western Zhōu Guō Bǐ *guǐgài* 鬲比簋蓋 (*Jíchéng* #4278), Guō Yōu Bǐ *dǐng* 鬲攸比鼎 (*Jíchéng* #2818) and Guō Bǐ *xǔ* 鬲比盬 (*Jíchéng* #4466) vessels, concerning the “misappropriation of fields” and “wrongful acts towards another’s fields and yi-settlements” (as discussed by Laura Skosey),<sup>166</sup> by officials of the polities concerned

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**165** A comprehensive study of the Western Zhōu legal system is Skosey, “Legal System and Legal Tradition of the Western Zhou”; this work was reviewed by E. Bruce Brooks, “The Apocryphal Empire. Laura Skosey. The Legal System and Legal Tradition of the Western Zhou. UMI 1996,” Warring States Project, University of Massachusetts at Amherst, October 21, 2012, <https://www.umass.edu/wsp/introduction/principals/reviews/skosey.html> [accessed 17.05.2022]. Brooks cautiously concludes: “Of her 25 vessels with inscriptions, only five are provenanced. [ . . . ] It can be said that these inscriptions do not imply a proactive legal structure with a bureaucratic basis. [ . . . ] Not once is any law explicitly referred to, or is any previous case cited as a guide to present decision. All five cases involve disputes about land, or are resolved in part by transfer of land. The basic term of relation between the Jou [= Zhōu] and everybody else was allocation of land. It makes sense that land, and the promises made in return for receiving the land, were of continuing relevance to the granting authority. If we accept the evidence of these five test vessels as valid, the late Jou picture that they give us is that of a punishment system, deriving its authority from the Jou King. That royal authority was sometimes exercised by his high officers who are not yet officials in the bureaucratic sense, and in charge of procedures which are not yet standardized. The procedures did not rely on codes, or on case records apart from a previous oath which may be a part of a specific *res gestae*. Cases were judged separately, on their own merits, and as far as this sample goes, they were chiefly concerned with with [sic] title to land. Jou here is acting as monitor of rights which Jou itself had previously conferred. The result is a vertical obligation system, without being a criminal law system. A feudal overlord is exerting its function as the overlord, over the limited area defined by the original underlord relationship. This is as far as the inscriptions seem to take us.” Compare Schunk, “Dokumente zur Rechtsgeschichte”: 176: “Eine institutionelle Eigenständigkeit des Rechtswesens ist in der West-Zhou-Zeit noch nicht deutlich erkennbar. [ . . . ] Juristische Kompetenzen wurden nicht in Verbindung mit bestimmten Ämtern, sondern in Bezug auf bestimmte Personen verliehen.” For a study of Western Zhōu land transmissions see the monograph by Lau, *Quellenstudien*.

**166** Skosey, “Legal System and Legal Tradition of the Western Zhou”: 104–6 (discussion) and 293–94 (classification); see her transcriptions and translations of the identical Zhōu Guō Bǐ *guǐgài* and Guō Yōu Bǐ *dǐng* inscriptions (dated to 797 BC), as well as the inscription on the Guō Bǐ *xǔ* (dated

(as in the treaty of border demarcations between Sǎn 散 and Zè 矢, recorded on the late Western Zhōu Sǎnshì *pán* 散氏盤, possibly found during the nineteenth century in Bǎoji, Shǎnxī province; *Jíchéng* #10176),<sup>167</sup> or within the family concerned (such as the intra-lineage dispute recorded on the Diāo Shēng *zūn* 凋生尊 and related vessels) – then needing, however, ultimate recognition by the court.<sup>168</sup> In one case of a private transfer of land in exchange for four horses, however, instead of the royal court, officials from Péngshēng’s lineage seem to have been involved (on the mid-Western Zhōu Péngshēng *guǐ* 棚生簋 of unknown provenance, *Jíchéng* #4262, as was discussed by Li Feng).<sup>169</sup> We may therefore ask whether the rights over land, which clearly was a commodity within the lineage-based Western Zhōu aristocracy, really were “united in a single person,” or in the respective individual’s lineage as well, or – as discussed further below – ultimately even in the reigning king, and to what extent this was “property” as in the “liberal concept of full individual ownership.”

As to the Western Zhōu epigraphic evidence already discussed, we have not been able to confidently identify terms for non-aristocratic social “statuses,” and so far we find no evidence for the existence of distinguished non-aristocratic social “classes.” Nevertheless, there might be evidence for individual cases of “ownership” over humans: can those named individuals in the Hū *dǐng* inscription which were “given” to Hū in order that he “use” them together with fields, apparently as recompense,<sup>170</sup> classified as being originally (or still) “owned” by Kuāng? Following Honoré, Kuāng apparently had the “right to manage” them, and probably the “right to the income,” which should be their labor; we do not know whether he held the “right to possess” (i.e. had exclusive physical control of them) and the

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801 BC), on pages 417–27. The donor’s name is also transcribed Guō Yōu Cóng 聶攸从; see the rubbings in *Yīn Zhōu jīnwén jíchéng*, vol. 8, no. 4278, 217; vol. 9, no. 4466, 122; and vol. 5, no. 2818, 215; compare the transcriptions in *Jīnwén yīndé*, no. 5025, 321; no. 5262, 340; and no. 4011, 250–51.

**167** See the discussion in Li Feng, “Literacy and the Social Contexts of Writing”: 287–91, including a transcription and translation; see also the rubbing and transcription in *Yīn Zhōu jīnwén jíchéng shìwén*, vol. 6, no. 10176, 134–35.

**168** See Shaughnessy, “The Dowager v. the Royal Court,” mentioned above; related inscriptions are on the Fifth Year Diāo Shēng *guǐ* 五年凋生簋 (*Jíchéng* #4292) and Sixth Year Diāo Shēng *guǐ* 六年凋生簋 vessels (*Jíchéng* # 4293), see *Yīn Zhōu jīnwén jíchéng*, vol. 8, no. 4292–93, 237–38 and *Jīnwén yīndé*, no. 5032 and 5034, 322–23 (here the vessel is called Shào Bó Hǔ *guǐ* 召伯虎簋). For a discussion of the same dispute having regard to the use of land registers, see Li Feng, “Literacy and the Social Contexts of Writing”: 282–84.

**169** See Li Feng, “Literacy and the Social Contexts of Writing”: 284–85, including a transcription and translation of the inscription (the vessel is also called Gé Bó *guǐ* 格白簋). See *Yīn Zhōu jīnwén jíchéng*, vol. 8, no. 4262, 196–97 and *Jīnwén yīndé*, no. 5011, 319.

**170** In Schunk’s reading, the fields and men were offered as recompense, apparently because he was unable to produce the twenty thieves (Schunk, “Dokumente zur Rechtsgeschichte”: 148); in the reading of Lau, the named men apparently were some of the thieves, declaring themselves unable to replace the stolen grain (Lau, *Quellenstudien*: 378).

“right to use” them for private purposes other than working fields or carrying out other tasks; whether he held the “right to the capital,” meaning the right to sell them, giving them away as gifts, or to hurt or kill them; whether he held the “right to security,” i.e. being protected from their being seized; he apparently had “rights of transmissibility,” that is, transfer some of his rights over them to a third party; but it is unclear whether his interest in the men was permanent (“absence of term”); whether, or to what extent, he was prohibited from their “harmful use”; and whether Kuāng held the “liability to execution” (i.e. whether they could be taken away from him for debt) as well as “residual rights.”<sup>171</sup> Kuāng could offer Hū either the men or their labor in recompense; but are the three identified legal incidents sufficient to call him their “owner”? It was evidently important enough for Hū to have their names included in the inscription; did he do so because they had become his demonstrable “property” (whereas the fields were not further specified in terms of their exact location), or because they became identifiable servants of his? We should bear in mind that it is not clear from the wording of the inscription whether these men actually worked fields – this is just one possible conclusion drawn from the verb *yòng*, “to use,” which is employed both for the men and the fields, the former perhaps accompanying the latter.<sup>172</sup> It is possible that this “exchange,” singular in our extant bronze inscriptions, may have been a rare case in a special situation – it had been a year of famine.<sup>173</sup>

Looking at this particular Western Zhōu piece of evidence, some of the difficulties and problems of which have already been addressed, it is in my view not quite clear if, and to what extent, the concept of private ownership as outlined by Honoré applied to humans.<sup>174</sup> Moreover, thinking of captives taken by the earlier Shāng

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171 For detailed explanations see Honoré, “Ownership,” as well as Lewis, “Patterson, Property, and Ancient Slavery”: 35–37.

172 Compare the translations as “give” (*geben*) in Schunk, “Dokumente zur Rechtsgeschichte”: 148–49, or as “offer” (*offerieren, mit etw. herantreten an*) Lau, *Quellenstudien*: 372.

173 Compare Skosey, “Hu *ding*”: 133: “This is the only case of theft in the inscriptional record.”

174 To an objection to the “property definition” with regard to the *pater familias* in early Rome, who “had powers amounting to ownership over his children; one could make the same point for pre-Solonian Attica and parts of the ancient Near East,” Lewis replies with Herman J. Nieboer: “Slavery is the fact that one man is the property or possession of another beyond the limits of the family proper.” Lewis, “Patterson, Property, and Ancient Slavery”: 51, n. 20. If Lewis means to imply that this notion should be included in a definition of “slavery” as a “property” relationship, he would need to describe the limits of “family proper,” meaning “nuclear family” or perhaps kin in general, therefore possibly also referring to *lineage* in the case of Shāng and Western Zhōu China. Further, Nieboer apparently does not solely base his understanding of “slavery” on a “property” relation, because he actually differentiates between “male” and “female” in this regard: “we know that a slave system without male slaves is not slavery proper.” Herman J. Nieboer, *Slavery as an Industrial System: Ethnological Researches* (Dordrecht: Springer-Science+Business Media, B.V., 1900): 54. His definition aims at being “sociological relevant” and focuses on compulsory labor: “the great function of slavery can be no other than a *division of labour*”; he therefore deals “with

which are frequently mentioned in the tersely formulated oracle-bone inscriptions, David Lewis further distinguishes between “possession” and “ownership”: “Corporate possession may seem to imply ownership, but *sensu stricto* possession is a potentially ephemeral condition, whereas ownership is a permanent right.” Aside from the fact that neither captives nor victims of human sacrifice are usually referred to as the object of a relationship (to a particular named person or an official), this makes it difficult to place them in the concept of private “individual ownership.”

It should be noted that in his application to “slavery,” Lewis neglects Honoré’s eleventh aspect of ownership, namely its “residuary character.” He does not even define it, even though it seems to be significant: “This is important, but I omit it from my list since it is a principle that is indemonstrable for nearly all historical legal systems, whether it applied or not.”<sup>175</sup> Since Honoré’s list is not based on historical legal systems, there is no reason to exclude any of the criteria if one attempts to apply the whole concept to ancient societies – if the principle is “indemonstrable for nearly all historical legal systems,” it might still be demonstrable for some. The “residuary character” aspect pertains to the notion of ownership in an interesting way that complicates matters. According to Honoré,

it is characteristic of ownership that an owner has a residuary right in the thing owned. In practice, legal systems have rules providing that on the lapse of an interest rights, including liberties, analogous to the rights formerly vested in the holder of the interest, vest in or are exercisable by someone else, who may be said to acquire the ‘corresponding rights’. [. . .] Sometimes, [. . .] a new ownership vests in the state, as is the case in South Africa when land has been abandoned. [. . .] It is not a sufficient condition of *A*’s being the owner of a thing that, on determination of *B*’s interest in it, corresponding rights vest in or are exercisable by *A*. [. . .] Can we say that the ‘owner’ is the ultimate residuary? When the sub-lessee’s interest determines the lessee acquires the corresponding rights; but when the lessee’s right determines the ‘owner’ acquires these rights. Hence the ‘owner’ appears to be identified as the ultimate residuary. The difficulty is that the series may be continued, for on the determination of the ‘owner’s’ interest the state may acquire these rights; is the state’s interest ownership or a mere expectancy? A warning is here necessary. We are approaching the troubled waters of split ownership. Puzzles about the location of ownership are often generated by the fact that *an ultimate residuary right is not coupled with present alienability or with the other standard incidents we have listed.*<sup>176</sup>

That means, although an “owner” might be identifiable who apparently holds all the rights and liabilities listed above, one must consider that the state, for instance, holds an ultimate residuary right, and therefore might be identified as “owner” as well. Such a splitting of ownership makes us indeed think of the convict laborers

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the general character of slavery as an industrial system,” the ethnological researches being limited to “savage tribes.” (x, xxv, and 6).

175 Lewis, “Patterson, Property, and Ancient Slavery”: 49, n. 5.

176 Honoré, “Ownership”: 375. My emphasis.

(*lichén qiè*) of the Qín empire, whose somewhat ambiguous status Korolkov has referred to as “state-owned slaves.”<sup>177</sup> In fact, some scholars see “ownership” not restricted to individuals: in his book on the history of slavery in Africa, Paul Lovejoy notes that “it is characteristic of slavery that the slave is considered property of another person or some corporate group, despite restrictions on the nature of this property relationship that developed in actual situations.”<sup>178</sup> In his 1972 discussion of “The Concept of Property,” Frank Snare remarks that “in a corporation we have a complex of interlocking rights few of which are exclusive or permanent (in that they go with offices and positions rather than particular persons). To speak of the corporation owning property is a convenient shorthand way of speaking of a complex network of individual rights over the object,” and none of these “can be called property rights.”<sup>179</sup> The individual within the corporation is, according to Snare, similar to the individual in the feudal system, since “both have offices or roles which determine rights and duties with respect to certain objects and where [ . . . ] it is misleading to call the rights these individuals have property rights.”

Classificatory issues such as these relate to the ways in which a society functions, and are therefore important in studying it. It would, however, make an “owned” person probably not feel better if he or she were “owned” by the state or a corporation instead of a private individual, and it appears that Orlando Patterson had these factors in mind in his theory of “slavery as social death,” focusing on personal rather than legal relations. Seeing merely a “shift in perspective” here, David Lewis therefore advocates “a more productive synergy” between the traditional “property approach” and Patterson’s “social death,” using Patterson’s criteria as an analytical tool in order to understand “the cross-culturally consistent *social effects* of slave ownership.”<sup>180</sup> Following the traditional definition of a “slave” as being “property,”<sup>181</sup> a precise understanding of the concept of “ownership” is essential. But this is not necessarily universally valid. There are other typologies of this legal concept besides Honoré’s, most of which are far less specific, proposing a smaller number of components.<sup>182</sup> Will they prove useful in looking for “slaves” in ancient societies with limited written sources?

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177 Korolkov, “Empire-Building and Market-Making”: 101, n. 138, and 309.

178 Lovejoy, *Transformations in Slavery*: 2.

179 Frank Snare, “The Concept of Property,” *American Philosophical Quarterly* 9, no. 2 (1972): 205.

180 Lewis, “Patterson, Property, and Ancient Slavery”: 45 and 48.

181 Without proposing an alternative definition of “slavery,” David Lewis nevertheless broadly summarizes the traditional “property” definition, which has been criticized by Patterson, as follows: “the slave was an article of property (the object of the relationship) held in ownership (the relationship itself) by his or her master (the subject of the relationship).” Lewis, “Patterson, Property, and Ancient Slavery”: 32.

182 A useful and readable overview in a bioethical context is given in Barbro Björkman and Sven Ove Hansson, “Bodily rights and property rights,” *Journal of Medical Ethics* 32, no. 4 (2006): 209–14.

While it is necessary to “investigate exactly what terms such as ‘property’ and ‘ownership’ mean in a concrete sense,”<sup>183</sup> this should not be universally synthesized from the legal systems of modern societies – which are likely to share common aspects –, but from the contemporary sources and contexts of the society one wishes to study. Honoré’s property definition as simplified by Lewis is therefore “extremely precise in its ability to determine who is or is not a slave”<sup>184</sup> in classical Athens and Babylonia in the Neo-Babylonian and Achaemenid periods, which apparently had a visible concept of “full individual ownership” in the modern legal sense that encompassed ownership over humans. As to our extant Shāng and Western Zhōu epigraphic sources, the concept of “slavery” cannot be ascertained for these periods, even when applying the clearly defined concept of “ownership” by Honoré. Walter Scheidel reasonably remarked in 2013 with regard to Hàn dynasty specialized slave labor, in words I should like to borrow here: “although absence of evidence does not equal evidence of absence, the latter cannot readily be read as pervasive neglect by the sources either.”<sup>185</sup>

Albeit far from being a comprehensive and detailed analysis, this short discussion indicates that not every historical society might have a clear-cut concept of full individual ownership; and even in mature legal systems, a clear identification of a proposed “slave’s” individual “owner” might be more complicated than implied by David Lewis, depending on the respective legal sources at hand. Thus, a property-based approach to “slavery” seems reasonable and useful in distinguishing “slavery” from other types of dependency, but this in turn does not mean that “slavery” is a cross-culturally identifiable, universal phenomenon *already in ancient times*.

In any case, whether focusing on “slaving” as a historical strategy or on “slavery” as a sociological institution, it seems necessary to have a clear definition to work with. For early ancient China, there remains the difficulty to catch specific forms of “human bondage and coercion,” or “strong asymmetrical dependency,” red-handed, such as forms of subservience achieved by means clearly identifiable as being *coercive*.<sup>186</sup>

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**183** Lewis, “Patterson, Property, and Ancient Slavery”: 47.

**184** Lewis, “Patterson, Property, and Ancient Slavery”: 46.

**185** Scheidel, “Slavery and forced labor in early China and the Roman world”: 7.

**186** With regard to Shāng China, Huáng Xiànfán criticized contemporary scholars of his day for attributing “slave” status to groups mentioned in the oracle-bone inscriptions without following precise definitions, such as the scholarly definition given by Karl Marx or the one given in the Chinese encyclopaedic dictionary *Cihǎi* 辞海, or even without any definition at all (Huáng Xiànfán, *Zhōngguó lìshǐ méi yǒu nǚlì shèhuì*: 446; for the individual definitions, see: 194–95).

## 4 Preliminary Conclusion

As a preliminary conclusion, we can say that some of the terms denoting groups of people in Shāng and Western Zhōu bone and bronze inscriptions are also used in later written sources of the Warring States and early empire. In these latter sources, they designate the lowest social strata at the time, including possible equivalents of “slaves” and “bondservants” as defined by modern terminology. This cannot be ascertained for the Shāng and Western Zhōu periods. Epigraphic evidence so far is too scarce to determine cases of “strong asymmetrical dependency” in earliest China. Their existence can be interpreted from the sources, but not proved. We should be careful not to implicitly or unconsciously project the semantic ranges of these terms back to earlier periods. We should also be careful not to assume the existence of certain social categories or strata in the earliest dynasties without defining the terms, and without being aware of the epigraphic and historical issues involved. Based on these examples of unclear evidence, I would like to bring up the following question: How can phenomena of “human bondage and coercion” be securely determined, if the sources of any given society are limited to certain types and also limited in their content? Any form of “asymmetrical dependency,” or “bondage and coercion,” may it be classified as “slavery” or something else, is always relative to other, more or less severe forms of “bondage and coercion,” or to human relations devoid of “bondage and coercion.” We thus need a fixed point among the social relations of a given society, which enables us to determine other relations that differ from it. Having regard to new developments in classical Greece, Perry Anderson 1974 already characterized ancient domestic “slavery” as being “relative” to other forms of dependency:

In classical Greece, slaves were thus for the first time habitually employed in crafts, industry and agriculture beyond the household scale. At the same time, while the use of slavery became general, its *nature* correspondingly became absolute: it was no longer one relative form of servitude among many, along a gradual continuum, but a polar condition of complete loss of freedom, juxtaposed against a new and untrammelled liberty. For it was precisely the formation of a limpidly demarcated slave sub-population that conversely lifted the citizenry of the Greek cities to hitherto unknown heights of conscious juridical freedom. Hellenic liberty and slavery were indivisible: each was the structural condition of the other, in a dyadic system which had no precedent or equivalent in the social hierarchies of the Near Eastern Empires, ignorant alike of either the notion of free citizenship or servile property.<sup>187</sup>

Also, Charlotte Sussman in 2018 showed how to the end of the eighteenth century, after decades of coerced mobility, British migration to the new world came to be redefined against the backdrop of the Atlantic slave trade; thereby “slavery” was being

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<sup>187</sup> Perry Anderson, *Passages from Antiquity to Feudalism* (London: New Left Books, 1974; London: Verso, 1996): 23. I am indebted to the article of Robin Yates for highlighting this statement (see Yates, “Slavery in Early China”: 287).

construed as the antithesis of the movement of British emigrants to Canada, which was intentionally categorized by the state as “free”: “without taking anything away from the horrors of chattel slavery, it is still possible to say that slavery was not the opposite of European mobility in the way we have been taught to think of it. Instead, slavery was the limit case at one end of a continuum of coerced movement and servitude.”<sup>188</sup> Perhaps it is no coincidence that the Cluster of Excellence “Beyond Slavery and Freedom: Asymmetrical Dependencies in Pre-Modern Societies” refers to “slavery” as one form, as well as the bottom line, of “strong asymmetrical dependency” (i.e. the “most extreme” form of “human bondage and coercion”), without however defining its distinctive characteristics as opposed to other forms of the concept “strong asymmetrical dependency”; which, in turn, are not further distinguished from relations of “asymmetrical dependency.”<sup>189</sup> “Asymmetrical dependency” is thus defined as the “loss of autonomy” of actors in relations of (often reciprocal) dependency as a result of “strong asymmetries,” and this loss of autonomy<sup>190</sup> further needs to be institutionally ensured. Accordingly the worst case in dependency relations must be the institutionally supported total loss of autonomy on the part of the dependent. If “slavery” is generally regarded as the worst case (i.e. the “most extreme” form) of “strong asymmetrical dependency,” then this requires a clear definition, to prevent “slavery,” if one wishes to use this term, from becoming a loose category of all kinds of “worst cases” of dependency, which may however differ to a considerable degree from one society to the next. Perhaps one should follow Moses Finley, and use the term “slave” only for those dependent people who clearly resemble the “slaves” in classical antiquity and the post-Columbian Americas. Other appellations

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**188** Compare Charlotte Sussman, “Historicizing Freedom of Movement: Memory and Exile in Political Context,” in *Revisiting Slavery and Antislavery: Towards a Critical Analysis*, ed. Laura Brace and Julia O’Connell Davidson (London: Palgrave Macmillan, 2018): 99, 106 and 107.

**189** The Cluster’s “tentative and rather broad understanding of ‘asymmetrical dependency’” is subject to re-conceptualization: “Dependencies between actors are based on the ability of one actor to control the actions and the access to resources of another. This type of control over actions and access to resources is often reciprocal, and in this case, it is compatible with the autonomy of both actors. So the existence of strong asymmetries between actors is decisive for the loss of autonomy of one of them. In addition this asymmetrical dependency between actors has to be supported by an institutional background that ensures that the dependent actor normally cannot change their situation by either going away (‘exit’) or by articulating protest (‘voice’).” Thus, “strong asymmetries” in dependency relations seem to be constitutive for “asymmetrical dependency,” and research is based on the hypotheses that: “(1) There are enduring institutions of asymmetrical dependency in all human societies; and (2) these asymmetrical dependencies are formative for these societies.” BCDSS, “Research Objective.” However, it is not explained what further distinguishes “strong asymmetrical dependencies,” the declared subject of the research areas A and B.

**190** “Autonomy” is defined as “1. the quality or state of being self-governing; 2. self-directing freedom and especially moral independence; 3. a self-governing state” according to the Merriam-Webster dictionary (<https://www.merriam-webster.com/dictionary/autonomy> [accessed 17.05.2022]).

or categories would need to be found for those persons whose circumstances were (and are) essentially different.<sup>191</sup>

But not only “strong asymmetrical dependencies,” but also commonplace and rather obscure forms of dependency, such as dependencies created by the labor market, ought to be recognized as parts of a continuum – even contemporary scholars find themselves within a continuum of social asymmetries, and not outside of it. It thus seems helpful to distinguish forms of dependency *within* a given society.

With regard to changing forms of bondage and coercion, reasons for the decline and eventual abolition of “slavery” as a legal institution – a topic that is increasingly becoming the focus of critical analyses –<sup>192</sup> were already formulated by Max Weber, who saw global economic processes of modernization as driving factors in the emergence and advancement of an indirect compulsion to work, making the need for “slavery” more or less obsolete for the efficient extraction of labor:

Die Unterdrückung der Sklaverei durch Ausschluß auch der freiwilligen Ergebung in formal sklavenartige Beziehungen war Produkt vor allem der Verschiebung des Schwerpunktes der ökonomischen Weltherrschaft in Gebiete hinein, in welchen die Sklavenarbeit infolge der Kostspieligkeit des Lebensunterhaltes unrentabel ist und zugleich der Entwicklung des indirekten Arbeitszwanges, wie ihn das Lohnsystem mit seiner drohenden Chance der Entlassung und Arbeitslosigkeit bietet, als eines für qualitative Arbeitsleistungen gegenüber dem direkten Zwang wirksameren und zugleich das große Risiko der Sklavenvermögen vermeidenden Mittels galt, Arbeit aus dem Abhängigen herauszupressen.<sup>193</sup>

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**191** Finley’s criticism has been cited by David Lewis: “First, a host of, let us say, African statuses and status terms are translated as ‘slaves’; second, it is observed that at essential points these so-called slaves are extremely unlike the slaves of classical antiquity or of the Americas; third, instead of reconsidering their appellation ‘slaves’ to their own subjects, these anthropologists angrily protest the ‘ethnocentrism’ of ‘western’ historians in order to provide a place for their own pseudo-slaves.” (Moses I. Finley, *Ancient Slavery and Modern Ideology* [London: Chatto & Windus, 1980]: 69; after Lewis, “Patterson, Property, and Ancient Slavery”: 45).

**192** For critical studies in different respects, see for instance Joel Quirk, “The Anti-Slavery Project: Linking the Historical and Contemporary,” *Human Rights Quarterly* 28, no. 3 (2006): 565–98, and *The Anti-Slavery Project: From the Slave Trade to Human Trafficking*, Pennsylvania Studies in Human Rights (Philadelphia: University of Pennsylvania Press, 2011); as well as Laura Brace and Julia O’Connell Davidson, “Slavery and the Revival of Anti-Slavery Activism,” in *Revisiting Slavery and Antislavery: Towards a Critical Analysis*, ed. Laura Brace and Julia O’Connell Davidson (London: Palgrave Macmillan, 2018): 3–34.

**193** Weber, *Grundriss der Sozialökonomik*: 429; these are not the only reasons given by Weber, see here and page 430 for further elaborations. Scholarly questions of similarities between “work practices before and after the abolition of chattel slavery” have, for example, been asked in Michael Twaddle, ed., *The Wages of Slavery: From Chattel Slavery to Wage Labour in Africa, the Caribbean and England* (Abingdon: Frank Cass, 1993); Mary Turner, ed., *From Chattel Slaves to Wage Slaves: The Dynamics of Labour Bargaining in the Americas* (Bloomington: Indiana University Press, 1995); and Mary Turner, “Modernizing Slavery: Investigating the Legal Dimension,” *New West Indian Guide / Nieuwe West-Indische Gids* 73, no. 3/4 (1999): 5–26, <https://doi.org/10.1163/13822373-90002575> [accessed 17.05.2022]. “Dependency” in modern and contemporary employment relationships is best expressed

Coercion has many facets. In ancient China, the *domination* of non-élite and thus apparently dependent individuals or particular groups during the Shāng and Western Zhōu period is clear from the epigraphic record. This is not surprising, because it falls under the broad scope of *Herrschaft* (“power/authority”) as usefully outlined by Max Weber.<sup>194</sup> But it is not an easy matter to draw more precise information from the sources, such as on the exact living and working conditions of the people involved, and on how the relations towards their superiors were shaped and/or determined their everyday lives. The application of social categories demands their clear identification.

As to early ancient China, as long as we lack more precise facts, we cannot exactly differentiate between certain terms, other than being sure that they represent the social hierarchy’s “lower end.” This does not mean that these terms were necessarily meant to denote *status*, in the sense of neatly differentiated non-aristocratic social strata, but possibly that they denoted non-aristocratic people performing certain functions and having certain obligations. But to determine under which circumstances these members or non-members of society lived, what kinds of obligations and

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by contemporary terminology itself, such as English “dependent employment” and German “abhängig Beschäftigte” or “abhängig Erwerbstätige,” which are synonyms for the now commonly used *Arbeitnehmer* (“employees”), including inter alia employees subject to social insurance contributions, civil servants, judges, and soldiers, as described on the website of the *Federal Statistical Office* of Germany: “Arbeitnehmerinnen und Arbeitnehmer üben ihre Haupttätigkeit auf vertraglicher Basis für eine Arbeitgeberin beziehungsweise einem [sic] Arbeitgeber in einem abhängigen Arbeitsverhältnis aus und erhalten hierfür eine Vergütung (Arbeitnehmerentgelt: Lohn beziehungsweise Gehalt).” Statistisches Bundesamt (Destatis), “Arbeitnehmerinnen und Arbeitnehmer,” <https://www.destatis.de/DE/Themen/Arbeit/Arbeitsmarkt/Glossar/arbeitnehmer.html> [accessed 17.05.2022].

**194** “‘Herrschaft’ soll, definitionsgemäß [. . .] die Chance heißen, für spezifische (oder: für alle) Befehle bei einer angebbaren Gruppe von Menschen Gehorsam zu finden. Nicht also jede Art von Chance, ‘Macht’ und ‘Einfluss’ auf andere Menschen auszuüben. Herrschaft (‘Autorität’) in diesem Sinn kann im Einzelfall auf den verschiedensten Motiven der Fügsamkeit: von dumpfer Gewöhnung angefangen bis zu rein zweckrationalen Erwägungen, beruhen. Ein bestimmtes Minimum an Gehorchenwollen, also *Interesse* (äußerem oder innerem) am Gehorchen, gehört zu jedem echten Herrschaftsverhältnis.” Weber, *Grundriss der Sozialökonomik*: 122. Weber further points out that formally, relations of power/authority (*Herrschaft*) can be entered into voluntarily; a relation of power/authority entails obedience, regardless of its voluntary or involuntary nature, the latter being absolute only in cases of slavery: “Dagegen soll es den Begriff eines Herrschaftsverhältnisses natürlich nicht ausschließen, daß es durch formal freien Kontrakt entstanden ist [. . .] Die absolute Unfreiwilligkeit besteht erst beim Sklaven.” (123). Weber further states that relations of power/authority are not always necessarily to be defined as “Herrschaft,” since they comprise all stages between commitment (*Schuldverpflichtung*) and enslavement (*Schuldverknächtung*); but precisely because sharp distinctions often cannot be drawn, it is even more important to have clear concepts (“Natürlich ist auch hier, wie überall, der Uebergang flüssig; von Schuldverpflichtung zur Schuldverknächtung finden sich alle Zwischenstufen [. . .] *Scharfe* Scheidung ist in der Realität oft nicht möglich, klare *Begriffe* sind aber dann deshalb nur umso nötiger.” [123]).

rights they had, and under which (degrees of) constraints or acceptable conditions they came to live, we need further evidence and further studies. Particular situations of apparent domination and coercion are only implicit in the extant epigraphic records. In the absence of explanations or definitions, they are hard to grasp in terms of terminology. Whether they fall under a concept “strong asymmetrical dependency” thus cannot be determined: more evidence is needed.

Shāng and Zhōu society clearly was hierarchical, showing apparently asymmetrical relations. But so far, there is no clear evidence of “strong asymmetrical dependency” as delineated by various concepts such as “slavery,” “debt bondage,” “convict labor,” “tributary labor,” “servitude,” “serfdom,” “domestic work” or “wage labor,” all forms of dependency which, by the chosen definition already discussed, need to include “coercion.” Even if we take a broader definition of the term “bondage” as a basis, further terminological questions arise that need to be addressed with regard to our specific historical context, for example “bondage” as “a *state of being bound* usually by compulsion (as of law or mastery): such as a: captivity, serfdom, b: servitude or subjugation to a controlling person or force.”<sup>195</sup> How long does a particular situation of apparent bondage and coercion need to last to count as a *relation* of “strong asymmetrical dependency” – hours, days, or months? Do victims of Shāng human sacrifice, for instance, count as “strong asymmetrical dependents”? Certainly, their very lives depended on the agents who decided on their fate, and sacrificial killings were not necessarily performed shortly after prisoners were taken captive, as recent studies suggest.<sup>196</sup> But captives were by no means the only category of human victims within the Shāng sacrificial system, indicating a variety of possible intentions and motives.<sup>197</sup> How can these relations be categorized?

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**195** Thus given as second definition of the term in the *Merriam-Webster dictionary*, see <https://www.merriam-webster.com/dictionary/bondage> [accessed 17.05.2022]. My italics.

**196** Christina Cheung et al. theorize that, due to the long duration of captivity as suggested by the evaluated evidence, the victims may have been put to use as laborers: “Our results suggest that these sacrificial victims were likely not local, but moved to Yinxu and adopted the local diet for at least a few years before being killed.” Christina Cheung et al., “Diets, Social Roles, and Geographical Origins of Sacrificial Victims at the Royal Cemetery at Yinxu, Shang China: New Evidence from Stable Carbon, Nitrogen, and Sulfur Isotope Analysis,” *Journal of Anthropological Archaeology* 48 (2017): 28, abstract; “[S]ome of the sacrificial victims in Yinxu were non-local, and likely participated in productive labour” (43).

**197** Gideon Shelach-Lavi made the first fruitful approach to explain human sacrifice as an integral part of the Shāng political system in 1996, proposing that human sacrifice especially of Qiāng 羌 (i.e. non-Shāng people) played a significant role in the political legitimization of the Shāng kings, comparable to human sacrifice practiced by the Mayan élite, and this focus on “captive sacrifice” has found approval in more recent scholarship. But, as Shelach himself notes, Qiāng were approximately only 50 percent of human sacrificial victims in the epigraphic records (compare Gideon Shelach, “The Qiang and the Question of Human Sacrifice in the Late Shang Period,” *Asian Perspectives* 35, no. 1 [1996]: 13); this raises the question as to possible multiple functions of the large-scale institution of Shāng human sacrifice, which need to be further studied.

Maybe a shift of focus from mere terminological to social issues may be helpful in studying “asymmetrical dependency,” strong or otherwise, during earlier periods, as far as the sources allow. The role that coercion may or may not have played in enhancing, consolidating, or maintaining social asymmetries, and to whose particular benefits, appears especially worth analyzing. In the case of earliest historical China, it seems promising to further study the relations and issues between individual agents or groups of people in the extant inscriptional record, such as the institution of ritual killing, sacrificial or otherwise, of both captive and native humans – surely the most extreme form of coercion.

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Ludwig D. Morenz

# Tax Coercion as a Real and Metaphorical Yoke: On the Earliest State Administrative Practices Reflected in Ancient Egyptian Writing and Images Around 3000 BC

The first territorial state in global history was created in the second half of the fourth millennium BC, in the Nile Valley. This formative phase of Egyptian culture saw strong and productive interactions between socio-economic, mentalitarian and medial developments.<sup>1</sup> There had never been a state<sup>2</sup> with such an unprecedentedly vast surface area as this territory that stretched along both banks of the Nile (partially expressed in its Egyptian name *t̄.wj* – “the Two Lands”<sup>3</sup>) for more than 800 kilometers (500 miles) from north to south (Fig. 1). During the approximately three millennia of its “pharaonic” history, this state was always dominated by a monarchical form of rule<sup>4</sup> that carried a sacral charge,<sup>5</sup> albeit of varying intensity.

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1 Ludwig D. Morenz and Robert Kuhn, eds., *Vorspann oder formative Phase? Ägypten und der Vordere Orient 3500–2700 v. Chr.*, Philippika 48 (Wiesbaden: Harrassowitz, 2011); Morenz, Ludwig, *Supplementärer Sinnüberschuß zur Ausweitung von Decorum*. Thot, Beiträge zur historischen Epistemologie und Medienarchäologie 6 (Berlin: EB-Verlag, 2020); for the question of pictorial art see Ludwig D. Morenz, *Anfänge der ägyptischen Kunst: eine problemgeschichtliche Einführung in ägyptologische Bild-Anthropologie*, Orbis biblicus et orientalis 264 (Fribourg: Academic Press Fribourg, 2014).

2 For internal Egyptian perspectives on “political” concepts and patterns of thought see e.g. Pascal Vemus, *Essai sur la Conscience de l’Histoire dans l’Égypte Pharaonique*, Bibliothèque de l’École des Hautes Études, Sciences Historiques et Philologiques 332 (Paris: Champion, 1995).

3 The topic of national territory raises the issue of borders: for the issue of concepts and their linguistic application see, for example, Stephen Quirke, “Frontier or Border? The Northeast Delta in Middle Kingdom Texts,” in *Proceedings of Colloquium ‘The Archaeology, Geography and History of the Egyptian Delta in Pharaonic Times’*. Wadham College, 29–31 August 1988, Oxford, ed. Alessandra Nibbi (Oxford: Cotswold Press, 1989): 261–75.

4 In contrast to Egypt with its monarchic constitution, roughly contemporaneous Mesopotamia in the second half of the fourth millennium may be described as a more socio-politically differentiated culture in the region, albeit with a strong Uruk primacy (Guillermo Algaze, *The Uruk World System: The Dynamics of Expansion of Early Mesopotamian Civilization* [Chicago: University of Chicago Press, 1993]). For an informed broad and comparative cultural overview see Norman Yoffee, *Myths of the Archaic State. Evolution of the Earliest Cities, States, and Civilizations* (Cambridge: Cambridge University Press, 2005).

5 This “pharaonic” rule carried a strong sacral charge; there has been much discussion among scholars about the details, at least, of the precise definition of the divine/human hybrid, resulting

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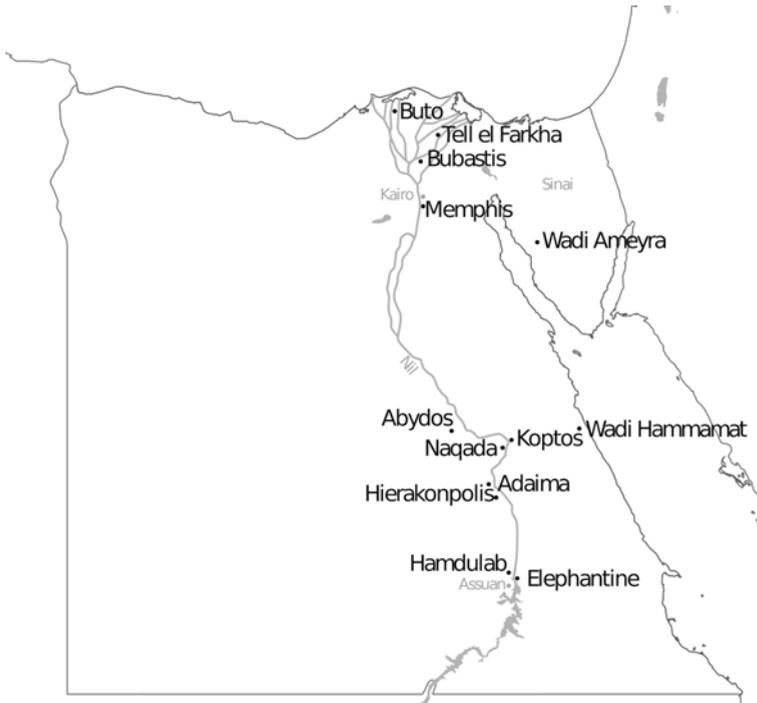


Fig. 1: The complete Egyptian Nile Valley. Map by David Sabel.

In what follows, I propose to discuss questions of taxation with a view to structural societal violence, administration and medial enactment<sup>6</sup> in this, the earliest

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in pronounced chronological, regional, social, medial or even genre-related differences in terms of representation (Georges Posener, *De la Divinité du Pharaon* (Paris: Paris Imprimerie Nationale, 1960); Joachim Friedrich Quack, “How unapproachable is a Pharaoh?,” in *Concepts of Kingship in Antiquity. Proceedings of the European Science Foundation Exploratory Workshop held in Padova, November 28th – December 1st, 2007*, History of the Ancient Near East Monographs 9, ed. Giovanni Battista Lanfranchi and Robert Rollinger (Padua: Sargon, 2010): 1–14). It is also interesting to note that “pharaoh” is the most frequent loanword in the Hebrew Bible. It was used and glossed like a proper name: *paro melek mizraim* – “Pharao, King of Egypt.” At least from the external perspective of authors from the first millennium BC, “pharaonic” rule was a specific form of rule to which they attempted to do adequate justice with this elaborate and formulaic linguistic designation.

<sup>6</sup> It will suffice to point to a single reference, Sarah Albiez-Wieck, ed., *Taxing Difference: Empires as Spaces of Ordered Inequality* (St. Ingbert: Röhrig University Press, 2020), for a cultural comparison concerning this complex question. In what follows, I shall focus on a comparatively much earlier period. In order to be able to substantiate the cultural comparison with a view to “the beginnings,” I shall attempt base my argument on a concrete reading of the sources and the materiality of the media. For a comparison with conditions in Sumer, which is roughly contemporaneous to Proto and Early Dynastic Egyptian culture, see Vitali Bartash, “Age, Gender and Labor: Recording Human Resources in 3350–2500 BC Mesopotamia,” in *What’s in a Name? Terminology to the*

territorial state, whose limited state apparatus<sup>7</sup> is characteristic of the pre-modern period. My analysis will focus on the interaction of media materiality with socio-economic and mentalitarian developments<sup>8</sup> in the specific situation of the Proto and Early Dynastic period in the Nile Valley of the late fourth and early third millennia; or, put very simply, I shall look at “Foucaultian” questions through a media archaeological lens in the manner of Friedrich Kittler.<sup>9</sup> In the terminology of Kittler/Latour, what we perceive are traces of human/thing/media hybrids: an extraction of plain sociological statements may appear correspondingly violent. Even with this methodological reservation, our available data corpus, which has been substantially expanded by research in recent decades, is really remarkable, both in terms of Egyptology and of wider, global history. Our earliest written testimonies for strongly asymmetrical dependencies originate in Sumerian culture<sup>10</sup> and the Nile Valley; they are massive, partially shrouded in euphemism, often surprisingly concrete and sometimes frighteningly drastic.

Among the earliest surviving written sources are records of tax levies in the Nile Valley from the late fourth and early third millennia BC. They can be understood in

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*Work Force and Job Categories in the Ancient Near East*, Alter Orient und Altes Testament 440, ed. Agnès Garcia-Ventura (Münster: Ugarit, 2018): 45–80.

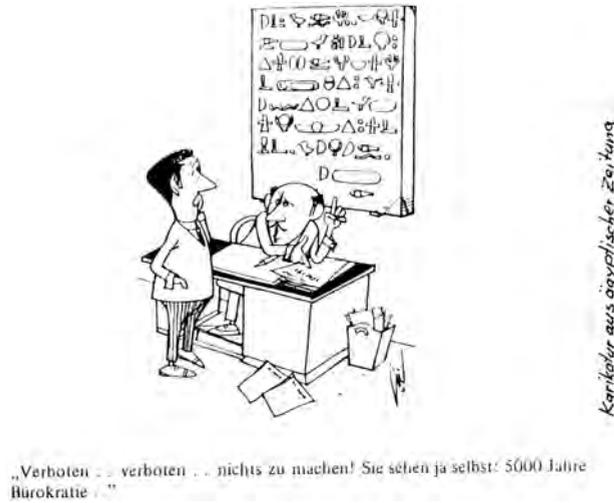
**7** See in this context a number of works that have emerged from the CRC 700 “Governance in Areas of Limited Statehood,” esp.: Thomas Risse, Tanja A. Börzel and Anke Draude, eds., *The Oxford Handbook of Governance and Limited Statehood* (Oxford: Oxford University Press, 2018); for a specifically Egyptological discussion see Richard Bussmann, “Scaling the State,” *Archaeology International* 17 (2014): 79–93; for the process of state formation in the Proto and Early Dynastic period see Alice Stevenson, “The Egyptian Predynastic and State Formation,” *Journal of Archaeological Research* 24 (2016): 421–68.

**8** Marshall McLuhan, *Understanding Media: The Extensions of Man* (New York: The MIT Press, 1964) is a classic; however, since then, given esp. the rise of media studies (“something to do with media . . .”), the term “media” (between *message* and *massage*) may have experienced some blurring.

**9** For a stimulating, albeit very edgy and provocative, and probably also at least in part deeply ironic account (“Ja, schon ein Übertreibungskünstler. Aber das aus dem puren Grund, mich selbst und die anderen nicht zu sehr zu langweilen.” – “Yes, I like to exaggerate. But for the simple reason that I do not want to bore myself and others too much.”). See Friedrich Kittler and Christoph Weinberger, “Das Kalte Modell von Struktur,” *Zeitschrift für Medienwissenschaft* 1 (2009): 93–102. I disagree with Kittler in seeing a number of different beginnings not with “the Greeks,” but millennia earlier.

**10** Contrary to an opinion held by past scholarship, the emergence of writing in Mesopotamia cannot be attributed solely to an administrative context: see Jean-Jacques Glassner and Ecrire a Sumer, *L’invention du cuneiforme* (Suil: Éditions du Seuil, 2000); Jean-Jacques Glassner, “Antérieurement à l’Uruk V: la première écriture en Mésopotamie,” in *Niltal und Zweistromland: Die Anfänge der Kulturtechnik Schreiben im 4. und frühen 3. Jt. v. Chr.*, ed. Ludwig D. Morenz and Andréas Stauder (Berlin: EB-Verlag, forthcoming); for an historical sociological perspective with an interpretation based on a concrete reading of the sources see Bartash, “Age, Gender and Labor.”

the socio-cultural context of an at least moderately redistributive economy;<sup>11</sup> and indeed there was a significant affinity between administration and writing from the very beginning of the use of writing, in Ancient Egypt as elsewhere (Fig. 2).



**Fig. 2:** A modern caricature of bureaucracy. Image from Hans-Günther Semsek, *Kauderwelsch 2, Arabisch für Globetrotter* (Bielefeld: Peter-Rump-Verlag, 1991, 5th ed.): 90.

In view of the potential of using ancient written sources<sup>12</sup> in concrete terms it becomes clear, however – despite appearing at first, perhaps, somewhat counter-intuitive (but then on closer reflection perhaps not all that surprising . . .) – that we should expect a degree of inefficiency in bureaucracy and especially the bookkeeping in use in the Nile Valley the Pharaonic period.<sup>13</sup> A very precise distinction must of course be made between administrative practices, their socio-cultural contexts and their traces in the written record, which can only ever be partial.<sup>14</sup> It is certainly

**11** Evamaria Engel, “The Organisation of a Nascent State: Egypt until the Beginning of the 4th Dynasty,” in *Ancient Egyptian Administration*, Handbook of Oriental Studies, Section 1, Ancient Near East 104, ed. J. C. Moreno Garcia (Leiden: Brill, 2013): 19–40.

**12** Christopher Eyre, *The Use of Documents in Pharaonic Egypt* (Oxford: Oxford University Press, 2013).

**13** A stronger general caveat should apply to administrative records in general, cf. Christopher Eyre, “On the Inefficiency of Bureaucracy,” in *Egyptian Archive: Proceedings of the First Session of the International Congress Egyptian Archives*, ed. Patrizia Piacentini and Christian Orsenigo (Milano: Cisalpino, 2009): 15–30. For a broader cultural comparison see, for example, Peter Crooks and Timothy H. Parsons, eds., *Empires and Bureaucracy in World History: From Late Antiquity to the Twentieth Century* (Cambridge: Cambridge University Press, 2016).

**14** A methodological difficulty in terms of archaeology is that we know of administrative practices almost exclusively through written sources.

the case that a substantial part of social control played out in the field of orality and collective social memory.<sup>15</sup> Moreover, the coincidence of transmission plays a large role in our modern perceptions of what has come down to us in writing. Despite thousands of preserved papyri and hundreds of thousands of preserved ostraca, we should be aware that (based on a rather associative extrapolation by Georges Posener, now almost 60 years old) there may once have been some 100,000 papyri for every preserved papyrus fragment – and this is all the more true for the earlier periods of Egyptian history.<sup>16</sup> There can of course be no guarantee for these or for any concrete numbers, but we can and should certainly expect an enormous gap in the evidence; and for early Egyptian history we must assume a vast chasm.<sup>17</sup> Moreover, modern Egyptology assumes a low literacy rate in the pharaonic Nile Valley – the many uncertainties in terms of details and fluctuations caused by social, regional and chronological factors notwithstanding.<sup>18</sup> In the early third millennium, the literacy rate may have been less than one percent of the total population (which may at the time have been around one million people, but that is only a very rough estimate).<sup>19</sup> From a perspective of global cultural history, however, it is perhaps less

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15 Eyre, *The Use of Documents in Pharaonic Egypt*: 10.

16 Georges Posener, “Histoire et Egypte égyptienne,” *Annales: Histoire, Sciences Sociales* 17 (1962): 631–46.

17 The comparatively well-preserved library of the provincial temple of Tebtynis provides an indication of how many inscribed papyri there were in the Graeco-Roman period; for an overview see Kim Ryholt, “On the Contents and Nature of the Tebtunis Temple Library: A Status Report,” in *Tebtynis und Soknopaiou Nesos. Leben im römerzeitlichen Fajum*, ed. Sandra Lippert and Maren Schentuleit (Wiesbaden: Harrassowitz, 2005): 141–70.

18 John Baines, *Visual and written Culture in ancient Egypt* (Oxford: Oxford University Press, 2007): 110–16. For a critical discussion of the Egyptological methodology in dealing with a data corpus that is highly dependent on the coincidence of transmission see John Gee, “Egyptologists’ Fallacies: Fallacies Arising from Limited Evidence,” *Journal of Egyptian History* 3 (2010): 137–58. Friedhelm Hoffmann and Joachim Friedrich Quack, *Anthologie der demotischen Literatur*, Einführungen und Quellentexte zur Ägyptologie 4 (Berlin: LIT, 2018): 5 and 367 n.b., are more skeptical of prevailing assumptions about literacy rates; this applies especially to the first millennium BC. In view of the coincidence of transmission, which is likely to be further complicated by different levels of literacy, our difficulties in estimating population densities in various times and regions, and estimates of the total Egyptian population at a specific time, which at best remain very hypothetical, it seems hardly possible to arrive at a firmer position on this point for the time being. Concrete case studies, especially on the village of Deir el-Medina (Jacobus Johannes Janssen, “Literacy and Letters in Deir el-Medina,” in *Village voices: Proceedings of the Symposium Texts from Deir el-Medina*, ed. Robert Johannes Demarée and Arno Egberts (Leiden: CNWS, 1992): 81–94; Lesko, Leonard H., “Literature, Literacy and Literati,” in *Pharaoh’s Worker. The Villagers of Deir el Medina*, auth. Leonard H. Lesko [Ithaca: Cornell University Press, 2018]) are very much more robust; but it is more than likely that this is an extraordinary case from the New Kingdom, specific to its place and time.

19 Works and overviews such as Karl W. Butzer, “Demography,” in *Encyclopedia of the Archaeology of Ancient Egypt*, ed. Kathryn A. Bard (London: Routledge, 1999): 250–52, rest on a very slender data corpus, especially for the fourth and early third millennia: Jürgen Kraus, *Die Demographie des*

surprising how few people (especially, albeit not exclusively, men: despite the fact that the deity of writing was the goddess Seshat,<sup>20</sup> writing in the ancient Nile Valley was constructed as a masculine cultural technique<sup>21</sup>) were able to write at that time, but rather how many. At this period, so very distant from modernity,<sup>22</sup> the only other place where writing was practiced at all was Mesopotamia and its cultural orbit.<sup>23</sup>

From the end of the fourth millennium onwards, regular tax collections were closely tied to the central state/monarch(y), and in Early Dynastic Egypt took place as part of annual or biannual “inventories” (in Egyptian, *tnw*)<sup>24</sup> in the context of the royal “Following of Horus” (*šmsw hr*).<sup>25</sup>

These tax collections were put on the record – in the sense of bookkeeping, but also by displaying the royal state apparatus, i.e. the two overlapping aspects of administration and prestige;<sup>26</sup> in the process they were partially exhibited and monumentalized.

In what follows, I will examine aspects of this five-thousand-year-old socio-economic practice in terms of its writing and images (*Schrift-Bildlichkeit und Bild-Schriftlichkeit*). In view of this evidence from the sphere of the royal administration, I propose the thesis that an augmented script was created in this administrative

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*Alten Ägypten. Eine Phänomenologie anhand altägyptischer Quellen* (Göttingen: Georg-August-Universität Göttingen, 2004): 157–71. The availability of data is of course quite different for the Greco-Roman period; cf. Roger Shaler Bagnal and Bruce W. Frier, *The demography of Roman Egypt*, Cambridge Studies in Population, Economy and Society in Past Time 23 (Cambridge: Cambridge University Press, 1994): 40–50; Walter Scheidel, *Death on the Nile: Disease & the Demography of Roman Egypt*, Mnemosyne: Supplementum 228 (Leiden: Brill, 2001).

**20** Dagmar Budde, *Die Göttin Seshat*, Kanobos 2 (Leipzig: Wodtke und Stegbauer, 2000).

**21** Ludwig D. Morenz, *Kultur- und mediengeschichtliche Essays zu einer Archäologie der Schrift: von den frühneolithischen Zeichensystemen bis zu den frühen Schriftsystemen in Ägypten und dem Vorderen Orient*, Thot. Beiträge zur historischen Epistemologie und Medienarchäologie 4 (Berlin: EB-Verlag, 2013): 352–72.

**22** I will at this point not discuss the extent to which the medial development, i.e. the emergence of writing, should be understood as a substantial forward stride of socio-cultural modernization (Ludwig D. Morenz, *Verlautungen von Macht*, Thot. Beiträge zur historischen Epistemologie und Medienarchäologie 2 [Berlin: EB-Verlag, 2020]), but the assumption that this is the case underlies my argument.

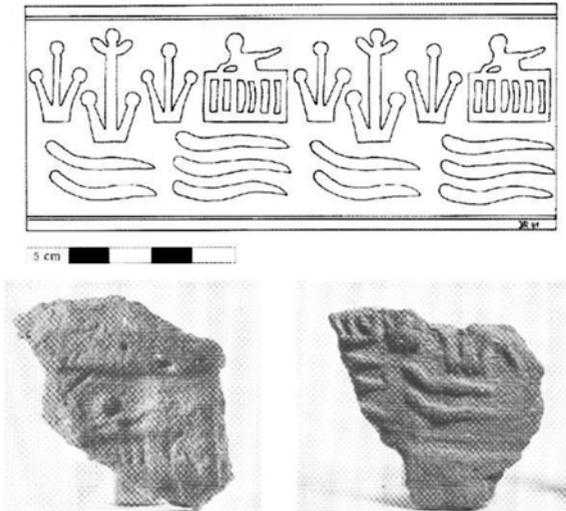
**23** Claus Wilcke, *Wer las und schrieb in Babylonien und Assyrien. Überlegungen zur Literalität im Alten Zweistromland*, Sitzungsberichte/ Bayerische Akademie der Wissenschaften, Philosophisch-Historische Klasse 2000, 6 (Munich: Verlag der Bayerischen Akademie der Wissenschaften 2000).

**24** For the questions of tax and “inventory” see Wolfgang Helck, *Untersuchungen zur Thinitenzeit*, Ägyptologische Abhandlungen 45 (Wiesbaden: Harrassowitz, 1987): 212–21; Engel, “The Organisation of a Nascent State.”

**25** Scholars often regard the “Following of Horus” in analogy to the itinerant royal courts of medieval Europe. On the question of medieval European itinerant kings see, for example, Andrea Stieldorf, “Reiseherrschaft und Residenz im Frühen und Hohen Mittelalter,” *Historisches Jahrbuch* 129 (2009): 147–77.

**26** Baines, *Visual and written Culture*, 281–98; Leslie Anne Warden, “Centralised Taxation during the Old Kingdom,” in *Towards a New History for the Egyptian Old Kingdom. Perspectives on the Pyramid Age*, Harvard Egyptological Studies 1, ed. Peter Der Manuelian and Thomas Schneider (Leiden: Brill, 2015): 470–95.

context (as it were a *script 2.0*). I believe that this thesis can be well supported, despite the problems relating to the coincidence of transmission discussed above.<sup>27</sup> From the period before the Proto-dynastic king named Hor (or Iri-Hor) (around 3100 BC),<sup>28</sup> we only have isolated evidence of phonographic notation, especially for proper names (of gods, persons and places) – a sort of *script 1.0*. From the time of this king named Hor onwards, generic terms for revenue levies were written down in administrative contexts, such as in this cylinder seal inscription (Fig. 3), which mentions the administrative office *nbw* (one of the most important offices in early Egyptian society at that time<sup>29</sup>) as well as *ḏfʿw* – “food.”



**Fig. 3a–b:** Reconstructed cylinder seal inscription from Abydos (Müller, “Seal Impressions”: 23), compare with the fragmentary impressions in neck sealings of clay jars from the tomb of king Hor.

In addition to these two administrative terms – already attested on the hieroglyphic cylinder seal inscriptions of the Proto-Dynastic king Hor – we also find

<sup>27</sup> Morenz, *Verlautungen von Macht*.

<sup>28</sup> For a discussion of the name see Morenz, *Verlautungen von Macht*: 31–65. In favor of the older reading was most recently Andréas Stauder, “Iri-Hor: Elaborations of an Early Royal Name,” *Göttinger Miszellen* 262 (2020): 201–8. A definite conclusion (simple Hor or Iri-Hor) remains difficult, because this is the very earliest, “experimental” phase of phonographic notation. Bearing in mind the conventions of writing and the ideology of rule, I believe the simple “Horus” to be more likely.

<sup>29</sup> Vera Müller, “Do Seal Impressions Prove a Change in the Administration during the Reign of King Den?” in *Seals and sealing practices in the Near East*, ed. Ilona Regulski, Kim Duistermaat, and Peter Verkinderen (Leuven: Peeters, 2012):17–32.

the administrative terms, *pḥw*, *nḥb* und *jp.wt* (Fig. 4) inscribed on jars in a different script, namely the more cursive hieratic.



**Fig. 4:** Pottery sherd with hieratic inscription of the Proto-Dynastic king Hor: under the name “Hor” is the administrative term *pḥw* – something that has been accomplished or arrived = products have arrived. Drawing by Johann Thiele based on a draft by Günther Dreyer.

The words *pḥw*, *nḥb* and *jp.wt* were borrowed from everyday speech but transformed into specific technical terms in the administrative context. It is precisely this metaphorisation that testifies to the formation of a specific linguistic world within Proto and Early Dynastic socio-economic practice. We can trace back the meanings of these administrative terms as follows (Tab. 1):

**Tab. 1:** Specialist administrative terms, already attested in fourth/early third millennium inscriptions.

Name	Primary meaning	Secondary meaning
<i>pḥw</i>	accomplished / arrived	products have arrived <sup>30</sup>
<i>jp.wt</i>	counted / registered	registered revenues
<i>nḥb</i>	harnessed / yoked <sup>31</sup>	(compulsory) levies

In this list, the word *nḥb* – “harnessed / yoked,” as a designation of (compulsory) levies – stands out in terms of its etymological origin: the idea on which it is based is a violent one. We might instead look to the verb *nḥb*, “to allocate,” but it is

**30** Some time later the terms *iw.t* – “that which has arrived” – and *in.wt* – “that which has been brought” were used in this sense. For an overview of the evidentiary record see Jochem Kahl, “Zur Problematik der sogenannten Steuervermerke,” in: *Divitiae Aegypti: Koptologische und Verwandte Studien zu Ehren von Martin Krause*, ed. Cäcilia Fluck, Lucia Langener, and Siegfried Richter (Wiesbaden: Reichert, 1995): 168–76.

**31** Primarily derived from *nḥb.t* – “neck” –, which was where beasts and dependent persons were yoked (cf. the Gebel Sheikh Suleiman rock art with its corresponding inscription).

attested only later. The more likely scenario in this case is that the word is a metaphorisation of the presumably much older term meaning “(compulsory) levies.”

We are familiar with the image underlying *nḥb* – “harnessed / yoked,” *being under the yoke*, from our own usage of language (think of the expression “cast off the yoke” or its German equivalent, “das Joch abwerfen,” both of which denote an escape from captivity or slavery), but also from the Hebrew Bible (“thou shalt break his yoke from off thy neck,” in Gen 27.40) or from Akkadian. In the Sumerian royal inscriptions from the third millennium as well as in the literary texts from the Old Babylonian period (2000–1600 BC), the expressions “to carry a yoke” and “to yoke” are used precisely in the sense of “to subjugate” (i.e. to dominate politically, to subjugate; the term itself goes back to Latin *sub iugum*, under the yoke, see below).<sup>32</sup> In the Nile Valley, the corresponding pattern of ideas – people were, in fact, presumably put under an actual yoke; in addition the term carried a powerful metaphorical charge – can be traced in linguistic, written and pictorial forms back to the very beginnings of the Egyptian territorial state around 3000 BC. We should understand *subjugation* as part of a particular socio-economic practice.

Starting from the reign of the Proto-Dynastic king who carried the symbolic name of “Hor,” we can assume a more specific differentiation of phono-semantic writing in the fourth-millennium Nile Valley, and thus a new type of script: version 2.0. It is likely that a specific (ideal-typically simplified) mentality and practice of administration formed an important socio-cultural background to this *period of cognition*<sup>33</sup> that shaped writing, in the course of which around 3100 BC – according to our evidence precisely under King Hor – administration on the one hand created writing and writing on the other created administration. We can connect this *script 2.0*, which at the time was a new thing in terms of media technology, with the sociological type “official.” Closely connected to this development of the writing system was the development in the Proto and Early Dynastic period of a system of graphic numerals,<sup>34</sup> which during this epoch clearly served the administration in the Nile Valley. In fact, the earliest attestation of this – almost<sup>35</sup> – fully developed

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**32** The sources include, among others, the inscriptions of Gudea, the ruler of Lagaš (22nd century BC); the literary-mythohistorical text *Enmerkar and the Lord of Aratta*; and the Neo-Sumerian royal hymn *Šulgi B*. I thank Vitali Bartash for this information.

**33** In the historiography of science and technology, “cognition” can be understood with Günter Ropohl (Günter Ropohl, *Eine Systemtheorie der Technik* [Munich: Karlsruhe KIT Scientific Publishing, 1979]) as a formative phase during which a natural effect or a new law is discovered, described and/or created.

**34** Ludwig D. Morenz, *Zählen Vorstellen Darstellen: Eine Archäologie der altägyptischen Zahlen*, *Bonner Ägyptologische Beiträge* 1 (Berlin: EB-Verlag, 2013): 96–98.

**35** The “ten” symbol was conceptualized somewhat later, only then was the decimal system complete; see Morenz, *Zählen Vorstellen Darstellen*: 91–99.



*Jnj* – i.e. the hieroglyph WALKING LEGS<sup>37</sup> combined with PAPYRUSLAND (𓆎) or the sw plant (𓆏) to form a composite sign – is in my view not used as a verb in this case (“to come”), but should be understood as a designation for taxes/levies *jnw* = “that which has been brought.” We can thus read these inscriptions as follows:

*jnj-t<sup>3</sup>-mḥw ḏf<sup>3</sup>.w nḥb* – “that which has been brought from Lower Egypt, food, taxes” – and:

*jnj-šm<sup>3</sup>.w ḏf<sup>3</sup>.w nḥb* – “that which has been brought from Upper Egypt, food, taxes.”

The collected taxes recorded in writing on these cylinder seals show the group of signs identified in previous scholarship as “tent administration” or similar.<sup>38</sup> Wolfgang Helck more or less intuitively interpreted the sign of the lion/ness with sticks – there has so far been wide agreement among scholars on this reading<sup>39</sup> – as “a scribe’s numen.”<sup>40</sup> However, the identification of this sign with a stick does not really make iconographic sense (note the pronounced arch, see Fig. 7b); and there appear to be no parallels in the abundant material available.<sup>41</sup> It is more likely to depict a yoke with a side fastening as can be seen in the roughly contemporary rock art at Gebel Sheikh Suleiman (Fig. 7a).<sup>42</sup> A comparable way of tying a row of prisoners by their necks can be seen in a roughly contemporary ivory carving from Abydos (Fig. 8); in this case a single length of rope is depicted rather than a rod or bar.

And in fact we know of various other representations from the Proto and Early Dynastic period where prisoners have not only their hands but also their necks tied (Fig. 9).

With these ties, complete subjugation is inscribed into the foreign body. The depiction in the rock art from Gebel Sheikh Suleiman (Fig. 7a) even shows the subjugated man as both bound and shot dead with an arrow, i.e. it is less a simple, naturalistic representation than an iconographically highly charged encoding of

<sup>37</sup> The pictorial metaphor *walking legs* occurs centuries before the use of writing on Early Naqada vessels (Ghada Mohamed, “Menschenhafte Zeichen” (PhD diss., University of Bonn, 2020), where it demonstrates a use of metaphor analogous to writing as an important basis of Egyptian written imagery.

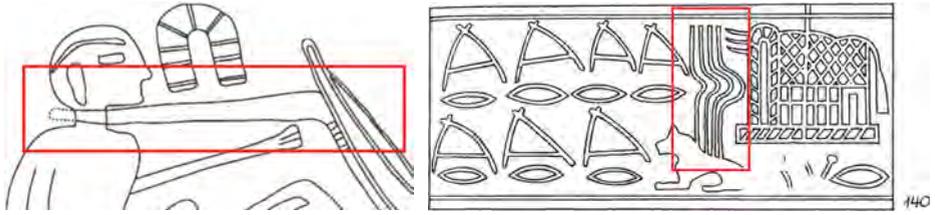
<sup>38</sup> Peter Kaplony, *Die Inschriften der ägyptischen Frühzeit*, Ägyptologische Abhandlungen 8 (Wiesbaden: Harrassowitz, 1963): 14–15, tables 40–47.

<sup>39</sup> Ilona Regulski, ed., *A Palaeographic Study of Early Writing in Egypt*, Orientalia Lovaniensia Analecta (Leuven: Peeters, 2010): 107.

<sup>40</sup> For a summary see Helck, *Untersuchungen zur Thinitenzeit*: 176–203.

<sup>41</sup> Ali Hassan, *Stöcke und Stäbe im pharaonischen Ägypten bis zum Ende des neuen Reiches*, Münchner ägyptologische Studien 33 (Tübingen: Ugarit, 1976).

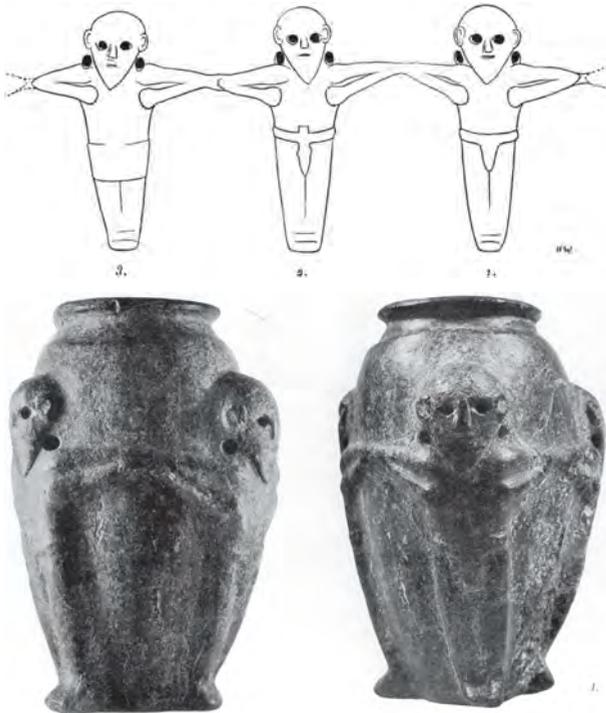
<sup>42</sup> For essential new documentation see Claire Somaglino and Pierre Tallet, “Une Campagne en Nubie sous la 1<sup>re</sup> Dynastie: La Scène Nagadienne du Gebel Sheikh Suleiman comme Prototype et Modèle,” *Nehet, revue numérique d'égyptologie* 1 (2014): 1–46; in brief: Claire Somaglino and Pierre Tallet, “Gebel Sheikh Suleiman: A First Dynasty Relief After All . . .,” *Archéo-Nil* 25 (2015): 123–34; for a more detailed discussion of the interpretation adopted here see Morenz, *Verlautungen von Macht*: 165–75.



**Fig. 7a–b:** Details of the relief from Gebel Sheikh Suleiman contemporaneous with *Horus WARRIOR*, cylinder seal inscription from the time of *Horus WARRIOR*, IÄF III, fig. 140 (Kaplony, *Die Inschriften der ägyptischen Frühzeit*: Tab. 41).

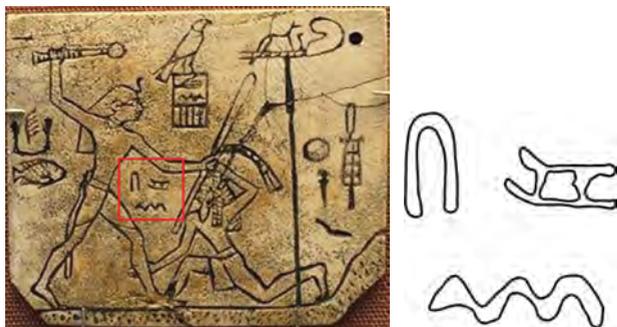


**Fig. 8:** Ivory fragment from Abydos (Petrie, *The Royal Tombs of The Earliest Dynasties*, pl. 4: 19).



**Fig. 9a–b:** Tied-up men (Wild, “Choix D’Objets Pré-Pharaoniques”: 47, pl. III).

submission. This new conception of the hieroglyph  in the rock art of Gebel Sheikh Suleiman also allows a new reading and interpretation of an object that has been familiar to Egyptologists for nearly a century, impressive in terms of both its composition and its style: the ivory plaque of the 1st Dynasty king De(we)n<sup>43</sup> (MacGregor plaque, BM 1922,0728.2 = EA55586, Fig. 10).<sup>44</sup>



**Fig. 10a–b:** MacGregor plaque, BM 1922,0728.2 = EA55586, image inscription transliteration: *nHb xAs.t* in transcription, “Subjugating the foreign/mountainous lands.” Photograph by David Sabel. Drawing by Johann Thiele based on a draft by David Sabel.

The inscription that goes with the subjugation scene, for which there is as yet no plausible transliteration in the existing scholarship,<sup>45</sup> can be read simply as a descriptive text referring to subjugation. The sign top left () depicts the hieroglyph for yoke (*side view*), just as in the Gebel Sheikh Suleiman inscription, with the arch encircling the neck of the subjugated person (*nHb*). It is followed on the right by the sign for yoke (*top view*).<sup>46</sup> Again, we should imagine the yoke as being placed

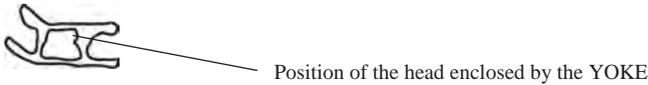
<sup>43</sup> For an overview of this ruler see Gérard Godron, *Etudes sur l’Horus Den et quelques problèmes de l’Égypte archaïque*, Cahiers d’orientalisme 19 (Geneva: Patrick Cramer, 1990).

<sup>44</sup> A. Jeffrey Spencer, ed., *Early Dynastic Objects*, Catalogue of Egyptian Antiquities in the British Museum 5 (London: British Museum, 1980): 65, no. 460.

<sup>45</sup> The BM website ([https://www.britishmuseum.org/collection/object/Y\\_EA55586](https://www.britishmuseum.org/collection/object/Y_EA55586) [accessed 17.05.2022]) states, “Another group of three hieroglyphs in front of the king are of uncertain meaning. Possibly the signs could be read ‘*tm.sn*’, or ‘They shall not exist’, referring to Egypt’s enemies as represented by the captive. The form of the sign at the top of the group is not a very good rendering of ‘*tm*’, however.”

<sup>46</sup> This explanation is a better fit with the sign’s shape than the previous reading of “sledge” (*sign list* U 15; for early forms see Regulski, *A Palaeographic Study*: 195). This sign was not included in the later hieroglyphic encyclopedia. It is true that we know of some sign forms and signs that are only attested in the Proto and Early Dynastic period; see Ludwig D. Morenz, *Kultur- und mediengeschichtliche Essays zu einer Archäologie der Schrift: von den frühneolithischen Zeichensystemen bis zu den frühen Schriftsystemen in Ägypten und dem Vorderen Orient*, Thot. Beiträge zur historischen Epistemologie und Medienarchäologie 4 (Berlin: EB-Verlag, 2013): 292–94.

around the person's neck, with the two cross beams running in front of and behind the head respectively, thus enclosing it (Fig. 11).



**Fig. 11:** MacGregor plaque, detail, BM 1922,0728.2 = EA55586. Drawing by Johann Thiele based on a draft by David Sabel.

In this early phase of writing, the two highly iconic hieroglyphs YOKE (side view) and YOKE (top view) are being disambiguated. In fact, we could explain the YOKE in top view in terms of its semantic function as a visually striking determinative. Three possible meanings may be considered for the three-peaked zigzag line on the Mac Gregor tablet. As a phonogram (*n*) it could phonographically support a reading of *nḥb*, but this is less likely in terms of the context.<sup>47</sup> In view of parallels such as the inscription on the Nar-meher palette, which reads SLAUGHTER OF THE SEA LAND (𓏏),<sup>48</sup> here, too, 𓏏 might have signified a simple toponym. We might think of WATER (region),<sup>49</sup> specifically the Red Sea and so the Egyptian sea route into the Sinai.<sup>50</sup> Alternatively, the zigzag line could be read as a different toponym, denoting instead the mountainous/foreign lands. It lacks the baseline compared to the traditional hieroglyphic form 𓏏 (*sign list* N 25), but at this early stage of writing, this graphic variation does not, at least, seem impossible. A reference to either WATER or MOUNTAIN, or both, would be an excellent fit for the mountainous SW Sinai, which the Egyptians reached via the Red Sea,<sup>51</sup> and a semographic reading of 𓏏 as “region near water” is likely; resulting in this case specifically in the

<sup>47</sup> After all, in the king's name the phonogram *n* is also written with just three peaks.

<sup>48</sup> Morenz, *Verlautungen von Macht*: 148–61.

<sup>49</sup> Although “water” in Egyptian hieroglyphs was normally written with three rippling water lines stacked vertically, it may in this case – given the restricted space – be a shortened version. In addition, at the time of De(we)n orthographic traditions were still in the process of emerging gradually, albeit in successive waves.

<sup>50</sup> This approach corresponded, after all, with an inscription of king Djer in the Wadi Ameyra (Pierre Tallet and Damien Laisney, “Iry-Hor et Narmer au Sud-Sinaï (Ouadi ‘Ameyra). Un Complément à la Chronologie des Expéditions Minières Égyptiennes,” *Bulletin de l’Institut d’Égypte* 112 (2012): 381–98; Pierre Tallet, *La Zone minière pharaonique du Sud-Sinaï*, part 2: *Les inscriptions pré-et protodynastiques du Ouadi ‘Ameyra* (CCIS n°273–335), MIFAO 132 [Kairo: IFAO, 2015]), in which this Early Dynastic ruler was already identified as “Lord of the Water” (= presumably a local, specific reference to the Red Sea, including the region adjacent to the WATER), while his opponent was identified with the toponym *Pš* (toponym, place in the Sinai), see the discussion in Morenz, *Verlautungen von Macht*: 69–72.

<sup>51</sup> Ludwig D. Morenz and David Sabel. “Koptos,” in *Niltal und Zweitromland: Die Anfänge der Kulturtechnik Schreiben im 4. und frühen 3. Jt. v.Chr.*, ed. Ludwig D. Morenz and Andréas Stauder (Berlin: EB-Verlag, forthcoming).

reading, “Subjugating the SW-Sinai.” This short inscription, and its correspondence with the image, indicates that what was meant was that the population in the south-western Sinai – with its deposits of turquoise and copper,<sup>52</sup> both of great importance to Egyptian society – was subjugated by Egypt.

This approach (whether we read the toponym as “water region” or as “mountainous/foreign land,” or simply as *nḥb*), firstly correlates text-internally as a concretization of “First occasion: smiting the East”; secondly, it fits the pattern of this type of short inscription with its typical structure of action + toponym; thirdly, it matches the general historical situation: the Sinai policy under King De(we)n, as we know it from the (sadly now destroyed) monumental inscriptions of the Wadi El-Humur in the south-western Sinai,<sup>53</sup> and from a series of annalistic tablets.<sup>54</sup> The reading presented in this paper can therefore claim, generally speaking, to rest on a reasonably substantial basis. Scholarship has tentatively interpreted the three signs on the left behind the king as a scribal name, *jn-k*<sup>55</sup> but the context better supports the reading *šḥn jnw* – “embracing that which has been brought (= tribute)”; especially in view of the three other inscriptions on this tablet that center on the king. Let me in this regard point to variations in the writing of *jnw* – “that which has been brought (= tribute)” – in the Proto and Early Dynastic era.<sup>56</sup> This would then be a decidedly phonographic representation, which would not be an unusual occurrence for the phase of writing under De(we)n. In addition, we can discern a pictorial pun in the arrangement of signs, inasmuch as the “arms extended” hieroglyph pictorially encloses the *j* reed (Fig. 12),<sup>57</sup> so that this group of signs again shows the same meaning in its written imagery.

So we have altogether four inscription blocks on this tablet, each of which functions as a relatively self-contained microtext. They can be read as follows (Tab. 2):

52 Tobias Gutmann and Ludwig D. Morenz, “Wertschätzung und Bedarf. Überlegungen zum Verhältnis von Kupfer und Türkis und dem darum gestrickten kulturellen Bedeutungsgewebe im Südwest-Sinai,” in *Gegossene Götter. Metallhandwerk und Massenproduktion im Alten Ägypten*, ed. Martin Fitzenreiter, Christian E. Loeben, Dietrich Raue, Uta Wallenstein, Johannes Auenmüller, ed. (Rhaden: VML Verlag Marie Leidorf, 2014): 45–51.

53 Moustafa Rezk R. Ibrahim and Pierre Tallet, “Trois bas-reliefs de l’époque thinite au ouadi El-Humur: aux origines de l’exploitation du Sud-Sinai par les Égyptiens (Pl. XIV–XVI),” *Revue d’Égyptologie* 59 (2008): 155–74.

54 Morenz, *Kultur- und mediengeschichtliche Essays*: 324–28.

55 Kaplony, *Die Inschriften der ägyptischen Frühzeit*: 423.

56 Ludwig D. Morenz, *Supplementärer Sinnüberschuß zur Ausweitung von Decorum*, Thot. Beiträge zur historischen Epistemologie und Medienarchäologie 6 (Berlin: EB-Verlag, 2020).

57 As a matter of fact, we know several pictorial puns with the *k*<sup>i</sup> “arms extended” sign from the Early Dynastic period, cf. Henry G. Fischer, “Some Emblematic Uses of Hieroglyphs with Particular Reference to Archaic Ritual Vessel,” *Metropolitan Museum Journal* 5 (1972): 5–23, here 5–15.



**Fig. 12:** MacGregor plaque, detail, BM 1922,0728.2 = EA55586. *j* reed enclosed by *k*’ “arms extended.” Photograph by David Sabel.

**Tab. 2:** Elements from the label of king De(we)n (Fig. 10).

<i>ḥr d(w)n</i>	Horus king De(we)n	
<i>sp tpj skr j'ib.t</i>	“First occasion: smiting the East” <sup>58</sup>	
<i>nḥb mw(?)</i>	Subjugation of the water people (/the mountainous lands)	
<i>shn jnw</i>	Embracing the tribute	

The two following excursuses are devoted to a cultural comparison which I believe to be illuminating for our comprehension of Proto- and Early Dynastic Egyptian forms of *subjugation*.

## 1 Excursus: On YOKE (ERIM<sub>a</sub>) and ROPE (SAG×MA) as Expressive Symbolic Metaphors in Contemporary Sumerian Writing

In texts from the Sumerian Jemdet Nasr period (end of the fourth millennium BC)<sup>59</sup> we find the names of persons made up of the following sign combinations: HEAD+YOKE

<sup>58</sup> An annalistic type; in addition, the sign for the east was emphasized iconographically by its larger size and increased detail.

<sup>59</sup> Both the absolute dating and the exact correspondences between the early Egyptian and early Sumerian periods are still not completely understood, and methodologically not easy to solve in certain particulars; on this question see Erik Hornung, *Ancient Egypt Chronology*, Handbook of

(SAL+KUR<sub>a</sub> ERIM<sub>a</sub>) and HEAD+ROPE (SAL+KUR<sub>a</sub> SAG×MA). Despite the reduction of figurativeness, the signs still contain a high degree of iconicity, leading Robert Englund to convincingly interpret them as designations for prisoners of war.<sup>60</sup> Moreover, the qualifier signs YOKE (ERIM<sub>a</sub> = erin<sub>2</sub>) and ROPE (specifically: HEAD×NOSE [through which the rope passes<sup>61</sup>]) are likely to have expressed variations of dependency. This type of verbal representation of subjugated person corresponds closely with Sumerian visual culture,<sup>62</sup> in which subjugated persons are depicted with both rope and yoke.

In a period comparable to the Egyptian Early Dynastic era, the Sumerian Jemdet Nasr period drew on remarkably similar linguistic and scriptural images of martial subjugation and dependency, which include ROPE AND YOKE. This detail should not be interpreted in terms of concrete dependency, but rather of structural similarity.

## 2 Excursus: On the Roman *iugum* and the subjugation formula *sub iugum mittere*

Comparable practices and metaphors of subjugation are to be found not only in the roughly coeval cultures of Egypt and Mesopotamia during the fourth and third millennia, but also in a number of other cultures.<sup>63</sup> In the Latin language and the Roman conceptual world, on the initial, material level, the yoke implies slave labor in the fields; it was also employed metaphorically. In addition, there is the set phrase *sub iugum mittere* = “to send under the yoke (of slavery).” It reflected a ritual practiced by the victorious side in which the defeated soldiers had to pass under a yoke, thereby publically admitting defeat and a humiliating symbolic enslavement; before

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Oriental Studies. Section 1, The Near and Middle East 83 (Leiden: Brill, 2006). According to more recent research, the lexical list *Archaic Lu A* appears to suggest a more pronounced difference in the social sphere between Uruk IV and Uruk III (= Jemdet Nasr); cf. Justin C. Johnson, “Late Uruk Bicameral Orthographies and their Early Dynastic. Rezeptionsgeschichte,” in *It’s a Long Way to a Historiography of the Early Dynastic period(s)*, *Altertumskunde des Vorderen Orients* 15, ed. Reinhard Dittmann (Münster: Ugarit, 2015): 169–210, here 174–80.

<sup>60</sup> Robert K. Englund, “The Smell of the Cage,” *Cuneiform Digital Library Journal* 4 (2009): 1–27, here 12; discussed in Bartash, “Age, Gender and Labor”: 55.

<sup>61</sup> We are familiar with this motif not only from Sumerian iconography, but from the Victory Palette of the Egyptian king Nar-meher. The possibility might be considered whether this concrete motif was perhaps adapted from a Sumerian design.

<sup>62</sup> Jutta Börker-Klähn, *Alt Vorderasiatische Bildstelen und vergleichbare Felsreliefs*, *Baghdader Forschungen* 4 (Mainz: Philipp von Zabern, 1982).

<sup>63</sup> However, the term *iugum* in Latin (and in the Indo-European language family as a whole: Old Indic “yoga”) was verbally proliferous in various ways, generating e.g. the meaning “connection” (*iungere* = to join draught animals, with derivations that range from “juncture” to “subjunctive”).

they were (or could be) released.<sup>64</sup> This Roman linguistic usage of subjugation lives on in various ways in our own time, although its pictorial impact has significantly diminished.

We find such a combination – a subjugation scene and the collection of tribute – in the year name on an ivory tablet of king Nar-meher in the eponymous smiting scene and depicted in an intermedial composition of image and writing (Fig. 13).<sup>65</sup>

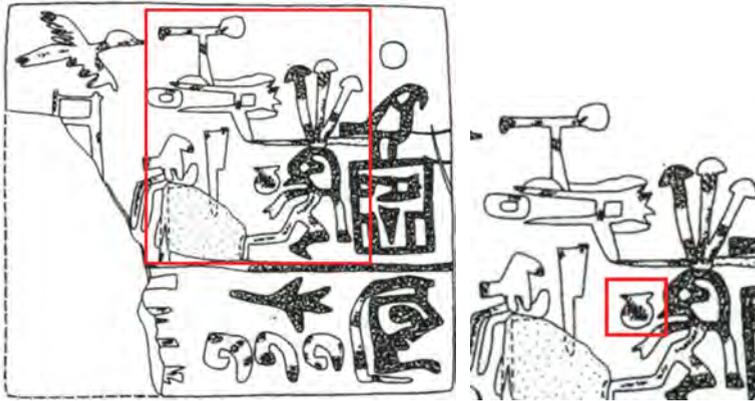


Fig. 13a–b: Annalistic tablet of king Nar-meher from Abydos, detail with smiting scene that can be read in pictorial script (Morenz, *Verlautungen von Macht*: 176, Fig. 106).

In front of the face of this man who is being smitten is a more script-like sign: . This should neither be read elliptically (*contra* G. Dreyer) as *(th)nw*,<sup>66</sup> nor (against my own previous approach) as a proper name *jn* or *nw*.<sup>67</sup> In fact, in Egyptian representations the enemy was not considered worthy of being named,<sup>68</sup> and indeed this tablet is no exception. If we compare it with parallels, this notation is better interpreted as an abbreviation of “tributes” (*jn[w]*). The sign transports the message entirely on its own, in a strongly autoreferential manner and without any direct pictorial counterpart. So the scene of submission – depicted pictorially – is combined with the subsequent handing

<sup>64</sup> Theodor Kissel, “Sub iugum mittere. Zur kollektiven Bestrafung unterworfenen Kriegsgefangener im republikanischen Rom,” *Antike Welt* 28 (1997): 501–7.

<sup>65</sup> Morenz, *Verlautungen von Macht*.

<sup>66</sup> Günter Dreyer, “Egypt’s Earliest Historical Event,” *Egyptian Archaeology* 16 (2000): 6–7; followed by Thomas C. Heagy, “Who was Menes?” *Archeo-Nil* 24 (2014): 59–92, without, however, explaining why the POT hieroglyph alone should represent *Thn.w*. Arguments and/or evidence would be required.

<sup>67</sup> Ludwig D. Morenz, “Gegner des Nar-mer aus Papyrus-Land: NW und W<sup>1</sup>-š,” *Göttinger Miszellen* 189 (2002): 81–88, here 83–84.

<sup>68</sup> Antonio Loprieno, *Topos und Mimesis: Zum Ausländer in der ägyptischen Literatur*, *Ägyptologische Abhandlungen* 48 (Wiesbaden: Harrasowitz, 1988): 1–59.

over of tribute, which latter is solely represented by the semogram . So this notation in strongly pictorial script can be read as follows:

- a) Nar-meher smites the Papyrus Land ( $[t^3-]mḥw$ )
- b) Tribute ( $jnw$ ) of the Papyrus Land ( $[t^3-]mḥw$ ).

The 1st dynasty MacGregor plaque, on the other hand, shows a stronger medial separation of image and writing. It, too, however, proclaims both submission and the tributes that result from it. In the case of king De(we)n – who wore the additional sobriquet “the foreigner” (in the sense of “conqueror of foreigners,” compare the similar naming pattern in Roman history, e.g. *Germanicus*) – we can establish a more specific connection to a campaign of his in the Sinai mentioned in other sources (see above). This is, then, presumably a concrete representation of the royal jackal standard driven into the desert soil to symbolize the claim to rule after the “First occasion: smiting the East” (to quote the annalistic caption<sup>69</sup>): a representation of Egypt’s territorial claim. The quality of both image and layout – in contrast to other contemporary tablets such as those of the high official Hema-ka – may be related to the fact that this is a royal tablet.

The new reading presented here may also allow for a more specific interpretation of the reverse of this tablet, which shows a pair of sandals. We may recall the royal epithet “useful *sandal* against the foreign country” ( $(tb.t \textit{ḥ}r \textit{ḥ}’s.t)$ )<sup>70</sup> attested from the 2nd Dynasty, as well as the royal ideological conception of the enemies under the soles of Pharaoh, attested over thousands of years.<sup>71</sup> This ivory tablet may have designated specific royal victory sandals, which in turn corresponds well with the smiting scene on the obverse. This word  $nḥb$ , written with the visually potent hieroglyph YOKE, primarily implies coercion in a very direct way; this was probably why it was used to refer to foreigners who were subjugated by the Egyptians (and in the Egyptian ideological conception of history, specifically by the pharaoh).

The claim to the sovereign potential of violence applied both internally and externally. In the formative phase of the Egyptian territorial state in the late fourth and early third millennia, it even led to the development of specialist deities: the god Sopdu as the sacral embodiment of sovereign punitive power towards the outside world (Fig. 14), and the goddess Mafdet as the sacral embodiment of sovereign

<sup>69</sup> For an overview of the Egyptian annalistic tradition see Donald Bruce Redford, *Pharaonic King-lists, Annals and Day-books: A Contribution to the Study of the Egyptian Sense of History*, SSEA publication 4 (Mississauga: Benben, 1986).

<sup>70</sup> Relief of Kha-sekhemui at Hierakonpolis, Cairo JE 33895, Godron, *Etudes sur l’Horus*.

<sup>71</sup> Gerhard Rühlmann, “‘Deine Feinde fallen unter deine Sohlen.’ Bemerkungen zu einem altorientalischen Machtsymbol,” *Wissenschaftliche Zeitschrift der Martin-Luther-Universität Halle-Wittenberg. Gesellschafts- und Sprachwissenschaftliche Reihe* 20, no. 2 (1971): 61–84.



Fig. 14: The god Sopdu, depiction on a 1st Dynasty ivory tablet. Photograph by David Sabel.

punitive power within the realm (Fig. 15).<sup>72</sup> This is expressed iconographically in the case of Sopdu by his image attribute spear (the god’s name *spd.w* means “the sharp one”);<sup>73</sup> in the case of Mafdet (the name of the goddess should be read as the composite “Clawing Lioness”<sup>74</sup>) is the pictorial attribute of the crook used to execute criminals (in Egyptian: *šms*),<sup>75</sup> which is being climbed by the large cat.

The sovereign’s monopoly on violence played a substantial role in early Egyptian royal ideology, and it was given a specifically sacral sanction. In Sopdu and Mafdet there were even specific functional deities conceived for this purpose and given a special iconographic design. We know of a hieroglyph not only for the simple yoke, but also for the yoke with a side fastening – although the latter was extremely rarely used and apparently did not become part of the iconographic tradition – especially in the Early Dynastic seal inscription (Fig. 16).

The group of signs (Fig. 17) has a strong figurative effect and is highly expressive and ironically charged: on the one hand the royal palace/temple (a tent-like

72 Morenz, *Kultur- und mediengeschichtliche Essays*: 307–32 (Mafdet und Sopdu. Die Prägung neuer Göttergestalten im theopolitischen Diskurs der frühdynastischen Zeit).

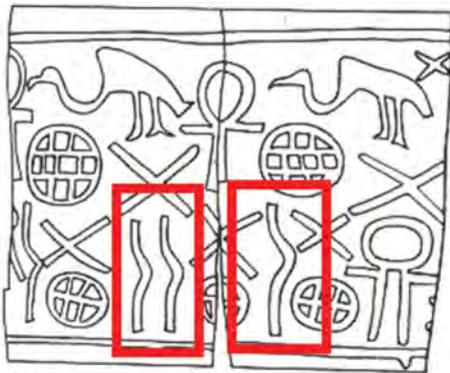
73 Morenz, *Kultur- und mediengeschichtliche Essays*: 318–24.

74 Frank Kammerzell, *Panther, Löwe und Sprachentwicklung im Neolithikum. Bemerkungen zur Etymologie des ägyptischen Theonyms M3fd.t, zur Bildung einiger Raubtiernamen im Ägyptischen und zu einzelnen Großkatzenbezeichnungen indoeuropäischer Sprachen* (Göttingen: Seminar für Ägyptologie und Koptologie, 1994): 17–37.

75 For Mafdet’s iconography see most recently Ludwig D. Morenz, *Vom Kennen und Können: Zur Mentalitäts- und Mediengeschichte des Mittleren Reiches im Horizont von Abydos*, *Thot. Beiträge zur historischen Epistemologie und Medienarchäologie* 5 (Berlin: EB-Verlag, 2020): 137–39.

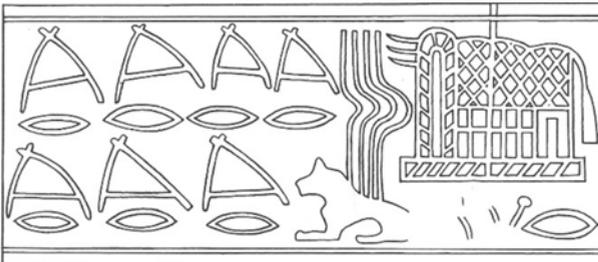


**Fig. 15:** The goddess Mafdet, inscription in high relief on a 1st Dynasty alabaster jar from Abydos (Petrie, *The Royal Tombs of The Earliest Dynasties*: pl. 7).



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**Fig. 16:** Seal inscription IÄF III, 1963, fig. 40 (Kaplony, *Die Inschriften der ägyptischen Frühzeit*: Tab. 20).



**Fig. 17:** Combination of the motifs royal palace/temple + LION/LIONESS+YOKES (Kaplony, *Die Inschriften der ägyptischen Frühzeit*: Tab. 41).

construction of mats and wood) and on the other the sovereign's potential force in the collection of taxes.

The YOKES can be explained as instruments for punishing and/or threatening to bind those who had to pay tax,<sup>76</sup> as shown in the relief from Gebel Sheikh Suleiman in correspondence with the hieroglyphic inscription (Fig. 7a). In structural terms, this parallels the depictions (younger by several centuries) of tax collection accompanied by floggings and also specifically men being tied to a pillory or shaming post,<sup>77</sup> such as those known in elite tombs from the Old Kingdom onwards.<sup>78</sup> The group of signs under discussion seems to designate the royal tax authority specifically of the 1st Dynasty, although we have no more evidence for this way of writing after the 1st Dynasty. So the grouping PALACE/TEMPLE and LION/LIONESS with YOKES is not simply the title of an official, but rather the institution of tax collecting *in the king's name*<sup>79</sup> specifically of the 1st Dynasty.

Observed closely, this pictorial script allows and grants us certain insights into the social mechanisms of this royally-oriented administration from the very beginnings of the Egyptian territorial state, five long millennia ago. In the process, we become aware of a structural violence that explodes any naïve admiration of progress, whether in the field of state organization or of media development; wholly in keeping with the seventh thesis in Walter Benjamin's *Über den Begriff der Geschichte* (1942):

Denn was er an Kulturgütern erblickt, das ist ihm samt und sonders von einer Abkunft, die er nicht ohne Grauen bedenken kann. Es dankt sein Dasein nicht nur der Mühe der großen Genien, sondern auch der namenlosen Fron ihrer Zeitgenossen. Es ist niemals ein Dokument der Kultur ohne zugleich ein solches der Barbarei zu sein.<sup>80</sup>

For what he surveys as the cultural heritage is part and parcel of a lineage which he cannot contemplate without horror. It owes its existence not only to the toil of the great geniuses, who created it, but also to the nameless drudgery of its contemporaries. There has never been a document of culture, which is not simultaneously one of barbarism.<sup>81</sup>

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**76** Renate Müller-Wollermann, *Vergehen und Strafen. zur Sanktionierung abweichenden Verhaltens im alten Ägypten*, Probleme der Ägyptologie 21 (Leiden: Brill, 2004).

**77** A scene such as in the Mastaba of Khenti-ka, see Thomas Garnet Henry James, *The Mastaba of Khentika Called Ikhekhi: Archaeological Survey of Egypt* (London: Egypt Exploration Society, 1953): 45, pl. 9.

**78** Müller-Wollermann, *Vergehen und Strafen*.

**79** The composite hieroglyph LION/LIONESS + YOKE is attested only in the 1st Dynasty, and then again with Hesi-Re in the 3rd Dynasty (Morenz, *Supplementärer Sinnüberschuß*: 23–66). Was it perhaps taken up in an archaizing way and reinterpreted as an official title? In parallel to the title “Great one of the royal scribes” in the case of Hesi-Re we might think of something like, “Great one of the \*royal administration” or the like.

**80** Walter Benjamin, *Über den Begriff der Geschichte* (1942).

**81** Walter Benjamin, “On the Concept of History,” in *Illuminations*, ed. Walter Benjamin and Hannah Arendt, translated by Harry Zohn (New York: Schocken Books, 1969): 392.

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Winfried Schmitz

# Dependent Rural Populations in Archaic and Classical Greece: Free, Slave, or Between Free and Slave?

In the twelfth book of his *Geographica*, which contains information about the kingdom of Pontus on the Black Sea, the ancient geographer Strabo (ca. 64 BC–19 AD) includes a report about the Mariandyni.<sup>1</sup> He thought them a Thracian tribe similar to the Bithynians. The Milesians had founded a city in the territory of the Mariandyni which they called Heracleia,<sup>2</sup> and they forced the Mariandyni, whose land this had been, into bondage: a state Strabo describes with the term *heilōteúein*, a type of dependency similar to that endured by the helots of Sparta. Mariandyni could be sold (*pipráskesthai*), but they had come to an agreement with the Heracleians that they could not be sold outside the territory.<sup>3</sup> Strabo does not explicitly tell us that the Heracleians had conquered inland Mariandyni territory in military campaigns from their own coastal base, but it seems reasonable to assume that this is what happened. At that time, i.e. in the seventh or sixth century BC, it was usual for the conquerors of a city to kill the men of fighting age and to sell the women and children into slavery. However, in the case of the Mariandyni, the Heracleians chose a different path: the Mariandyni could continue to live in their houses and villages and to farm the land; but they had to live in a state of dependency and pay certain tributes to their new masters. Unlike regular captives in war, they could not be sold beyond their erstwhile territory; but since it was possible to sell them within the

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1 For the Mariandyni and their area of settlement see David Asheri, *Über die Frühgeschichte von Heracleia Pontike*, Forschungen an der Nordküste Kleinasien 1 (Vienna: Verlag der Österreichischen Akademie der Wissenschaften, 1972): 18–19; Stanley M. Burstein, *Outpost of Hellenism: The Emergence of Heraclea* (Berkeley: University of California Press, 1976): 6–11.

2 However, Burstein, *Outpost of Hellenism*: 13–15 is skeptical of the historicity of this account.

3 Strab. 12.3.4–542 C: Θεόπομπος δὲ Μαριανδυνόν φησι μέρους τῆς Παφλαγονίας ἄρξαντα ὑπὸ πολλῶν δυναστευομένης, ἐπελθόντα τὴν τῶν Βεβρῦκων κατασχεῖν, ἣν δ' ἐξέλιπεν ἐπώνυμον ἑαυτοῦ καταλιπεῖν. εἴρηται δὲ καὶ τοῦτο ὅτι πρῶτοι τὴν Ἡράκλειαν κτίσαντες Μιλήσιοι τοὺς Μαριανδυνοὺς εἰλωτεύειν ἠνάγκασαν τοὺς προκατέχοντας τὸν τόπον, ὥστε καὶ πιπράσκεσθαι ὑπ' αὐτῶν, μὴ εἰς τὴν ὑπερορίαν δέ (συμβῆναι γὰρ ἐπὶ τούτοις), καθάπερ Κρησι μὲν ἐθήτευεν ἡ Μινῶα καλουμένη σῦνδος, Θετταλοῖς δὲ οἱ Πενέσται.

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**Note:** My thanks go to Imogen Herrad for the English translation of my text. The translations of the Cretan inscriptions have been lightly adapted from those of Michael Gagarin and Paula Perlman (*The Laws of Ancient Crete c. 650–400 BCE* [Oxford: Oxford University Press, 2016]). All other translations from the ancient Greek have been taken from the Loeb edition unless otherwise stated.

boundaries, we may assume that they were given to individual Heracleians whose property or dependents they became.<sup>4</sup>

The enserfed Mariandyni had to pay tributes (probably in kind). They are euphemistically referred to as “bringers of gifts” (*dōrophóroi*) by the third-century BC epic poet Euphoriion and the second-century BC grammarian Callistratus.<sup>5</sup> Strabo describes the dependency of the Mariandyni with a term derived from the helots of Sparta, *heilōteúein*, and mentions the restriction on the right to sell them. The late-second/early-first century BC Stoic philosopher Poseidonius also sidestepped the issue of slavery. In the eleventh book of his *Histories* he wrote:

[M]any people who are unable to care for themselves because of their intellectual deficiencies surrender themselves into the service (*hypēresía*) of more intelligent individuals, so that they can get the necessities of life from their masters and can in turn repay them with whatever services they are capable of rendering (*hypēreteín*). This is how the Mariandyni became subject to the Heracleians, by promising to be their servants (*thēteúein*) forever, provided the Heracleians supplied them with what they needed and, adding as a further condition a ban on the selling (*prásis*) of them outside of Heracleian territory: it would only be allowed in their own country (*chōra*).<sup>6</sup>

The assertion that someone of weak intellect should choose to put himself in bondage to a wiser person to obtain the necessities of life echoes very strongly Aristotle’s concept of the “natural slave” – especially as in this case the “wise” are the Heracleians, who are Greek, while the mentally lacking Mariandyni are “barbarians.”<sup>7</sup>

4 Strabo (12.3.6–542 C) tells us that Heracleia had risen to become an important city – probably thanks to the subjugation of the Mariandyni. *Apoikíai*, colonies, were founded by the Heracleians in Tauric Chersonesus and Callatis. Strabo also tells us that the city had good harbours (πόλις εὐλίμενος).

5 Callistratus FgrH 348 F4 (the fragments are preserved in Athen. 6.84, p. 263d–e; see n. 8 below).

6 Athen. 6.84 (p. 263c–d): Ποσειδώνιος (FgrH 87 F8) δέ φησιν ὁ ἀπὸ τῆς Στοᾶς ἐν τῇ τῶν Ἱστοριῶν ἐνδεκάτῃ· ‘πολλοὺς τινὰς ἑαυτῶν οὐ δυναμένους προίστασθαι διὰ τὸ τῆς διανοίας ἀσθενὲς ἐπιδοῦναι ἑαυτοὺς εἰς τὴν τῶν συνετατέρων ὑπηρεσίαν, ὅπως παρ’ ἐκείνων τυγχάνοντες τῆς εἰς τὰ ἀναγκαῖα ἐπιμελείας αὐτοὶ πάλιν ἀποδιδῶσιν ἐκείνοις δι’ αὐτῶν ἅπερ ἂν ᾧσιν ὑπηρετεῖν δυνατοί. καὶ τοῦτω τῷ τρόπῳ Μαρριανδυνοὶ μὲν Ἡρακλεώταις ὑπετάγησαν, διὰ τέλους ὑποσχόμενοι θητεύσειν παρέχουσι αὐτοῖς τὰ δέοντα, προσδιαστειλάμενοι μηδενὸς αὐτῶν ἔσεσθαι πρᾶσιν ἔξω τῆς Ἡρακλεωτῶν χώρας, ἀλλ’ ἐν αὐτῇ μόνον τῇ ἰδίᾳ χώρᾳ.’ Strabo also uses the verb *thēteúein* for the dependent labour performed by the *mnōtai* in Crete and the *penēstai* in Thessaly, which indicates that he assimilates their activities to those of the *thetes*, members of the free rural poor who sold their labour for a year at a time as hired workers in archaic Greece (Strab. 12.3.4–542 C; see n. 3 above). For *thēteúein* and dependent labour on an annual basis see Hom. Il. 21.441–57 (cf. Agatharchides F 7 Woelk; Phot. Bibl. p. 442.29b–444.19b); Od. 11.489–90; 18.357–64; Hes. erg. 600–608; Hdt. 8.137; Eur. Alc. 1–9; Aristot. rhet. 1.9.26–27; Timaeus FgrH 566 F11 (= Athen. 6.86, p. 264c–d), with literature.

7 For a detailed discussion of Aristotle’s concept of the “natural slave” see Eckart Schütrumpf, “Aristoteles,” in *Handwörterbuch der antiken Sklaverei*, vol. 1, ed. Heinz Heinen (Stuttgart: Steiner, 2017): 180–208.

Poseidonius' explanation doubtlessly serves to legitimize slavery, as does the euphemistic label “bringers of gifts.”<sup>8</sup> But were the Mariandyni slaves? Our knowledge about this one dependent group in the region of Heracleia is too small to definitively answer this question.<sup>9</sup> Later authors, who looked upon them in hindsight, saw them as slaves, albeit under a very particular set of conditions.<sup>10</sup>

Strabo tells us that the Mariandyni had been “forced [. . .] to serve as helots, so that they could be sold, but not beyond the boundaries of their country,” and that this special condition had also applied to the *mnoía* who served the Cretans and the *penéstai* who served the Thessalians.<sup>11</sup> There is additional proof for the fact that the existence of this specific type of dependents was also reflected in the terminology of different parts of Greece. Callistratus wrote that the Spartans had used the term *helots* in order to avoid “the sting of the word ‘slaves’”; just as the Thessalians spoke of *penéstai* and the Cretans of *klarótai*.<sup>12</sup> Callistratus then further distinguishes between Crete's “urban slaves” (οἰκέται κατὰ πόλιν), who were called *chrysónētoi* (“bought for

**8** Athenaeus quotes a line from Euphorion (fr. 73 M.), δωροφόροι καλειοῖσθ' ὑποφρίσσοντες ἄνακτας – “Let them be referred to as gift-bearers, shuddering before their masters.” The legitimizing intent is also obvious in the claim that allegedly the Mariandyni *surrendered themselves* to the Heracleians and *promised* to be their servants in perpetuity.

**9** For the history of Heracleia and the Mariandyni see Burstein, *Outpost of Hellenism* and Alexandru Avram, “Bemerkungen zu den Mariandyni von Herakleia am Pontos,” *Studii Clasice* 22 (1984): 19–28 (with a discussion of earlier literature, including Russian texts); Angela Bittner, *Eine Polis zwischen Tyrannis und Selbstverwaltung: Gesellschaft und Wirtschaft in Herakleia* (Bonn: Habelt, 1998); Sergei J. Saprykin, *Heracleia Pontica and Tauric Chersonesus before Roman Domination IV. –I. c. B.C.* (Amsterdam: A.M. Hakkert, 1996); Annalisa Paradiso, “Sur la servitude volontaire des Mariandyniens d'Héraclée du Pont,” in *Fear of Slaves, Fear of Enslavement in the Ancient Mediterranean*, ed. Anastasia Serghidou (Besançon: Presses Universitaires de Franche-Comté, 2007): 23–33; cf. Adrian Robu, *Mégare et les établissements mégariens de Sicile, de la Propontide et du Pont-Euxin: histoire et institutions* (Bern: Peter Lang, 2014).

**10** Avram, “Bemerkungen zu den Mariandyni”: 21. He comes to the (to my mind problematic) conclusion that there were two categories of Mariandyni: those of low status who, like the helots of Sparta, were virtually identical to slaves; and those who had certain rights, were called *perioikoi* and could potentially rise to become full citizens (26–28).

**11** See n. 3 above. For the *penéstai* in Thessaly see Detlev Lotze, *Μεταξύ ἐλευθέρων καὶ δούλων. Studien zur Rechtsstellung unfreier Landbevölkerung in Griechenland bis zum 4. Jh. v. Chr.* (Berlin: Akademie, 1959); Stefan Link, *Landverteilung und sozialer Frieden im archaischen Griechenland* (Stuttgart: Steiner, 1991): 151–57; Jean Ducat, *Les Pénestes de Thessalie* (Paris: Presses Universitaires de Franche-Comté, 1994); Karl-Wilhelm Welwei, “Neuere Forschungen zur Rechtsstellung der Penesten,” in *Antike Lebenswelten. Konstanz – Wandel – Wirkungsmacht. Festschrift für Ingomar Weiler zum 70. Geburtstag*, ed. Peter Mauritsch et al. (Wiesbaden: Harrassowitz Verlag, 2008): 393–411; Peter Mauritsch, “Penesten,” in *Handwörterbuch der antiken Sklaverei*, vol. 2, ed. Heinz Heinen (Stuttgart: Steiner, 2017): 2181–84.

**12** Callistratus FgrH 348 F4 (apud Athen. 6.84, p. 263e–f): λέγει δὲ καὶ Καλλίστρατος ὁ Ἀριστοφάνειος, ὅτι τοὺς Μαριανδυνοὺς ὠνόμαζον μὲν δωροφόρους ἀφαιροῦντες τὸ πικρὸν τῆς [ἀπὸ] τῶν οἰκετῶν προσηγορίας, καθάπερ Σπαρτιάται μὲν ἐποίησαν ἐπὶ τῶν εἰλώτων, Θετταλοὶ δ' ἐπὶ τῶν πενεστῶν, Κρήτες δ' ἐπὶ τῶν κλαρωτῶν.

gold” or “for money”), and “rural slaves” (κατ’ ἀγρόν) who were locals (ἐγχώριοι) and had been enslaved in war (δουλωθέντες κατὰ πόλεμον), and who were called *a(m)phamiōtai*. These were also called *klarōtai* because they were “allotted,” i.e. because lots had been drawn for them.<sup>13</sup> So our sources – ancient, if not contemporaneous with the conditions they describe – are in agreement that these particular forms of dependency, where the defeated could stay in their own land as a rural subject population under new rulers, had come about through war.<sup>14</sup> They farmed the estates and were obliged to pay tribute. The new masters had estates (*klároi*) assigned or allocated to them, complete with the workers on the land. As an institution, this slave collective was called *mnoía*; the “allocates” to individual citizens were called *klarōtai* or *a(m)phamiōtai*.<sup>15</sup> This last term derives either from *aphamía*, “infamy,” or from *apamía*, the term for peripheral land.<sup>16</sup> In addition, there were probably some chattel slaves who had been

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**13** Athen. 6.84 p. 263e–f: καλοῦσι δὲ οἱ Κρήτες τοὺς μὲν κατὰ πόλιν οἰκέτας χρυσωνήτους, ἀμφραμιώτας δὲ τοὺς κατ’ ἀγρόν ἐγχωρίους μὲν ὄντας, δουλωθέντας δὲ κατὰ πόλεμον· διὰ τὸ κληρωθῆναι δὲ κλαρώτας. Athen. 6.93, p. 267c (similarly in the epitomes): Ἀμερίας δὲ ἐρκίτας φησὶ καλεῖσθαι τοὺς κατὰ τοὺς ἀγρούς οἰκέτας. Ἑρμων δὲ ἐν Κρητικαῖς Γλωτταῖς μνώτας τοὺς εὐγενεῖς οἰκέτας. – “Amerias says that slaves (*oikétai*) who work in the fields are referred to as *herkítai*; Hermon in the *Cretan Vocabulary* says that indigenous slaves (*oikétai*) are referred to as *mnōtai*.” Eustathius, drawing on the work of Athenaeus, which is preserved in Comm. ad Il. 15.431 (p. 752), writes: Ἦσαν δὲ ἄλλως δουλικαὶ λέξεις ἐν Κρήτῃ μὲν οἱ κλαρώται διὰ τὸ κληρωθῆναι, ἔτι δὲ οἰκέται μὲν οἱ κατὰ πόλιν χρυσωνήτοι, ἀμφραμιώται δὲ οἱ κατὰ ἀγρόν ἰδίᾳ δοῦλοι. ἐκάλουν δὲ, φασὶ, Κρήτες καὶ μνοίαν τὴν κοινὴν δουλίαν, καὶ μνώτας τοὺς ἐγγενεῖς οἰκέτας. – “There were other words for slaves (*doulikai léxeis*) in Crete, the *klarōtai* [who were so named] for having been appointed by lot, also *oikétai* for those who had been bought for gold (*chrysónētoi*) in the city, and *amphamiōtai* for those slaves (*doúloi*) in the country [who had been allocated] privately; he says the Cretans also called public slavery (*koiné douλία*) *mnoía*, and native slaves (*oikétai*) *mnōtai*” (my own translation). For *a(m)phamiōtai* see also Strab. 15.1.34 (= Onesikrates FgrH 134 F24).

**14** For the Mariandyni see Strab. 12.3.4 (see also above n. 3); for the Cretan *a(m)phamiōtai* see Callistratus apud Athen. 6.84 (see above n. 12).

**15** The terms *woikeús* and *woikéa* are only attested in Cretan inscriptions (Michael Gagarin, “Slaves and Serfs at Gortyn,” *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte* 127 (2010): 14–31, here 16).

**16** Hesych. α 8548 s.v. ἀφραμιώται· οἰκέται ἀγροῖκοι, περίοικοι. For the *aphamiōtai* and a possible epigraphic attestation, see Gagarin, “Slaves and Serfs at Gortyn”: 15, n. 1; Hans-Joachim Gehrke, “Gewalt und Gesetz: Die soziale und politische Ordnung Kretas in der Archaischen und Klassischen Zeit,” *Klio* 79 (1997): 23–68, 26, n. 10 follows Henri van Effenterre, who states that *apamía* is “eine lokale Bezeichnung für Land-, insbesondere Grenzgebiet.” (Henri van Effenterre, “Terminologie et formes de dépendence en Crète,” in *Rayonnement grec. Hommages à Charles Delvoy*, ed. Lydie Hadermann-Misguich and Georges Raepsaet (Brussels: Editions de l’Université de Bruxelles, 1982): 35–44, here 38–41; Paula Perlman, “Tinker, Tailor, Soldier, Sailor. The Economies of Archaic Eleutherna, Crete,” *Classical Antiquity* 23 (2004): 95–137, here 103). According to Angelos Chaniotis, *mnoítai* were public slaves who work communal land, while *aphamiōtai* were the unfree peasants who farmed the *aphamía*, land on the periphery of the *pólis* territory. In this model, citizens reclaimed marginal, less fertile land near the border, took possession of it and had it worked by slaves (Angelos Chaniotis, *Das antike Kreta* [Munich: Beck, 2004]: 76).

bought, and as such were their masters' personal property (the so-called "urban slaves," οἰκέται κατὰ πόλιν, or *chrysōnētoi*).<sup>17</sup>

David M. Lewis argues in his 2018 work, *Greek Slave Systems in their Eastern Mediterranean Context, c. 800–146 BC*, that the dependent populations of Crete, Sparta and Thessaly should not be described as serfs. He sees instead compelling reasons for classifying *klarōtai*, helots and *penéstai* as "privately owned slaves," and believes that ancient Sparta should therefore be considered an extreme example of a "slave society." In his view none of the three groups had any rights, including that of owning property. By arguing that helots, *penéstai* and *klarōtai* were not tied to the soil and had not been allotted to the citizens (who thereby received a share of the usufruct of their work on the land), and that they were instead owned by individual masters and could be sold, David Lewis positions himself in direct opposition to Moses I. Finley, who had regarded this form of dependency as singularly positioned between freedom and slavery. Helots, *penéstai* and *klarōtai* could only be termed "serfs" if they had been inalienable from the point of view of private citizens because they belonged to the *pólis*, and tied to the individual plot of land – a point refuted by David Lewis.<sup>18</sup> Instead, Lewis believes that literary and epigraphical sources provide

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17 There is extensive debate among scholars whether *woikeís*, *klarōtai*, *aphamiōtai*, *mnōtaí*, *dóloi* and *chrysōnētoi* were different or identical unfree groups, and the ways in which their legal or social status may have differed. Lotze, *Μεταξὺ ἐλευθέρων καὶ δούλων*; Detlef Lotze, "Zu den φοικέες von Gortyn," *Klio* 40 (1962): 32–43; Fritz Gschnitzer, *Studien zur griechischen Terminologie der Sklaverei*, vol. 2, Forschungen zur antiken Sklaverei 7 (Wiesbaden: Steiner, 1976): 75–82; Claude Mossé, "Le problème des dépendants paysans dans le monde grec," in *Actes du colloque sur l'esclavage (Nieborów 2–6 XII 1975)*, ed. Iza Biežuńska-Małowist and Jerzy Kolendo (Warsaw: Wydawnictwo Uniwersytetu Warszawskiego, 1979): 57–64; Yvon Garlan, *Les esclaves en Grèce ancienne* (Paris: La Découverte, 1982): 99–133; Reinhard Koerner, *Inschriftliche Gesetzestexte der frühen griechischen Polis* (Cologne: Böhlau, 1993); Alberto Maffi, *Il diritto di famiglia nel Codice di Gortina* (Milan: CUEM, 1997): 120–21; Claude Brixhe (with Monique Bile), "La circulation des biens dans les Lois de Gortyne," in *Des dialectes grecs aux lois de Gortyne*, ed. Catherine Dobias-Lalou (Nancy: de Boccard, 1999): 75–116, here 93–97; Stefan Link, "'Dolos' und 'Woikeus' im Recht von Gortyn," *Dike* 4 (2001): 87–112; David M. Lewis, *Greek Slave Systems in their Eastern Mediterranean Context, c. 800–146 BC* (Oxford: Oxford University Press, 2018): 150–53.

18 David Lewis, "Slave Marriage in the Laws of Gortyn: A Matter of Rights?," *Historia* 62 (2013): 390–416, 394. Stefan Link (*Das griechische Kreta. Untersuchungen zu seiner staatlichen und gesellschaftlichen Entwicklung vom 6. bis zum 4. Jahrhundert v. Chr.* (Stuttgart: Steiner, 1994): 31–44) similarly disputed that *woikeís* were inalienable and that they had a right to property and to marriage. He believes that legally, there were only quasi-institutions akin to the Roman *peculium* and *contubernium*, respectively. But Edmond Lévy ("Libres et non-libres dans le code de Gortyne," in *Esclavage, guerre, économie en Grèce ancienne*, ed. Pierre Brulé and Jacques Oulhen (Rennes: Presses universitaires de Rennes, 1997): 25–41, here 32–40), believes that *woikées* could not be sold and had (albeit limited) property rights and marriages that were legally recognized; as does Paul Cartledge (*Sparta and Laconia. A Regional History 1300–362 BC* (London: Routledge & Kegan Paul, 1979): 164–65; Cartledge, "Raising Hell? The Helot Mirage – a Personal Review," in *Helots and their Masters in Laconia and Messenia. Histories, Ideologies, Structures*, ed. Nino Luraghi and Susan

proof that Laconic helots and Cretan *klarôtai* were private property, with the only restriction that they could not be sold beyond the borders.<sup>19</sup> This ban on selling *beyond* the borders implied the right to sell them *within*, i.e. to other citizens.<sup>20</sup> Lewis sees the ban on manumitting and selling abroad Mariandyni, helots or *klarôtai* as a restriction of the otherwise unimpeded property rights of slave owners. He draws a parallel to classical Athens where in emergencies the authorities could legally manumit slaves who served as combatants in the army or the fleet – even without their masters’ consent.<sup>21</sup> The reported agreement between Heracleians and Mariandyni he regards as an “obviously apocryphal ‘contract of servitude’.” Instead, Lewis prefers to interpret such “‘contract’ stories as charter myths that seek to account for the origins of genuine historical bans on sale.”<sup>22</sup> Such treaties between victors and vanquished are in fact more likely to have been a voluntary commitment by the citizens of Heracleia (or of Sparta) not to sell off or manumit any Mariandyni (or helots) and to allow only the *pólis* authorities to effect manumissions.<sup>23</sup> Even so, I do not agree that the property rights of masters over dependents were as clear-cut as David Lewis claims.

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Alcock (London: Harvard University Press, 2003): 12–30; Cartledge, “The Helots: A Contemporary Review,” in *The Cambridge World History of Slavery*, vol. 1, *The Ancient Mediterranean World*, ed. Keith Bradley and Paul Cartledge (Cambridge: Cambridge University Press, 2009): 74–90. For marriage law see Lotze, *Μεταξύ ἐλευθέρων καὶ δούλων*: 20–25 and Maffi, *Il diritto di famiglia nel Codice di Gortina*: 139–47.

**19** Lewis, “Slave Marriage”: 395: “Helotage was a system of private slavery” and, “the Gortynian laws make it clear that slaves could be privately sold.” Jean Ducat, *Les Hilotes* (Paris: de Boccard, 1990): 19–29 and Nino Luraghi, “Helotic slavery reconsidered,” in *Sparta: Beyond the Mirage*, ed. Anton Powell (London: Duckworth, 2002): 227–48, here 228–33 also argue that slaves were privately owned.

**20** Ephorus FgrH 70 F117 (πωλεῖν). For *penestai* and Mariandyni see Poseidonius FgrH 87 F8 (see above n. 6) and Archemachus FgrH 424 F1 (see below n. 23).

**21** For slaves serving in the army and navy, and being manumitted before or subsequent to serving, see Peter Hunt, *Slaves, Warfare and Ideology in the Greek Historians* (Cambridge: Cambridge University Press, 1998); Brian Bertosa, “The Social Status and Ethnic Origin of the Rowers of Spartan Triremes,” *War and Society* 23 (2005): 1–20; Melina Tamiolaki, *Liberté et esclavage chez les historiens grecs classiques. Le discours historique et politique d’Hérodote, Thucydide et Xénophon* (Paris: Presses de l’Université Paris-Sorbonne, 2010); Karl-Wilhelm Welwei, “Militärdienst,” in *Handwörterbuch der antiken Sklaverei*, vol. 2, ed. Heinz Heinen (Stuttgart: Steiner 2017): 1940–49.

**22** Lewis, *Greek Slave Systems*: 138.

**23** Ephorus (apud Strab. 8.5.4–365 C) calls the helots δούλοι ἐπὶ τακτοῖς τισιν, “slaves in a way” (who could neither be set free nor sold outside the borders of the country, μήτ’ ἐλευθεροῦν μήτε πωλεῖν). Perhaps more plausible is the mutual arrangement in which the Boeotians were reported to have agreed to submit to the Thessalians. Archemachus relates that a number of the Boeotians who had settled near Arne did not return to Boeotia, but preferred to stay (presumably despite the conquest of the area by the Thessalians). They entered into voluntary dependency on the Thessalians (*douleúein*) “by agreement (*homología*), to be their slaves; on condition that they should not take them out of the country (*chóra*), nor put them to death, but that they should cultivate the country for them, and pay them a yearly revenue (*syntáxeis*) for it.” Archemachus even goes on to claim that “many of them are richer than their masters.” (FgrH 424 F1; Athen. 6.84, p. 263e–264a).

I would like to look at three aspects to illustrate my view that Mariandyni, *pe-néstai*, helots and *klarótai* were dependent rural populations whose living conditions and form of life were fundamentally different from the slavery practised in classical Athens and many other Greek cities.

## 1 The Law on Marriage in Ancient Crete

Numerous law texts survive in inscriptions from ancient Crete, beginning in the mid-seventh and extending into the fifth century. The best known is the so-called Great Code of Gortyn, which is today on display in the Roman Odeion at the archaeological site of Gortyn. The Code lists a large number of laws in twelve columns. The first column covers status and slave ownership, continuing in the second with comprehensive rules about rape and adultery:

If someone rapes a free man (*eleútheros*) or woman (*eleuthéra*), he will pay a hundred staters [200 drachmas] [. . .] If a slave (*dólos*) [rapes] a free man or woman, he will pay double. If a free man [rapes] a *woikeús* or *woikéa*, [he will pay] five drachmas. And if a *woikeús* [rapes] a *woikeús* or *woikéa*, five staters [= 10 drachmas].<sup>24</sup>

On adultery, the Code states:

If someone is caught committing adultery (*moikiōn*) with a free woman (*eleuthéra*) in her father's or brother's or husband's [house], he will pay a hundred staters. And if in someone else's house, fifty. [. . .] And if a slave (*dólos*) with a free woman (*eleuthéra*), [he will pay] double. *vacat* And if a slave (*dólos*) with a slave's (*dólos*) [woman], five [staters]. Let [the captor] declare before three witnesses to the relatives (*kadestai*) of the one who is caught that he is to be ransomed within five days. *vacat* And to the master (*pástas*) of the slave (*dólos*) before two witnesses.<sup>25</sup>

What is interesting here is the use of the terms *woikeús* and *woikéa* alongside *dólos* and *dóla*. The question of whether *woikeús* and *dóloi* were two different unfree groups or whether the terms may be used synonymously has been long and hotly

<sup>24</sup> ICret IV 72 col. 2.2–10: *vac.* αἴ κα τὸν ἐλεύθερον ἔ τὰν ἐλευθέραν κάρτει οἴπει, ἑκατὸν στατέρων καταστασεῖ [. . .] αἴ δέ κ' ὁ δόλος τὸν ἐλεύθερον ἔ τὰν ἐλευθέραν, διπλεῖ καταστασεῖ· αἴ δέ κ' ἐλεύθερος φοικέα ἔ φοικέαν, πέντε δαρκνάνς· αἴ δέ κα φοικεύς φοικέα ἔ φοικέαν, π[έν]τε στατέρων. *vac.* See Gagarin and Perlman, *The Laws of Ancient Crete*: 345–50, who translate *woikeús* as “serf”: “[I]n this section, in particular, the terms appear to be legally interchangeable, but that would not mean they are synonyms” (348). Brixhe with Bile, “La circulation des biens”: 75, n. 2 place the stress on the first syllable: *woikea*.

<sup>25</sup> ICret IV 72 col. 2.20–33: *vac.* αἴ κα τὰν ἐλευθέραν μοικίον αἰλεθεῖ ἐν πατρός ἔ ἐν ἀδελπιῷ ἔ ἐν τῷ ἀνδρός, ἑκατὸν στατέρων καταστασεῖ· αἴ δέ κ' ἐν ἄλο, πεντέκοντα· [. . .] αἴ δέ κ' ὁ δόλος τὰν ἐλευθέραν, διπλεῖ καταστασεῖ· *vac.* αἴ δέ κα δόλος δόλο, πέντε. προφειπάτο δὲ ἀντὶ ματύρον τριῶν τοῖς καδεσταῖς τῷ ἐναλεθέντος ἀλλύεθθαι ἐν ταῖς πέντ' ἀμέραις· *vac.* τῷ δὲ δόλο τῷ πάσαι ἀντὶ ματύρων δυὸν. *vac.*

debated among ancient historians and legal historians. Most scholars are of the opinion that the Code uses those terms interchangeably.<sup>26</sup> Only if we assume that both terms signify the same group of people does the text list all possible situations of rape and adultery in which in all possible configurations of free and unfree persons may be perpetrator or victim. But we still need to explain why a legal text – which would surely strive for semantic precision – continually switches between *woikeús/woikéa* and *dólos/dóla*. One explanation could be that this law, which was written down in or at the beginning of the first half of the fifth century, takes into account earlier legal texts in which the dependents of a master (*pástas*) were called *woikeús* and *woikéa*; while the later, more comprehensive, redaction employed the terms *dólos* and *dóla*.<sup>27</sup> And it is in fact the case that *woikeús* is attested in earlier inscriptions, while *dóloi* is only found in later ones and then increasingly becomes the more common term. *Woikeús* and *woikéa*, on the other hand, are not attested later than in the Great Code of Gortyn.<sup>28</sup>

However, in an article published in *Zeitschrift für Rechtsgeschichte*, Michael Gagarin suggested a more subtle and convincing explanation for the different usages of *woikeús/woikéa* and *dólos/dóla*.<sup>29</sup> He posits that they are different groups. *Dólos/dóla* should be understood as the general signifier for servile status, which in some

<sup>26</sup> Link, *Das griechische Kreta*: 44–47; for the most extensive discussion see Link, “‘Dolos’ und ‘Woikeus’”: 87–112; see also Lewis, *Greek Slave Systems*: 150–53 and Lewis, “Slave Marriage”: 392–93; Maffi, *Il diritto di famiglia nel Codice di Gortina*: 120–21; Karen Rørby Kristensen, “On the Gortynian ΠΥΑΑ and ΣΤΑΠΤΟΣ of the 5th Century BC,” *Classica et Mediaevalia* 53 (2002): 65–80, here 73. For a different position see Lotze, *Μεταξὺ ἐλευθέρων καὶ δούλων*: 16–18; Lotze, “Zu den φοικέες von Gortyn”; Ronald F. Willetts, “The rights of ἐπιβάλλοντες,” *Eirene* 5 (1966): 13–16; Andreas Wittenburg, “Zum sozialen Gefüge in Kreta,” *Opus* 1 (1982): 67–74; Koerner, *Inscriptliche Gesetzestexte*: 467–70; Lévy, “Libres et non-libres”: 30–31; cf. Karl-Wilhelm Welwei, “Ursprung, Verbreitung und Formen der Unfreiheit abhängiger Landbewohner im antiken Griechenland,” in *Unfreie und abhängige Landbevölkerung*, ed. Elisabeth Herrmann-Otto (Hildesheim: Georg Olms Verlag 2008): 1–52, here 2–3.

<sup>27</sup> Lewis, *Greek Slave Systems*: 153. As a rule, Anglophone scholars tend to translate *woikeús/woikéa* as “serf,” see e.g. Gagarin and Perlman, *The Laws of Ancient Crete*: 81, n. 216: “We translate *woikeús* by ‘serf’ for convenience, without claiming an exact correspondence. Although a serf may be defined as ‘an agricultural laborer bound under the feudal system to work on his lord’s estate’ (*The New Oxford American Dictionary*), the term is often used more broadly.” Lewis disagrees with this understanding of *woikeús* as “serfs,” see Lewis, “Slave Marriage” and Lewis, *Greek Slave Systems*: 147–65.

<sup>28</sup> *Woikeús* is the more ancient term, attested in two (probably sixth-century) inscriptions as τὸ φοικῆος (Gagarin and Perlman, *The Laws of Ancient Crete*: G23 l. 3; L5 l. 14) and in ICret IV 41 col. 4.6 and the Great Code of Gortyn, but has not been found to occur later (Gagarin, “Slaves and Serfs at Gortyn”: 16; Gagarin and Perlman, *The Laws of Ancient Crete*: 81).

<sup>29</sup> Gagarin, “Slaves and Serfs at Gortyn”: 14–23, which builds on positions in Brixhe with Bile, “La circulation des biens”: 93–97 and Lévy, “Libres et non-libres”: 25–41. In a similar vein, Gagarin and Perlman, *The Laws of Ancient Crete*: 81–84.

regulations included the *woikeís*.<sup>30</sup> It depends on the context in each case, Gagarin argues, whether the law uses the more specific terms, *woikeús* and *woikéa*, or the more general ones, *dólos/dóla*. Where it is a question of legal status and the opposition and juxtaposition of free (*eleútheros/eleuthéra*) and unfree, the text employs *dólos* and *dóla*.<sup>31</sup> In these cases the *woikeís* were subsumed under the term *dóloi*, since both were unfree for legal purposes, and penalties applied equally to both.<sup>32</sup>

In the case of rape, the penalty for an unfree perpetrator was twice that for a free one, reflecting the increased loss of honor for the victim. The *law on rape* includes offences where the victim was a *woikeús* or a *woikéa*.<sup>33</sup> In the case of adultery – where, again, the perpetrator could be free (*eleútheros*) or unfree (*dólos*) – it was clear that the woman referred to, who was wife to a *dólos*, had to be a *woikéa*, as only *woikeís* could enter into marriages protected by law.<sup>34</sup>

So the law on rape and adultery uses the term *dólos* because the central issue is the contrast between “free” and “unfree,” and *woikeís* are considered “unfree”; the term *woikeús* is employed only when there is an additional need to clarify that of all the unfree, only the *woikeís* are meant. So the two laws do not contradict the assumption that in Gortyn (and in other Cretan cities) there lived two groups of unfree persons, the *woikeís* and the other slaves. But the law also shows that in the first half of the fifth century the *woikeís* could be subsumed under the term *dóloi*, that they were “unfree”: “slaves.”<sup>35</sup> Other sources (see below) also make it seem plausible that *woikeís* could enter into legally protected marriages,<sup>36</sup> and at least possible that a *woikeús* perpetrator was liable himself to pay his fine, and a *woikeús* victim liable himself to receive his compensation, rather than his master paying or receiving

**30** Gagarin, “Slaves and Serfs at Gortyn”: 15–16: “The words refer to two different kinds of slaves but in most cases the law treats both groups identically.” Detlef Lotze had previously advanced the same argument, see Lotze, “Zu den *φοικέες* von Gortyn.”

**31** Such as e.g. in ICret IV 72, col. 1, which is about status disputes. Lévy, “Libres et non-libres”: 31; Gagarin, “Slaves and Serfs at Gortyn”: 18.

**32** He concludes, “Thus, there do seem to be reasons why one term or the other is used in the laws. First, each term is used when the law applies exclusively or primarily to one group and not the other: thus, *woikeus* is used of serfs living in a town house [ . . . ], and *dolos* is used of slaves bought in the agora [ . . . ] Second, *dolos* is used whenever the law designates a servile person in general, especially in contrast with an *eleutheros* [ . . . ]” (Gagarin, “Slaves and Serfs at Gortyn”: 22). For the legal status of *woikeís* as an unfree group, see also Lewis, *Greek Slave Systems*: 165.

**33** Presumably this law did not concern itself with the rape of chattel slaves.

**34** Lévy, “Libres et non-libres”: 31: “Il est donc clair que dans la ligne 27 *doulos* désigne un *woikeus* et uniquement un *woikeus*.” See also Gagarin, “Slaves and Serfs at Gortyn”: 16–18.

**35** Lewis, “Slave Marriage”: 392–93 is then correct in arguing that *woikeís* signified an unfree population group.

**36** For marriage law in Gortyn see Lévy, “Libres et non-libres”: 39–40; Gagarin, “Slaves and Serfs at Gortyn”: 23–24; Lewis, “Slave Marriage”: 396–402. By contrast, Lewis argues that those living at the time would have known who paid or received the fine in question – the masters or the *woikeís* – so that there was no need to have this information included in the written text.

payment for him, respectively. In principle, the fines to be paid by *dóloi* perpetrators were twice as high as those by free ones, whereas a *wokeús* victim would only receive one fortieth of the compensation paid to a free victim. A clause in column 3/4 points to the legal recognition of marital ties even between *woikeís*:

If a divorced woman (γυνὰ κε[ρ]ε[ύ]ο[υ]σσα) should bear a child, [she] is to bring it to her [former] husband at his house (*stéga*) before three witnesses. [. . .] *vacat* If a divorced *woikéa* should bear a child (αἱ δὲ φοικέα τέκοι κερεύονσα), [she] is to bring it to the master (*pástas*) of her husband, who married [her] (ἐπελεῦσαι τῷ πάσται τῷ ἀνδρός, ὃς ὄπιε), in the presence of two witnesses. And if he does not accept it, the child is to be in the hands of the master of the *woikéa*. And if she should marry the same [man] again within a year, the child is to be in the hands of the master of the *woikeús*.<sup>37</sup>

So the biological mother, the *woikéa*, and the biological father, the *woikeús*, have no claim to their child: it belongs to their master. But what is remarkable here is that the primary right of deciding whether to accept or abandon the child lies not with the mother's, but with the *father's* master.<sup>38</sup> In chattel slavery, the child of a slave is always the property of her master, since slaves cannot legally marry and, in law, a slave child has no father. But under the laws of Gortyn, we have patrilineality, just as in any regular marriage in the ancient Greek world.<sup>39</sup> It is also noticeable that the father and the mother did not necessarily have the same master.

This “right” of paternal descent also shows in another clause: “If an unmarried *woikéa* (φοικέα μὲ ὄπιιομένα) should be pregnant and give birth, the child is to be in the hands of her father's master; but if the father is not alive, it is to be in the hands of the masters of her brothers.”<sup>40</sup> The assumption is that a *woikéa* will have a

<sup>37</sup> ICret IV 72 col. 3.44–4.6: *vac.* αἱ τέκοι γυνὰ κε[ρ]ε[ύ]ο[υ]σσα, ἐπελεῦσαι τῷ ἀνδρὶ ἐπὶ στέγαν ἀντὶ μαϊτύρον τριῶν. [. . .] *vac.* αἱ δὲ φοικέα τέκοι κερεύονσα, ἐπελεῦσαι τῷ πάσται τῷ ἀνδρός, ὃς ὄπιε, ἀντὶ μαϊτύρον δ[υ]ῶν. αἱ δὲ κα μὲ δέκσεται, ἐπὶ τῷ πάσται ἔμην τὸ τέκνον τῷ τᾶς φοικέας. αἱ δὲ τῷ αὐτῷ ἀὐτὶν ὄπιιοίτο πρὸ τῷ ἐνιαυτῷ, τὸ παιδίον ἐπὶ τῷ πάσται ἔμην τῷ τῷ φοικέος. Gagarin and Perlman, *The Laws of Ancient Crete*: 357–61.

<sup>38</sup> Lewis does not regard these and other legal regulations as “slave rights” of marriage or ownership: “[T]he rules may well be aimed at clarifying the property rights of other interested parties” (Lewis, “Slave Marriage”: 402); he argues that marriages or unions between the slaves of different masters are not a singular phenomenon, but that they may be found in many slave societies.

<sup>39</sup> Again, there is no distinction in how the terms for “to marry” (*opyíen*) and “to divorce” (*ker-eíen*) are used for free and for *woikeís*. Gagarin, “Slaves and Serfs at Gortyn”: 19, n. 15 points out: “The verbs for divorce are *krinen* for *woikeis* (3.41) and *diakrinen* for free persons (2.46), but *krinen* is used of the divorce of free persons in 11.46”; similarly: 23–24; Gagarin and Perlman, *The Laws of Ancient Crete*: 83, 360 and see already Lévy, “Libres et non-libres”: 39. Gagarin also sees the ruling about the children born by a *woikéa* as confirmation for the existence of legally recognized marriages. While Lewis, “Slave Marriage” concedes that the terminology is the same, he argues that “there is no *a priori* reason, therefore, to suppose that the identical use of vocabulary for free and slave marriages in Gortyn need imply legal equivalency” (402).

<sup>40</sup> ICret IV 72 col. 4.18–23: *vac.* αἱ κύσαιτο καὶ τέκοι φοικέα μὲ ὄπιιομένα, ἐπὶ τῷ τῷ πατρὸς πάσται ἔμην τὸ τέκνον· αἱ δ' ὁ πατὲρ μὲ δόοι, ἐπὶ τοῖς τῶν ἀδελπιῶν πάσταις ἔμην. *vac.*

father and brothers who are legally relevant – again, unlike chattel slaves, who had no family ties and, as such, no family members; a state for which Orlando Patterson coined the term “natal alienation.”<sup>41</sup> If the law states that the child born to the unmarried *woikéa* is “to be *in the hands* of her father’s master” (ἐπὶ τῷ τῷ πατρὸς πάσται ἔμεν), it suggests that the child was not his property, but merely under his control (as the head of household).<sup>42</sup> It seems that when a *woikéa* got married, she came under the authority of her “husband’s” master (the text says in col. 3.54, τῷ ἀνδρὸς, not τῷ δόλο or τῷ φοικέος) and lived with her husband, i.e. a virilocal relationship. If they divorced, she returned to her former master. Compensation does not seem to have been paid in such a case; the clause that deals with the woman’s property states, “If a *woikéa* is separated from a *woikeús*, either while he is living or by his death, she is to have her own things (τὰ ρὰ αὐτᾶς), but if she should carry away anything else, it is a matter for trial.”<sup>43</sup> So a *woikéa* had some sort of personal property; or she might have been given a dowry by her master which she could take with her after a divorce or the death of her husband. Unlike a free woman, a *woikéa* was not entitled to any gifts from her husband, not even half of what she had produced in the marriage, or her share of what was in the house. During their marriage, all proceeds of her work went to her husband’s master.<sup>44</sup> To my mind, the only possible conclusion from the clause about the divorced or widowed *woikéa* is that the woman’s original master was not entitled to compensation for the loss of her labor after she had gone to live with her husband in his master’s house. I

<sup>41</sup> Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge, MA: Harvard University Press, 1982): 35–76; Orlando Patterson, “Sklaverei in globalhistorischer Perspektive. Von der Antike bis in die Gegenwart,” in *Die Sklaverei setzen wir mit dem Tod gleich’ – Sklaven in globalhistorischer Perspektive*, ed. Winfried Schmitz (Stuttgart: Steiner, 2017): 67–104, 68.

<sup>42</sup> For ἐπὶ see Gagarin and Perlman, *The Laws of Ancient Crete*: 359, “in the hands of”; for further references with ἐπὶ see 366, “in none of these cases does it indicate ownership, though the master of a serf does own the baby. Here [in col. 4.37] it is assumed by all scholars that the expression indicates ownership, since the items mentioned are part of an estate to be inherited. But in 5.32–3 [. . .] the expression clearly designates only temporary possession of the property.”

<sup>43</sup> ICret IV 72 col. 3.40–44: vac. αἱ κα φοικέος φοικέα κριθεῖ δοῦ ἔ ἀποθανόντος, τὰ ρὰ αὐτᾶς ἔκεν ἄλλο δ’ αἱ τι πέροι, ἔνδικον ἔμεν. Gagarin and Perlman, *The Laws of Ancient Crete*: 356–57. This clause applies exclusively to unfree rural people, not to chattel slaves in the city, so only the terms *woikeús* and *woikéa* are used. Gagarin, “Slaves and Serfs at Gortyn”: 19, concludes that “[t]hese rules show that *woikeis* could marry in the same way as free persons.” I am however skeptical about his subsequent conclusion that the same applied to *dóloi* (19–20). Lewis, “Slave Marriage”: 399 argues from the context that τὰ ρὰ αὐτᾶς was a *peculium* (as does Maffi, *Il diritto di famiglia*: 124) and that the purpose of this provision was to ensure a just division among the various owners. It cannot have meant that slaves enjoyed a formal right of ownership.

<sup>44</sup> In the case of a free woman, the code states that upon the death of her husband she is entitled to have her own property back and to remarry (ὀπιείθεαι). There is no such provision for the case of a married *woikéa*, which must mean decisions about her (re)marriage were made by her *pástas*. Compare ICret IV 72 col. 3.16–20: vac. αἱ ἀνὲρ ἀποθάνοι τέκνα καταλιπόν, αἱ κα λει ἄ γυνά, τὰ ρὰ αὐτᾶς ἔκονσαν ὀπιείθεαι with the provision in col. 3.40–44 (see n. 43).

conclude this from the fact that there is no provision in the Code for the return of such a payment after the *woikeús*' death or her divorce from him.

Things might have been different in the case of male *woikeís*. If an unmarried and fatherless *woikéa* had a child, it was to come under the authority of the masters of her brothers; in other words: the brothers could have different masters. This seems to indicate that male *woikeís* could be “sold” to other masters, whose *woikeís* had not produced male offspring who would continue to work their allotted land (*kláros*).<sup>45</sup> So it is perhaps not implausible if Strabo claims that members of these dependent groups could be sold, as long as they remained inside the territory. Of course, this is not a “right” granted to the dependents, but merely an arrangement between members of the ruling elite in order not to lose valuable labor.

In view of the epigraphic record I am not entirely certain whether those sales were the sort of transaction where property passes from one person to another. We read in Column 4:

The fugitive *woikeús* (τὸν δὲ φοικέα τὸν ἐπιδιόμενον) is not to be sold (μὴ ἀποδόθθαι) when he has taken refuge in a temple (μῆτε ναεύοντα) nor before one year has passed. If the fugitive (ὁ ἐπιδιόμενος) belongs to someone who is *kósmos*, he is not to be sold (μὴ ἀποδόθθαι) while he is *kósmos* nor before one year has passed.<sup>46</sup>

However, an *epidiómenos* is not a runaway who has fled *from* someone, but one who has fled *to* someone.<sup>47</sup> You are not allowed to sell this “windfall” before a year has passed, because you only acquire the right to him – whether in terms of ownership or of (paternal) power – after that period. And perhaps we should not

<sup>45</sup> For the brothers' masters, see Gagarin and Perlman, *The Laws of Ancient Crete*: 361, “This implies that it was common for a master to sell some or all of the sons of his serfs.”

<sup>46</sup> ICret IV 41 col. 4.6–15: τὸν δὲ φοικέα τὸν ἐπιδιόμενον μὴ ἀποδόθθαι μῆτε ναεύοντα μῆτ' ἢ κ' ἀπέλθῃ τῷ ἐνιαυτῷ. αἱ δὲ κα κοσμίωντος ἢ ὁ ἐπιδιόμενος, μὴ ἀποδόθθαι ἄς κα κοσμῆ μῆδ' ἢ κ' ἀπέλθῃ τῷ ἐνιαυτῷ. The translation given above has been slightly adapted from that by Gagarin and Perlman, *The Laws of Ancient Crete*. Cf. Lewis, “Slave Marriage”: 395. See also ICret IV 72 col. 1.47–51: a *woikeús* who has been transferred as surety must be returned within the year, otherwise the recipient acquires legal ownership over him.

<sup>47</sup> ἐπιδιόμενον derives from ἐπι-δίεμαι (δίεμαι “be scared away,” “drive away,” “flee”). For the uncertain meaning of ἐπιδιόμενον see Monique Bile, “IC 4.41 et le sens de ἐπιδιόμαι,” in *La codification des lois dans l'antiquité. Actes du Colloque de Strasbourg 27–29 novembre 1997*, ed. Edmond Lévy (Paris: de Boccard, 2000): 161–74. According to Bile's analysis, ἐπιδιόμαι has the meaning “amener,” “to bring”; she puts the provision into the context of a theft committed by a *woikeús*; for her interpretation and those attempted by other scholars, see Gagarin and Perlman, *The Laws of Ancient Crete*: 298. I believe the provision should be read as referring to the *woikeús* “taking/bringing himself (to another master),” “fleeing to (him).” He may then not be “sold” before the year is out because only after a year will the new master have acquired legal ownership based on continuous possession. For the question of whether μῆτ' ἢ κ' ἀπέλθῃ τῷ ἐνιαυτῷ should be understood to mean “not for one year after he has run away” or perhaps rather “not before a year has expired,” see Bile, “IC 4.41 et le sens de ἐπιδιόμαι”: 172–73. Cf. Lévy, “Libres et non-libres”: 32, who suggests the *epidiómenos* is not a “woikeus fugitive,” but “un woikeus poursuivi en justice.”

translate ἀποδόθθαι as “to sell,” either; it might be better understood in the sense of “to yield” or “to give up (i.e. into the authority of another person)”; this would have included the payment of compensation for the labor of the *woikeús*.<sup>48</sup>

So what we have in Gortyn is a situation where *woikeís* were able to enter into marital, virilocal and patrilineal relationships with each other which were, however, arranged by their respective masters. Upon marriage the *woikéa* came under the authority of her husband’s master, who was also entitled to the fruits of her labor. In the case of divorce or the death of her husband, the *woikéa* received back any moveable property she had brought into the marriage. Neither of the biological parents had any rights to their children. These laid instead, first, with the husband’s master, second with the wife’s, or if the *woikéa* was unmarried, with her father’s or her brothers’ master or masters. This also meant that before her marriage, a *woikéa* would grow up in her father’s or one of his brothers’ house, even though her relatives had no rights over her and could not make any decisions regarding her marriage.<sup>49</sup> If no sons were born to the marriage between a *woikeús* and a *woikéa*, their master was entitled to have another *woikeús* “given up” to him, to whose master he probably paid some form of compensation. If a *woikeús* escaped and was taken in by someone, this person had to wait for one year; if his old master laid no claim to him during that period, he came under the authority of the new master. *Woikeís* could also seek refuge in a sanctuary.

## 2 The Law of Inheritance

If the *woikeís* were “privately owned slaves,” as David Lewis posits, we should find this reflected in the law of inheritance, which is the litmus test for slave ownership. Among the dependent groups we know of in ancient Greece, it is only for the dependent population of Crete, the *klarótai*, that we have any more specific information about regulations regarding inheritance. These are part of the so called Great Code of Gortyn.

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<sup>48</sup> For *apodóththai* see Gagarin and Perlman, *The Laws of Ancient Crete*: 298: “Here the verb in each case could be middle – ‘(one) is not to sell’ – or passive – the serf ‘is not to be sold’ or ‘is not to be given back’. But ‘sell’ is the more likely meaning (whether middle or passive).” However, I do not find Gagarin’s and Perlman’s subsequent interpretation of the one-year interval convincing. The passage can only mean that to acquire the *woikeús* legally, the master must have been in his possession for a full year, so that he cannot “sell” him before that time. Ephorus employs the verb *pōlein* (“sell”) for the ban on “selling” helots outside the borders of the country (see above n. 20).

<sup>49</sup> Lewis again interprets the absence of the *woikeís*’ right to their children as evidence for the fact that they were their masters’ privately owned slaves (Lewis, “Slave Marriage”: 398); he sees it as solely a matter of the owners’ property rights (403–4).

Regulation on inheritance for citizens is fairly comprehensive. The Code states:

And when one dies, the houses (*stégai*) in the city (*pólis*) and whatever is inside the houses (*stégai*) – those in which a *woikeús* who lives (*enwoikeí*) in the country (*chóra*) is not residing, – and the livestock, small and large – that are not those of a *woikeús* –, are to be in the hands of the sons; and all the rest of the property (*chrémata*) is to be ‘nicely’ (*καλῶς*, i.e. fairly) divided, and the sons, however many there are, are to receive two shares each, and the daughters, however many there are, [are to receive] one share each. The maternal estate too is to be divided, when she dies, in the same way as is written for the paternal estate. And if there should be no property (*chrémata*) but [only] a house (*stéga*), the daughters are to receive their share as is written. *vacat*.<sup>50</sup>

The law indicates a fundamental spatial separation: the citizens of Gortyn have “houses” in the city. The inheritance that goes to the sons includes houses as well as “whatever is inside the houses”: the word *stéga* must mean a building. It should not be understood as being synonymous with *oikos*, which is descriptive of a residence that includes land and cattle and both free and unfree inhabitants: a household. The term *stéga* itself, which in the narrower sense means a roof, similarly indicates that what is meant is the residence as a building. The sons’ inheritance explicitly excludes *stégai* (in the city) “inhabited” (*ἐνφοικεῖ*) by a *woikeús* who lives in the country. So, as a rule, free Gortynians and *woikeús* are separated in spatial terms: free citizens live in the city while the *woikeús* live in the country (*chóra*). Only in exceptional cases does a *woikeús* live in the city.<sup>51</sup> He was probably one of the *woikeús* mentioned in one of the clauses in the Great Code of Gortyn:

[If the unfree man] goes to a free woman (*eleuthéra*) and marries her (*opyíei*), their children are to be free (*eleúthera*). *vacat* But if the free woman (*eleuthéra*) [goes to] the slave (*dólos*), their children are to be slaves (*dóloi*). *vacat* And if free and slave children are born from the same

**50** ICret IV 72 col. 4.31–48: ἔ δέ κ’ ἀποθάνει τις, ‘τέγανς μὲν τὰνς ἐν πόλι κᾶτι κ’ ἐν ταῖς ‘τέγαις ἐνεῖ αἷς κα μὲ φοικεὺς ἐνφοικεῖ ἐπὶ κόραι φοικίον καὶ τὰ πρόβατα καὶ καρταίποδα ἅ κα μὲ φοικέος εἶ, ἐπὶ τοῖς νιάσι ἔμεν, τὰ δ’ ἄλλα κρέματα πάντα δατέθθαι καλῶς, καὶ λανκάνεν τὸς μὲν υἱόνς, ὀπόττοι κ’ ἴοντι, δύο μοίρανς φέκαστον, τὰ δὲ θυγατέρανς, ὀπόττοι κ’ ἴοντι, μίαν μοίραν φεκάσταν. δατέθ[θ]αι δὲ καὶ τὰ ματρῶια, ἐκ’ ἀποθά[νε]ι, ἄπερ τὰ [πατρῶ]ι’ ἔγ[ρα]τ[ι]ται. αἱ δὲ κρέματα μὲ εἶε, στέγα δέ, λακὲν τὰθ θ[υ]γατέρας ἄι ἔγρατ[ι]ται. *vac*. See Gagarin, “Slaves and Serfs at Gortyn”: 20–21; Lewis, “Slave Marriage”: 406–8; Gagarin and Perlman, *The Laws of Ancient Crete*: 361–67. For a discussion of the question of whether we should read ἐπὶ κόραι (= ἐπὶ χωρῶ) or ἐπικόρα (= ἐπικουρία), see Brixhe with Bile, “La circulation des biens”: 89–90, who put forward good reasons for maintaining the reading ἐπὶ κόραι (“in the country”).

**51** Gagarin, “Slaves and Serfs at Gortyn”: 20 comments on the phrase φοικεὺς ἐνφοικεῖ ἐπὶ κόραι φοικίον: “Thus it is likely that ἐπὶ κόραι, though perhaps not strictly necessary, helps explain the sense: the sons are given houses in the town for their residences, though occasionally a serf, who normally resides in the country, may be living in a town house.” I.e. this provision only applies to *woikeús* and not to urban slaves (*dóloi*), who would have lived in houses in the city.

mother, when the mother dies, if there is property (*chrémata*), the free children are to have it; but if there should be no free children, her relatives are to inherit it.<sup>52</sup>

This clause appears to target primarily cases in which a free widow after the death of her first husband enters into a second relationship, this time with an enslaved man who lives “in the country” (*chóra*). As the focus here is again on issues of status, *dólos* is employed as the opposite to *eleuthéra*. As, however, the unfree man “goes to the woman to marry her” (ἐπὶ τὰν ἐλευθέραν ἐλθὸν ὀπιείει) and the free woman “to the unfree man” (ἐπὶ τὸν δόλον), *dólos* can only refer to the *woikeús* living in the county. If he goes to the free woman in the city and weds her, the house (*stéga*) will be lost to her brothers as part of their inheritance, as there is now “a *woikeús* residing in it.” Unlike the livestock, which “is” that of a *woikeús*, the *woikeús* only “resides” in the *stéga*.<sup>53</sup> This means that the house will pass to the free children from the marriage between free mother and *woikeús* father. It will provide them with a permanent livelihood, since they cannot expect an inheritance from their father, who cannot leave any property to them. If the free woman takes a *woikeús* into her house “in the city,” their child is born and grows up there among the free citizens, and, on reaching adulthood, becomes one of them. But if the woman should join her second husband “in the *chóra*,” she relinquishes her citizen status, and their child will be a *woikeús* or *woikéa*.

The fact that the sons explicitly inherit the houses in the city plus their contents and livestock indicates that the land was not part of the inheritance – if it was, it should have been mentioned.<sup>54</sup> Again, in the case of livestock, excluded from the

52 ICret IV 72 col. 7.1–10: [– αἱ κ' ὁ δόλος] ἐπὶ τὰν ἐλευθέραν ἐλθὸν ὀπιείει, ἐλευθήερ' ἔμεν τὰ τέκνα. αἱ δὲ κ' ἂ ἐλευθέρα ἐπὶ τὸν δόλον, δόλ' ἔμεν τὰ τέκνα. {palmlula} αἱ δὲ κ' ἐς τὰς αὐτὰς ματρὸς ἐλευθήρα καὶ δόλα τέκνα γένηται, εἰ κ' ἀποθάνει ἡ μάτερ, αἱ κ' εἰ κρέματα, τὸν ἐλευθέρον ἐκεν. αἱ δ' ἐλευθέροι μὲ ἐκσεῖεν, τὸν ἐπιβάλλον τανς ἀναλιεῖθαι. vac. I agree with Michael Gagarin that *dólos* is being used here in opposition to *eleútheros*. Where questions of status were concerned, there were only either the “free” or the “unfree”; whereas significant differences could and probably did exist in the actual lives of rural *woikeús* and chattel slaves in the cities. It is therefore likely that this provision was primarily concerned with the marriages of free women to *woikeús*, esp. since the woman is spoken of as going “to the unfree man” (ἐπὶ τὸν δόλον).

53 This is also highlighted by Gagarin, “Slaves and Serfs at Gortyn”: 26: “This law shows that serfs could certainly own livestock, but it also implies that the serf is only residing in the house and does not own it. Serfs, then, could own moveable property but perhaps not real property.”

54 Gagarin and Perlman, *The Laws of Ancient Crete*: 365 also discuss the possibility of understanding this rule on inheritance as stating that the sons were to inherit the “houses in the city” as well as the furnishings of such houses in the country which were not being lived in by a *woikeús*, and the livestock (in the country) that was similarly not that of a *woikeús*. So in addition to the houses in the city, the sons would have inherited rural houses that had been vacated by *woikeús* without descendants. But the text should not be read in this way. The provisions pertaining to the claims of heiresses and the relatives they are required to marry stipulate that, if the heiress refuses to marry the nearest eligible relative or to wait until he has come of age, she “is to have the house (*stéga*), if there is one in the city, and whatever is in the house, and she is to receive half of the remaining”

sons' inheritance are those "of a *woikeús*." A further clause divides "all the rest of the *chrémata*," giving daughters half the share of sons. Some scholars suggested that these *chrémata* might have included both the land and the *woikeís* who worked there, in order to explain why explicit mention is made of the house and livestock, but not of the land and the *woikeís*.<sup>55</sup> The latest of these is David Lewis, who follows Stefan Link's view that both the land and the *woikeís* who worked it are included in τὰ δ' ἄλλα κρέματα πάντα, and would have been divided between sons and daughters.<sup>56</sup> However, the order in which they are named argues against this view: one would expect strategic property – the house, land, farming equipment, flocks and herds – to be named first, followed by other, mobile assets.<sup>57</sup> In addition, we find that literary evidence for this clause has been preserved by Ephorus, a fourth-century BCE author. He points to an idiosyncrasy of Crete whereby a daughter who has brothers receives half of her brothers' portion as *pherné*.<sup>58</sup> This term can denote a dowry; however in the classical era dowries only comprised mobile assets, never a house, land or livestock. In classical Athens, *pherné* is the word for the personal

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(col. 7.52–8.7: vac. αἱ δὲ κα τῶ ἐπιβάλλοντι ἐβίονσα μὲ λῆι ὄπιθειαι ἔ ἄνορος εἶ ὁ ἐπιβάλ[λ]ον [κα]ἱ μ [ἔ λῆι μὲν]εν ἄ πατροιδκος, στέγαμ μὲν, αἱ κ' εἶ ἐν πόλι, τὰμ πατροιδκον ἔκεν κάτι κ' ἐν εἶ ἐν τῶι στέγα, τὸν δ' ἄλλον τὰν ἐμί<v>αν διαλακόνσαν ἄλλοι ὄπιθειαι τὰς πυλᾶς τὸν αἰτιόντο ὄν ὄτιμῖ κα λῆι. vac.). The same wording is used here as in col. 4.31–33, making it clear that what is being referred to are "houses in the city" and "such contents as are in *these* houses."

55 Link, *Das griechische Kreta*: 79–82; Alberto Maffi, "Studi recenti sul Codice di Gortina," *Dike* 6 (2003): 175–80, here 175–76. For a brief summary of the arguments for both positions, see Gagarin, "Slaves and Serfs at Gortyn": 24–25. Cf. Gagarin and Perlman, *The Laws of Ancient Crete*: 365: "Serfs could own property in some sense (3.40–4), but serfs also belonged to a master and thus must have been included (along with *doloi*) in the total estate that was divided among all the children. Any cattle that a serf 'owned' presumably were inherited along with the serf himself by one of the children in the distribution of 'all the rest of the property.'" Also 366: "'All the rest of the property' would include country houses together with their furnishings, slaves and serfs, livestock, and land." Brixhe with Bile ("La circulation des biens": 86, 108–15) however assume that there were goods (*chrémata*) that could be sold and others that could not, and that the town house could not be sold. Land, they believe, fell into the same category, and is therefore not mentioned in the law of inheritance.

56 Lewis, "Slave Marriage": 406; Link, *Das griechische Kreta*: 35. Gehrke, "Gewalt und Gesetz": 27, is more skeptical. However, Yvon Garlan, Ronald F. Willetts, Edmond Lévy and Claude Brixhe, all infer from this clause that the *woikeís* had their own right of possession.

57 Proponents of the view that the land cultivated by the *woikeís* was included among the "other goods" believe that the houses with inventory were reserved for the sons, whose status as members of a common mess depended on having a house; while a daughter left her father's house upon marriage and so did not need a dwelling of her own (Lewis, "Slave Marriage": 407–8). Lewis suggests that houses inhabited by *woikeís* may have been of a lower quality: "not of the same standard as the town houses in which a free citizen would live," and so would not have met the latter's expectations.

58 Ephorus FgrH 70 F149 (= Strab. 10.4.20–482 C): φερνή δ' ἐστίν, ἄν ἀδελφοὶ ὄσι, τὸ ἤμισυ τῆς τοῦ ἀδελφοῦ μερίδος. Link's assumption that a daughter received half a brother's portion of land, i.e. strategic property, seems highly unlikely given the term *pherné*.

belongings taken with her by a bride in addition to her dowry, such as jewelry or clothes. In column 4.31–48, the “other *chrémata*” are juxtaposed with the house (*stéga*), its contents and the livestock, as they are in the next clause: “And if there should be no property (*chrémata*) but (only) a house (*stéga*), the daughters are to receive their share as is written.”<sup>59</sup> So *chrémata*, like *dólos*, can denote different things: *chrémata* can mean goods other than the house, its content and the cattle; or it can mean all assets.<sup>60</sup> The next section, which deals with intestate succession in Gortyn (col. 5.9–54), regulates who is to have the *chrémata* upon the death of a male or female citizen. Unlike col. 4.37 and col. 4.40/42, it does not speak of “sons” nor of “sons” and “daughters,” but of “children” (*tékna*), which means that the inheritance is to be divided according to the preceding stipulations, i.e. one part to sons, another to sons and daughters. So in these clauses, again, the term *chrémata* probably encompasses all assets, immobile and mobile.

Informative for the question of which assets were bequeathed and in what matter are the provisions concerning heiresses in such cases where the deceased had no sons, but one or several daughters. The principle was the same as in Attic law, by which an heiress was required to marry the next male heir on her father’s side to ensure that all property (especially strategic property) remained in the paternal family. However, the law of Gortyn provides for several cases in which this marriage did not take place. Significantly, the regulations on who was to receive which shares of the property again name “the house in the city” and “revenue,” but do not mention land or *woikeís*. If both, i.e. the heiress and the nearest paternal relative, should be minors, “if there is a house (*stéga*), the heiress (*patroiðkos*) is to have it, and the claimant to marry is to receive half of all the revenue (*epikarpía*) [from the estate]” (col. 7.29–35). If both the groom-elect and the heiress are of age but he does not wish to marry her, “all the property (*tá krémata pánta*) and the produce (*karpós*) are to be in the hands of the heiress until he marries [her]” (col. 7.35–40). So if the nearest male relative does not marry her according to the law, “the entire property” (*tá krémata pánta*) is to fall to the next in line, if there is one (col. 7.47–50). But if the heiress for her part refuses to marry the groom-elect or is unwilling to wait for him to reach his majority, she is “to have a house (*stéga*), if there be one in the city, besides whatever may be in it (κάτι κ’ ἐνῆι ἐν ταῖ στέγαι), and, obtaining half a share of the rest, she is to be

<sup>59</sup> ICret IV 72 col. 4.46–48.

<sup>60</sup> For the meaning of *krémata* (= χρήματα) in the Great Code of Gortyn see Henri van Effenterre and Françoise Ruzé, *Nomima: Recueil d’inscriptions politiques et juridiques de l’archaïsme grec*, vol. 2 (Rome: École française de Rome, 1995): 180 no. 49 (stating that “other goods” did not include the house, its contents or livestock); Brixhe with Bile, “La circulation des biens”: 86: “l’extension du champ couvert par *krémata* est liée au context.” For the questions of whether or not *chrémata* included land, see Link, *Das griechische Kreta*: 31; Maffi, “Studi recenti”: 175–80. Gagarin and Perlman, *The Laws of Ancient Crete*: 377: “Property (*kremata*) [. . .] refers to everything the deceased owned, almost certainly including land.”

married to another [. . .]” (col. 7.52–8.7). So in all cases what is being discussed is the house as a building (*stéga*), located in the city; and “produce” and “revenues” (*karpós*, *epikarpía*), a term that probably means the proceeds of the *woikía* assigned to the family, but not the *woikía* including the *woikeís* themselves. This inventory does not exclude the house “in which a *woikeús* resides.” These regulations concern daughters who at the time of their father’s death are frequently still minors. At this point, the widow does not (yet) contemplate a second marriage with a *woikeús* who will share her house. Again, *chrémata* is used in a very broad sense: in col. 7.35–40, *tá krémata pánta* includes everything, the house and its contents, livestock and all other goods, excluding only the “produce” and “revenue” subsequently mentioned (presumably from the *woikía*); and in col. 7.47–50 it comprises everything, including the “revenue.”

From the laws on inheritance we can reconstruct the following model of ownership and dependency in Gortyn: the houses in the city including all of their contents were the private property of citizens, who bequeathed them to their sons. Land was not private property, but divided into land lots (*klároi*) and farmed by the *woikeís* “living in the *chóra*,” who had to pay tribute to the citizens.<sup>61</sup> These tributes made up a large part of the “revenues” (*chrémata*) that, upon the death of a male or female citizen, were shared out between their sons and daughters. Each citizen of Gortyn was allotted a *kláros* over which, as *pástas*, they exercised the authority of a household head.<sup>62</sup> This authority over the *kláros* was probably passed on down the generations, because the heir was entitled to the “revenue” or “produce.” But a *kláros* was not property, and so – like the *woikeís* themselves – could not form part of an inheritance.<sup>63</sup> Both land and *woikeís* were

**61** This made them literally *perioikoi*, “those who dwell around.” Cf. Aristot. pol. 2.10, 1271b 40–42: ἔχει δ’ ἀνάλογον ἢ Κρητικὴ τάξις πρὸς τὴν Λακωνικὴν. γεωργοῦσι τε γὰρ τοῖς μὲν εἰλωτες τοῖς δὲ Κρησὶν οἱ περίοικοι. – “The Cretan organization is on the same lines as that of Sparta. In Sparta the land is tilled by the helots and in Crete by the *perioikoi*.” For use of the term *perioikoi* for the Cretan *woikeís* see Lotze, Μεταξὺ ἐλευθέρων καὶ δούλων: 8–9; Link, *Das griechische Kreta*: 30–31; cf. Avram, “Bemerkungen zu den Mariandyni”: 22–23. We know the names of settlements, *póleis*, of the Mariandyni, which makes it likely that at least some of them lived in self-contained settlements (Avram, “Bemerkungen zu den Mariandyni”: 23–24, with references).

**62** The word *pástas* is derived from *páomai*, “to purchase, to own” (Lewis, *Greek Slave Systems*: 151, n. 15). Cf. Alberto Maffi, “Droit et épigraphie dans la Grèce archaïque: A propos d’un ouvrage récent,” *Revue historique de droit français et l’étranger* 75 (1997): 435–46, here 443–45.

**63** Gagarin and Perlman, *The Laws of Ancient Crete*: 376 suggest that “in many cases joint ownership would clearly have been preferable to division. If the heirs could not agree, however, then the property could be sold and the proceeds divided among them.” – If the *chrémata* were made up primarily of revenues from the *woikía*, it is quite conceivable that a daughter with e.g. two brothers will receive one fifth of the revenue upon her marriage. In the case of divorce, the wife is to have “her own property” as well as “half of the produce (*karpós*), if there is any from her own *chrémata*” (ICret IV 72 col. 2.45–50). Gagarin and Perlman, *The Laws of Ancient Crete*: 352–53, comment: “The natural sense of *karpós* is ‘produce, fruit of the land’; [. . .] there is no good reason to deny this

public property.<sup>64</sup> But in order to safeguard his authority over the dependent population, the *pástas* was entitled to exercise the powers of a de-facto owner over the *kláros*: he made decisions on the *woikeís*' marriages and on whether their children would be accepted or exposed; if a *woikéa* got married he gave her a sort of dowry, released her from his authority as household head and transferred this authority for the duration of the marriage to another citizen; and "sold" one of "his" *woikeís* to any citizen on whose *kláros* no male children had been born. If a fugitive *woikeús* sought refuge with him, he was only allowed to "sell" him after one year had passed (and not while he was *kósmos*, i.e. while holding the highest office), because only after that time would he have acquired possession of him.<sup>65</sup> And because *kláros* has this very specific meaning, the word for an heiress was not *epiklēros* but *patroĩdōkos* (*patrouchos* in Attic Greek).

So the *woikeís* were a dependent population group, subjugated originally in war and forced into a state of slave-like dependency.<sup>66</sup> They had to deliver a share of their harvests to their master and could only get married if he agreed.<sup>67</sup> When she married, a *woikéa* came under the authority of another master, as did a *woikeús*

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sense here or to deny that women could own land at Gortyn, although perhaps landownership among women was not common." To my mind, however, this clause does not allow the conclusion that "*kremata* ('things, property') here must include land," since it may describe a wife's share of the revenues from her father's *woikía*, of which she may have inherited half a brother's share. Compare this with Plutarch's statement in his life of Lycurgus that each *kláros* was large enough to produce seventy bushels of barley for a man and twelve for his wife, with a proportionate amount of wine and oil (Plut. Lyc. 8.4: ὁ δὲ κληρος ἦν ἐκάστου τοσοῦτος ὥστε ἀποφορὰν φέρειν ἀνδρὶ μὲν ἑβδομήκοντα κριθῶν μεδίμνους, γυναικὶ δὲ δώδεκα, καὶ τῶν ὑγρῶν καρπῶν ἀναλόγως τὸ πλῆθος).

**64** Claude Brixhe and Monique Bile also inferred that this was a case of a collective agricultural economy in which the annual yield at harvest was distributed among the families: "Si était exacte l'hypothèse – développée *infra* § 4.7 – d'une exploitation collective de la terre et d'une redistribution annuelle de ses produits à travers les familles nucléaires ou les branches familiales, [. . .]" (Brixhe with Bile, "La circulation des biens": 100); similarly 110: "Ainsi, on ne trouve dans les *Lois* aucun indice permettant de supposer que la terre agricole peut être divisée ou changer de main, ni même qu'elle était la propriété de quelqu'un. De toute évidence, il n'y a entre la terre et le citoyen aucun lien patrimonial" (cf. also their Conclusion, 113; 114–15).

**65** Gagarin, "Slaves and Serfs at Gortyn": 26 also concluded that *woikeís* could be bought and sold, but assumed that, as a rule, they were bought or sold with the land; only in special circumstances could a *woikeús* change hands without the land. In his view, however, the master owned both. Lévy's view is very similar, cf. Lévy, "Libres et non-libres": 32.

**66** The same conclusion is reached by Michael Gagarin and Paula Perlman: "They were primarily agrarian workers, who may have been working the land before chattel slaves were introduced to Crete, and thus continued to have certain rights not available to slaves." (Gagarin and Perlman, *The Laws of Ancient Crete*: 83).

**67** David Lewis does not dispute that *woikeís* could be married, but stresses "that the servile marriage relationship for which this legislation was created was not a distinctively Gortynian institution but a common arrangement that can be found in many slave systems" (Lewis, "Slave Marriage": 391; a similar view was expressed in Lotze, *Μεταξὺ ἐλευθέρων καὶ δούλων*: 20–25). For

when he was “sold” to another *pástas*.<sup>68</sup> As the *woikeís* were not the property of their “owners,” they could not be manumitted or sold outside Gortyn.<sup>69</sup> This was only possible for the *chrysónētoi*, chattel slaves from elsewhere who had been bought for money. The *woikeís* did not own property: if they had been capable of ownership, we would have expected the inheritance regulations for free citizens, male and female, to have been followed by a section on *woikeís*, such as in the case with the offences of rape and adultery and the clauses on divorce.<sup>70</sup> It follows that *woikeús* and *woikéa* could enter into a legally protected marriage, but had no property rights.<sup>71</sup> Livestock that “belongs to a *woikeús*” remained in the possession of the city of Gortyn, as did all of the land. If a *pástas* died without leaving issue or other family members or any other persons who had a right “to the *woikía*,” “those of the household composing the *kláros* are to have the ‘property’ (*chrémata*).”<sup>72</sup>

There is a lively discussion among scholars about whether *tás woikías* (τᾶς φοικίας) in this section refer to ἐπιβάλλοντες or to οἴτινες, in other words whether what is meant is, “if there are no claimants from the house [i.e. when there are no further relatives], the goods are to go to those who are the *kláros*”; or whether what is meant is, “if there are no claimants, those from among the *woikía* are to have the

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the question of whether *woikeís* had the legal capacity to be party to a lawsuit see Lévy, “Libres et non-libres”: 34–5, and Gagarin, “Slaves and Serfs at Gortyn”: 29–31, both of whom opine that they did (Gagarin and Perlman, *The Laws of Ancient Crete*: 84). Lewis, “Slave Marriage”: 390, who is of the view that *woikeís* did not “hold rights,” disagrees.

**68** For the *woikéa*, see Gagarin, “Slaves and Serfs at Gortyn”: 23, n. 28: “After a divorce, a serf couple would have different masters [ . . . ], but it is possible that a serf woman would automatically belong to her husband’s master as long as they were married, and would then revert to her former master after the divorce.”

**69** There is no mention of manumission in the Great Code of Gortyn. Gagarin, “Slaves and Serfs at Gortyn”: 24, however believes that manumissions did happen in the course of the adoptions of slaves or *woikeis*. The freedmen settled in Latosion (*apeleútheroi*) may have been the *woikeís* manumitted by the *pólis* of Gortyn in the context of a war (ICret IV 78).

**70** It would also explain why there is no mention at all of *woikeís* in the columns that deal with heiresses and with adoption (cf. Lévy, “Libres et non-libres”: 25–26).

**71** Gagarin, “Slaves and Serfs at Gortyn”: 26 (also Gagarin and Perlman, *The Laws of Ancient Crete*: 356) assumes that the *woikeís* had a right of possession (excluding land), since a divorced *woikéa* could take “her own things” (τὰ ἑαυτᾶς) away with her; he can however not explain why a divorced *woikéa* – unlike a free divorced woman – is not to have half the revenues from her own property, and half “of whatever she has woven within.” He also fails to offer an explanation for why the Great Code of Gortyn makes no provision for *woikeús* inheritance. David Lewis disagrees with the conclusions drawn by Gagarin from the fact that a divorced *woikéa* could take “her own things,” and interprets this provision instead as a reference to the fair division of property between the respective slaveowners (Lewis, “Slave Marriage”: 405).

**72** ICret IV 72 col. 5.25–28: {palmula} αἱ δὲ μὲ εἶεν ἐπιβάλλοντες τᾶς φοικίας, οἴτινές κ’ ἴοντι ὁ κλᾶρος, τούτους ἔκεν τὰ κρέματα. vac.

goods that are the *kláros*.<sup>73</sup> I do not propose to discuss here the various solutions proposed by scholars as to the possible meanings of *woikía* and *kláros* in this context, but rather to suggest another solution, which is that τᾶς φοικίας should be understood as an objective genitive, i.e., “if there are no claimants to the *woikía*, those who are the *kláros* are to have the goods.” The objective genitive makes clear that what is meant is not the entire property of the deceased (the house in the city, its contents, livestock and more), but only the claim to the *woikía*, i.e. to the yields of the *kláros*.<sup>74</sup> In concrete terms, this means that the revenues generated by the *woikeís* reverted to and were divided among them upon the death of a citizen with no family and no descendants. As the sole issue was “entitlement to the *woikía*,” this regulation does not imply that the *woikeís* on the *kláros* are to be manumitted or even gain the citizenship.<sup>75</sup>

**73** For the controversial question of whether τᾶς φοικίας refers to ἐπιβάλλοντες or to οἴτινες, and what precisely κλᾶρος means in this context see Link, *Das griechische Kreta*: 76–77, Brixhe with Bile, “La circulation des biens”: 88, 108–10, and Gagarin, “Slaves and Serfs at Gortyn”: 27 (cf. Gagarin and Perlman, *The Laws of Ancient Crete*: 375–76), according to whom the inheritance went to the unfree persons who made up the *kláros*. Like Lipsius and Kohler/Ziebarth before him, Lotze, Μεταξὺ ἐλευθέρων καὶ δούλων: 12–14, had assumed that during the early period the *klároí* of the ancestral lineages had been divided into small family estates. In his intensive discussion of the theses of K. M. Kolobowa, Detlef Lotze in 1962 reaffirmed his thesis that the ἐπιβάλλοντες τᾶς φοικίας would have included relatives of every degree (not only paternal ones), see Lotze, “Zu den φοικέες von Gortyn”: 35; for a similar view see Lévy, “Libres et non-libres”: 39. In the absence of “Anspruchsberechtigten der *woikía*,” Lotze believed the inheritance (n.b. only the movable property) would have gone to the *kláros*.

**74** This would also explain why the *epibállontes* are named 28 times in the Great Code of Gortyn, but never with a qualifier such as τᾶς φοικίας (Lotze, “Zu den φοικέες von Gortyn”: 33; similarly, Lévy, “Libres et non-libres”: 38). It is likely that the income from the *woikía* was usually shared among the heirs; cf. where it says in col. 3.24–29: “And if he [the deceased] should leave her [his wife] childless, she is to have her own property and half of whatever she has woven within and obtain her portion of the produce that is in the house along with [her husband’s] lawful heirs (καὶ [τ]ῷ καρπ[ῷ] τῷ ἐνδ[ο]θεν πεδὰ τῶν ἐπιβαλλόντ[ων] μοῖραν λακέν) [ . . . ]” (cf. the similar provision at col. 7.35–40; 8.47–50). A *woikía* is again mentioned in the decree honoring Dionysios (ICret IV 64; Nomima I 8). He was granted exemption from public burdens (*atèleia*) and rights equal to those of a citizen, as well as a *woikía* in Aulon and a house site (*oikópedon*). Does that mean the honorand was given a plot of land on which to build a house (*stéga*) and the right to the revenue of a *woikía* produced by *woikeís*? The honors were awarded by “all of Gortyn and those residing (*woikíontes*) in Aulon.” Cf. Brixhe with Bile, “La circulation des biens”: 88 (“on concède à Dionysios ‘un terrain à bâtir à l’extérieur des terres’”); Gagarin and Perlman, *The Laws of Ancient Crete*: 330–32.

**75** Link, *Landverteilung*: 110–14; Link, *Das griechische Kreta*: 48, 76–79 assumes a right of inheritance for the *woikeís* in this case, in consequence of which they would be considered as freedpeople but not as citizens. Many scholars consider it implausible that the *woikeís* could have inherited the house, land and livestock of their deceased master. They argue that this would necessarily require manumission and possibly even citizenship, and is therefore unlikely (rejected on these grounds by Koerner, *Inschriftliche Gesetzestexte*: 503, Maffi, *Il diritto di famiglia*: 59–61 and Lévy, “Libres et non-libres”: 38). Gagarin, “Slaves and Serfs at Gortyn”: 27–29 (also Gagarin and Perlman, *The Laws*

If in the inheritance law of Gortyn an inheritance consisted of houses, their contents, and livestock, while land was excluded, the social prestige of a citizen of Gortyn rested primarily on the livestock, the flocks of *próbata* and herds of *kartaípoda*,<sup>76</sup> that he owned, perhaps also on the furnishings of the “houses in the city.” The produce from the *kláros* made up a large part of his *chrémata* and went towards his contribution to his common mess.<sup>77</sup> An *apétairos* was presumably a person who had lost his *kláros*, for whatever reason.

This model, which I have developed based on the Great Code of Gortyn, is consistent with our literary evidence about forms of dependency in Cretan city states:<sup>78</sup> Callistratus distinguished between Crete’s “urban slaves” (οἰκέται κατὰ πόλιν), who were called *chrysónētoi* (“bought for gold” or “money”), and “rural slaves” (κατ’ ἀγρόν) who were locals (ἐγχώριοι) and had been enslaved in war (δουλωθέντες κατὰ πόλεμον), and who were called *a(m)phamiótai*. These were also called *klarótai* because they are “allotted.”<sup>79</sup> The “urban slaves,” *chrysónētoi*, were chattel slaves; they

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*of Ancient Crete*: 376), however, believes it is possible: if a *woikeús* could live in a house in the city and own livestock, why should he not, absent an heir, acquire the property not just de facto, but also de jure, and be a free man forthwith, if only an *apétairos*?

76 Lotze, *Μεταξὺ ἐλευθέρων καὶ δούλων*: 10 similarly does not believe that free citizens practiced subsistence farming to any great degree. However, ICret IV 75 (Koerner, *Inschriftliche Gesetzestexte*: no. 147) lists a number of articles – very probably those that are exempt from being seized – which includes not only the loom, wool, iron implements and plough, but also the team of oxen (δυσὸν βοῶν).

77 According to Dosiades, in Lyttos in Crete every man had to contribute one tenth of his crops (*karpoi*) as well as the income from the city which the magistrates divided among the individual households; while each slave had to pay one Aeginetan stater (Athen. 4.22, p. 143a–b): οἱ δὲ Λύττιοι συναγοῦσι μὲν τὰ κοινὰ συσσίτια οὕτως. ἕκαστος τῶν γινομένων καρπῶν ἀναφέρει τὴν δεκάτην εἰς τὴν ἑταιρίαν καὶ τὰς τῆς πόλεως προσόδους, ἃς διανέμουσιν οἱ προεστηκότες τῆς πόλεως εἰς τοὺς ἐκάστων οἴκους. τῶν δὲ δούλων ἕκαστος Αἰγίναϊον φέρει στατήρα κατὰ κεφαλὴν. διήρηται δ’ οἱ πολῖται πάντες καθ’ ἑταιρίας, καλοῦσι δὲ ταύτας ἀνδρεῖα.

78 For the literary sources on slavery in Crete see Lewis, *Greek Slave Systems*. 148–50. Strabo gives the most important features of the Cretan constitution as described by Ephorus: The lawgiver, says Ephorus, appears to have regarded liberty as a city state’s greatest good, because only liberty makes property belong to its owner, while (the goods held) in slavery belong to the rulers, not the ruled. Does this description contain an echo of the fact that the *woikeús* produced their goods for the citizens of Gortyn while being unable to own any property themselves? And is it the lack of their own land that Ephorus refers to when he goes on to say that those who have liberty must guard it, and that harmony ensues when dissent has been removed, dissent which grows out of greed and luxury? “[F]or when all citizens live a self-restrained and simple life there arises neither envy nor arrogance nor hatred towards those who are like them.” (Strab. 10.4.16–480 C; Ephorus FgrH 70 F149).

79 Callistratus FgrH 348 F4 and Ephorus FgrH 70 F29 (Athen. 6.84 p. 263e–f): καλοῦσι δὲ οἱ Κρήτες τοὺς μὲν κατὰ πόλιν οἰκέτας χρυσαυγίτους, ἀμφαμιώτας δὲ τοὺς κατ’ ἀγρόν ἐγχωρίου μὲν ὄντας, δουλωθέντας δὲ κατὰ πόλεμον· διὰ τὸ κληρωθῆναι δὲ κλαρώτας, ὃ Ἐφορος δ’ ἐν γ’ ἱστοριῶν· κλαρώτας, φησί, Κρήτες καλοῦσι τοὺς δούλους ἀπὸ τοῦ γενομένου περὶ αὐτῶν κλήρου. Amerias und Hermon in Athen. 6.93, p. 267c (the same in the epitomes): Ἀμερίας δὲ ἐρκίτας φησὶ καλεῖσθαι τοὺς



Even Aristotle's and Strabo's statements that these were "public slaves" and "public revenues" are quite true.<sup>83</sup>

### 3 "Between Free and Slave"

The *Onomasticon* is a dictionary produced in the second century AD by the lexicographer Pollux. In it, he subsumed Lacedaemonian helots, Thessalian *penéstai*, Cretan *klarótai* or *mnoítai*, the Mariandynian "bringers of gifts," the *gymnétes* of Argos and the *korynephóroi* at Sicyon under the heading "between free and slave."<sup>84</sup> David Lewis has empathically rejected Pollux, arguing that this late source does not provide a sufficient basis on which to argue for a specific legal or social status "between free and slave" of these populations.<sup>85</sup> Instead, he believes that all of these groups were slaves who were allowed to live communally; he explains the ban on manumission or sale outside the territory as due to specific circumstances: helots far outnumbered Spartan citizens, so that the *pólis* of Sparta saw itself obliged to make this concession, which did not however grant the helots any rights. The purpose of conceding *de facto* marriages and families was, in his view, to increase the helots' motivation to work, but also to ensure slave reproduction in sufficient numbers, since Sparta imported virtually no foreign slaves.<sup>86</sup>

But it is a curious fact that not only Pollux in the second century AD, but also earlier authors bracketed the helots of Sparta, the *penéstai* of Thessaly and the *klarótai* in the cities of Crete as specific, unfree groups whom they differentiated from the slaves in other cities. This is especially true for Aristotle, who lists helots, *penéstai* and *klarótai* among the *perioikoi*, literally "those who live around" – which is exactly what they were if they lived in the rural environs "around" the *pólis* of the citizens.<sup>87</sup>

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produce either for communal meals or as a fixed share for public use (Gagarin and Perlman, *The Laws of Ancient Crete*: no. G77).

**83** Ephorus (Strab 8.5.4–365 C) uses the term δημόσιοι δοῦλοι in referring to the helots of Sparta. David Lewis ("Slave Marriage": 394) rejects the term on the grounds that the sources for it are late (Strabo and Pausanias).

**84** Poll. 3.83; see also Eustathius, Comm. ad Il. 3, p. 537 l. 15; 3, p. 752 l. 18–p. 753 l. 2.

**85** Lewis, *Greek Slave Systems*: 165: they were "not serfs or some other mysterious status 'between free men and slaves'."

**86** Lewis, "Slave Marriage": 409–11; Lewis, *Greek Slave Systems*: 160. This would however still not explain why legally protected marriage had to be conceded to the *woikeís*, instead of stable concubinate arrangements such as existed in Athenian slavery.

**87** For *perioikoi* in the *Politics* see Aristot. pol. 2.9, 1269b 3 (*penéstai* in Thessaly, helots in Sparta and conditions in Crete); pol. 2.10, 1271b 30 and 1272a 18 (Crete); pol. 2.10, 1272b 18 (Cretan *perioikoi* and helots); pol. 2.10, 1272a 1 (Cretan *perioikoi* in analogy with the Spartan helots); pol. 5.3, 1303a 6–8 (Argive *perioikoi*); pol. 7.6, 1327b 11 (the city of Heraclaea); pol. 7.9 and 10, 1329a 26 and 1330a 29 (in Aristotle's ideal state, those working the land [οἱ γεωργοί] ought to be slaves or "barbarian

Chattel slaves became the property of citizens through purchase: they could be beaten and whipped, inherited, lent and pledged, sold or manumitted. In Athens, they worked in many different sectors including agriculture, trade and commerce, mining and banking.<sup>88</sup> They had many different (“barbaric”) origins and cultures and spoke different languages. By contrast, the helots, *penéstai*, *klarótai* and Mariandyni “lived around” the *pólis* territory with their families in the country, the *chora*, that had originally been theirs; they shared an ethnic and cultural origin, which made them “sons of the land” or “locals” (*enchórioi*); they worked the land and had to give up a part of their harvest to their masters or to the *pólis* as euphemistically titled “bringers of gifts.” But they were not the property of their masters, they could not be manumitted or sold outside the territory, and probably only “given up” inside it. Aristotle calls them *perioikoi*, “those who live around,” a term used in some ancient city states for populations who were free but did not enjoy citizen rights. He also points out that the Cretans had put themselves on an equal footing with their slaves (*doúloi*) in all respects, forbidding them only gymnastic exercises and the possession of weapons.<sup>89</sup> Aristotle agrees, then, that these populations enjoyed a significantly better position than chattel slaves. I believe that Pollux classified them as “between free and slave” because that was how he found these groups depicted in his sources. It was probably due to the increasing pervasiveness of chattel slavery that Greeks in the fifth and fourth centuries were familiar only with the extremes of either liberty or slavery, so that they equated the *woikeís* of Gortyn and the helots in Laconia and Messenia with slaves (*dóloi*).<sup>90</sup>

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*perioikoi*” whose nature is similar [παραπλήσιοι] to that of slaves). Gagarin, “Slaves and Serfs at Gortyn”: 14, n. 1 points to an inscription that reads περιφοι[–] in ICret IV 65 l. 10, but admits that several other reconstructions are possible. Cf. Ronald F. Willetts, “The Servile Interregnum at Argos,” *Hermes* 87 (1959): 495–506, here 496: Aristotle “normally in the *Politics* uses *perioikoi* to mean *serfs* and not *perioikoi*.”

**88** For the components of the right of ownership and the legal definition of slavery see Lewis, *Greek Slave Systems*: 25–55.

**89** Aristot. pol. 2.5, 1264a 20–22: ἐὰν μὴ τι σοφίζωνται τοιοῦτον οἷον Κρήτες; ἐκεῖνοι γὰρ τὰ ἄλλα ταῦτα τοῖς δούλοις ἐφέντες μόνον ἀπειρήκασι τὰ γυμνάσια καὶ τὴν τῶν ὄπλων κτήσιν. See also pol. 7,10, 1329b 1–3.

**90** Gagarin, “Slaves and Serfs at Gortyn”: 23: “At Gortyn it is likely that all *woikeis* were *doloi*, or could be classified as *doloi* for legal purposes, but not all *doloi* were *woikeis*.” He concludes (31) that the *woikeís* “had a higher status and greater degree of independence than *doloi*, who were probably chattel slaves introduced to Gortyn later (perhaps in the sixth century). Despite these differences in origin, the two groups came to be treated the same for legal purposes, and *woikeis* appear to have been gradually assimilated to the status of *doloi*”; so also Gagarin and Perlman, *The Laws of Ancient Crete*: 357. Gehrke, “Gewalt und Gesetz”: 27, aptly summarizes that “sie standen zwar auf der Skala μεταξύ ἐλευθέρων καὶ δούλων letzteren sehr nahe, waren aber keine reinen Sklaven.” Lévy, “Libres et non-libres”: 40, believes that the emergence of chattel slavery reduced the status of the *woikeís*.

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Martin Schermaier

# *Familia* and Dependency in Roman Law Texts

## 1 Changing Concepts and Unchanging Terms?

Some terms for institutionalized forms of dependency originally developed in Roman law still dominate today's terminology. When we read *servus*, we think of a slave; when we read *dominus*, we think of a slave's owner; and when we read *libertas* we think of freedom. Such terms determine our perceptions when talking about dependency. But in using these terms, do we really mean the same things?

Words are indispensable for conceptualizing social phenomena. We can conceptualize only what we can express in language. If we agree that a specific word depicts a complex of meaning, we should be sure that the relationship between word and meaning is stable. Otherwise, communication is impossible, or at least rather difficult. This is even more true with legal terms. Most legal terms are abbreviations of complex social phenomena. If we are not able to rely on their specific meaning, we are forced to negotiate our assessment of such phenomena in each individual case. This is time-consuming and creates uncertainty. Therefore, we should expect legal terms not to change much over time. Of course, we do not use Latin anymore. But the English translations of the terms that denote dependency seem to be undisputed and as stable as their Latin counterparts. The constant use of the terms suggests their continuous meaning.

Such convictions are challenged by the fact that terminological borrowings like the word "family" had a different meaning in Latin. *Familia* in Roman law texts might also denote the slaves or freedmen in the household.<sup>1</sup> Someone who is not aware of that terminological difference might easily misconceive the relevant texts. On the other hand, the term *familia* also tells us something about Roman conditions of slavery. It does not describe an anonymous group of people oppressed by its owner but had, even in Roman times, a somewhat personal touch. *Familia*, that is something like "my people," those living with me. This example offers two insights: Meanings can be more ephemeral than we would suppose. However, a shift in meaning might indicate a shift in the associated social phenomena. "Slaves as part of the family" is a concept that challenges our modern perception of slavery. Is there, maybe, a difference between Roman slavery and that which we usually conceive of as "slavery"?

Such interrelations are familiar to all historians: Words we use today might have had a different meaning in past centuries. Terminological continuity is an illusion. Synonymous terms might conceal differences in concept. This makes it difficult

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<sup>1</sup> An overview on the different meanings of *familia* in classical Latin is provided by Richard Paul Salter, "Familia, Domus, and the Roman Conception of the Family," *Phoenix* 38 (1984): 336–55, here 4. More detailed Rudolf Leonhard, "familia," in *Realencyclopädie der classischen Altertumswissenschaft*, vol. 6/2, ed. August Friedrich Pauly and Georg Wissowa (Stuttgart: Metzler, 1909): 1980–84.

to understand past worlds. To provide an insight into the legal terminology of dependency in Ancient Rome, I would like to concentrate on the term *familia* and explain its legal and colloquial meaning. We have to bear in mind that Roman law did not create terms of dependency as artificial constructs. It simply employed those which were already in use in everyday language. Over time, though, judicial practice and the activities of jurists, the *iusprudentes*, infused these terms with particular meanings. In some cases, these were further determined by set definitions. Thus, these words became terms with clear connotations and clear limits in legal discourse. But not every word we trace in the legal sources was a legal term. The history of words is etymology, while the history of terms reflects social practices. And the history of law is not a history of words but of terms with specific meanings.

## 2 A Classical Text on *familia*: D. 50.16.195 (Ulpian 46 AD edictum)

As we are told by Domitius Ulpianus, a jurist who lived around 200 AC, *familia* has a threefold meaning:

D. 50.16.195.1 (Ulpian 46 AD edictum): “Familiae” appellatio qualiter accipiatur, videamus. et quidem varie accepta est: nam et in res et in personas deducitur. in res, ut puta in lege duodecim tabularum his verbis “adgnatus proximus familiam habeto”. ad personas autem refertur familiae significatio ita, cum de patrono et liberto loquitur lex: “ex ea familia”, inquit, “in eam familiam”: et hic de singularibus personis legem loqui constat.

D. 50.16.195.1 (Ulpian, Edict, book 46): Let us consider how the designation of “household” is understood. And indeed it is understood in various ways; for it relates both to things and to persons: to things, as, for instance, in the *Law of the Twelve Tables* in the words “let the nearest agnate have the household.” The designation of household, however, refers to persons when the law speaks of patron and freedman: “from that household” or “to that household”; and here it is agreed that the law is talking of individual persons.<sup>2</sup>

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<sup>2</sup> All English translations of texts from the Digests are taken from Alan Watson, *The Digest of Justinian*, vol. 4 (Philadelphia: University of Pennsylvania Press, 1985); this specific translation is on page 949.

(4) Item appellatur familia plurium personarum, quae ab eiusdem ultimi genitoris sanguine proficiscuntur (sicuti dicimus familiam Iuliam), quasi a fonte quodam memoriae.

(4) Likewise, the name of household is also used for several people who descend by blood from the same original founder, as we talk of the Julian household, going back as it were to the origin of records. (Watson, vol. IV, 950)

*Familia* can mean the whole “property” of a *pater familias*, but also only the group of slaves he holds. Furthermore, it can depict all free persons within a family – more or less the same meaning which the word “family” has today. But if we look to all available law texts, we find that only the first two meanings were condensed into a specific legal concept. In those instances, we can say that *familia* was not only a word, but a legal term. This is attested by various institutions which we repeatedly encounter in laws, legal literature, or court decisions, such as the *familiae emptor* (property) or the *familia publicanorum* (slaves owned by *publicani*).<sup>3</sup>

Already Ulpian was aware of the different meanings, and he tried to separate them by pointing to their specific applications. Some of these descriptions are set definitions. For Ulpian and other jurists, this was neither a question of practicability nor of aesthetics. Defining or at least describing legal terms is a prerequisite of legal science, or of *ars iuris*, as Cicero<sup>4</sup> would have called it.<sup>5</sup> Justinian’s compilers

<sup>3</sup> Cfr. D. 50.16.195.3 (Ulp. 46 AD ed.).

<sup>4</sup> Cicero in his *de oratore* (1.190) announced his intention to write a book on *ius civile in artem redigere*, how knowledge and practice of civil law can be transformed to scholarship. Gellius (1.22.7) reports about such a book written by Cicero. This book is lost. On this topic Emilio Costa, *Cicerone giureconsulto* (Bologna: Nicola Zanichelli Editore, 1927); Ulrich von Lübtow, “Cicero und die Methode der römischen Jurisprudenz,” in *Festschrift L. Wenger*, vol. 1, ed. Paul Koschaker (Munich: Beck, 1944): 224–35.; Fritz Schulz, *History of Roman Legal Science* (Oxford: Clarendon Press, 1946): 69; Aldo Schiavone, *Nascita della giurisprudenza: cultura aristocratica e pensiero giuridico nella Roma tardorepubblicana* (Bari: Laterza, 1976): 101; Ferdinando Bona, “L’ideale retorico ciceroniano ed il ‘ius civile in artem redigere’,” *Studia et Documenta Historiae Iuris* 46 (1980): 282–382; Franz Wieacker, *Römische Rechtsgeschichte*, vol. 1 (Munich: Beck, 1989): 628–29.

<sup>5</sup> In Cic. de orat. 1.188 he writes: *Sit ergo in iure civili finis hic: legitimae atque usitatae in rebus causisque civium aequabilitatis conservatio. [189] Tum sunt notanda genera et ad certum numerum paucitatemque revocanda. Genus autem id est, quod sui similis communione quadam, specie autem differentis, duas aut pluris complectitur partis; partes autem sunt, quae generibus eis, ex quibus manant, subiciuntur; omniaque, quae sunt vel generum vel partium nomina, definitionibus, quam vim habeant, est exprimendum; est enim definitio rerum earum, quae sunt eius rei propriae, quam definire volumus, brevis et circumscripta quaedam explicatio.* (“Let the goal then of the common law be defined as the preservation, in the concerns and disputes of citizens, of an impartiality founded on statute and custom. We must next designate the general classes of cases, restricting these to a small fixed number. Now a general class is that which embraces two or more species, resembling one another in some common property while differing in some peculiarity. And species are subdivisions, ranged under those general classes from which they spring; while all names, whether of general classes or species, must be so defined as to show the significance of each. A definition of

inserted the text into the Digest, in title 50.16, dedicated to *de verborum significatione*, the signification of words. The method applied by Ulpian originates in Platonic dialectics.<sup>6</sup> It divides meanings by marking their differences (*diairésis*). In identifying legal terms of dependency, we can even use the help of Roman jurists. They themselves already reflected on the terms they were using in normative contexts.

Having identified words as legal terms, we are able to investigate their fate, their history. When did they emerge as terms? Which social practice or which legal normativity do they represent? Did the terms change their meanings, or not? Interestingly, many terms of dependency underwent a significant change during the mid-Republican expansion of Roman territory. This expansion glutted the Roman slave market and diminished the value of slaves and – as a further consequence – their legal status. But at the same time, the legal terms preserved older social orders, like the proverbial fly in amber.

### 3 *Familia Pecuniaque*: From Ulpian to the Twelve Tables

Ulpian first refers to the XII tables in D. 50.16.195, in order to explain the meaning of *familia*. Despite the quotation from the old law, Ulpian's text has no historical ambitions. He looks at the XII tables as an authority for the contemporary use of *familia* as a legal term. His aim is to show that the ambiguity of *familia* is not a result of imprecise usage, but goes back to the very foundations of Roman law. Already the XII tables, he says, applied *familia* to things and to persons alike. In order to uncover the original meaning, his text requires a *duplex interpretatio*: We have to distinguish Ulpian's own comprehension of *familia* from that of the Twelve Tables, which were composed almost 650 years earlier.

Unfortunately, it is rather unclear what the original wording in the XII tables really was. The categorical division between things (*res*) and persons (*personae*) does not go back to the times of the Twelve Tables, even though it appears to be self-evident. But the extant text is of classical origin only. Gaius in his *institutiones* may have been the first jurist who used the concept of things (understood as objects of rights) and persons (understood as entitled subjects) to establish opposite legal

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course I may describe as a concise and accurate statement of the attributes belonging to the thing we would define," trans. Edward William Sutton, *Cicero De Oratore, in Two Volumes*, vol. 1, The Loeb Classical Library (London: Harvard University Press, 1948): 131, 133).

<sup>6</sup> On this subject see Fritz Schulz, *History of Roman Legal Science* (Oxford: Clarendon Press, 1946): 62–69.

categories.<sup>7</sup> The texts of the Twelve Tables referred to by Ulpian do not even give a hint of that distinction. The short rule *adgnatus proximus familiam habeto* to which Ulpian refers first was part of XII Tab. 5.4. It stated that if a *pater familias* died without having made a will and without leaving any heirs of his own, the inheritance should go to the *adgnatus proximus*.<sup>8</sup> *Adgnati* (agnates) are those who had the same *pater familias* as the deceased. The other texts cited by Ulpian, which should refer to *liberti* (freedmen) by calling them *familia*,<sup>9</sup> cannot be assigned to a specific context. In XII Tab. 5.4 we would translate *familia* as “estate,” thus describing goods and persons alike. There is no reason to doubt that Ulpian in his 46th book *ad edictum* (D. 50.16.195.1) quoted correctly. But it is interesting that he relates *familia* in XII Tab. 5.4 to things only.

The original text of the XII tables is unknown to us. We only have some fragments which have been handed down by other authors. They help to explain the context of Ulpian’s citation in D. 50.16.195.1 and to disclose their different interpretation in the history of Roman law. We start with XII Tab. 5.4–5, which is referred to by Ulpian (twice), as well as by Cicero:

Cic. inv. 2.148: [. . .] SI PATERFAMILIAS INTESTATE MORITUR, FAMILIA PECUNIAQUE EIUS AGNATUM GENTILIUMQUE ESTO.

Coll. 16.4.1 (= Ulp. reg.): Id enim cautum est lege duodecim tabularum hac: SI INTESTATUS MORITUR, CUI SUUS HERES NEC ESCIT, AGNATUS PROXIMUS FAMILIAM HABETO. 2. Si agnatus defuncti non sit, eadem lex duodecim tabularum gentiles ad hereditatem vocat his verbis: SI AGNATUS NEC ESCIT, GENTILES FAMILIAM HABENTO.

Cic. inv. 2.148: [. . .] If a head of a household dies intestate, his household and property shall go to the agnates and gentiles.<sup>10</sup>

Coll. 16.4.1 (= Ulp. reg.): For thus is it laid down in the following law of the Twelve Tables: “If one dies intestate and has left no self-successor, let the nearest agnate have his estate.” 2. If the deceased has no agnate, the same law of the Twelve Tables calls Gentiles of the deceased to the succession in the following terms: “If there is no agnate, let the Gentiles have the estate.”<sup>11</sup>

<sup>7</sup> Cf. Gai. inst. 1.8: *Omne autem ius, quo utimur, vel ad personas pertinet vel ad res vel ad actiones*. (“The whole of the law observed by us relates either to persons or to things or to actions,” trans. Francis de Zulueta, *The Institutes of Gaius*, 2 vols. (Oxford: Clarendon Press, 1946): vol. 1, 5).

<sup>8</sup> XII Tab. 5.4 (= Coll. 16.4.1): *Si intestatus moritur, cui suus heres nec escit, agnatus proximus familiam habeto*. (“If he dies without a testament and has no own heirs, the next agnate should have the familia”). Slightly different is Cic. inv. 1.248.

<sup>9</sup> In D. 50.16.195.1: *ex ea familia and in eam familiam*.

<sup>10</sup> Harry Mortimer Hubbel, *Cicero De Inventione*, The Loeb Classical Library (London: Heinemann London; Harvard University Press, 1949): 317.

<sup>11</sup> Moses Hyamson, *Mosaicarum et Romanarum Legum Collatio* (London: Oxford University Press, 1913): 145–47.

Ulp. 46 AD ed. (D. 50.16.195.1): [. . .] in res, ut puta in lege duodecim tabularum his verbis ADGNATUS PROXIMUS FAMILIAM HABETO.

D. 50.16.195.1 (Ulpian, Edict, book 46): [. . .] to things, as, for instance, in the *Law of the Twelve Tables* in the words “let the nearest agnate have the household.” (Watson, vol. IV, 949)

It is again Ulpian in his book *regularum* (“on rules”), conserved in the *Collatio legum Mosaicarum et Romanarum*,<sup>12</sup> who handed down to us the most probable wording. Here, too, *familia* designates the estate as a whole: If there is neither a will nor an heir apparent, the nearest agnate receives the inheritance; if there is no agnate, it goes to the *gens*. Cicero’s account of the same passage distinguishes between *familia* and *pecunia*. This is striking, because elsewhere Cicero tells us that in his boyhood, he still had to learn the Twelve Tables by heart.<sup>13</sup> But in this instance, his excerpt from the XII tables is a summary rather than a quote. This is made clear by the fact that he does not rank agnates and *gens*. The dualism of *familia* and *pecunia* indicates a distinction between persons who belonged to the deceased and his other assets. *Pecunia* originally meant livestock and later money, and in Cicero’s time may already have signified tangible assets in general.<sup>14</sup> That is a preliminary stage of what Ulpian in D. 50.16.195.1 calls the division between *res* (things) and *personae*. But there is a big difference: Whereas Ulpian interprets *familia* in that instance (XII Tab. 5.4) as an entity of things, Cicero seems to make a difference between property in humans (*familia*) and in things (*pecunia*). But maybe the relation between *familia* and *pecunia* is even more complicated.<sup>15</sup>

A similar difference might have been alluded to by another provision of the Twelve Tables, XII Tab. 5.3:

<sup>12</sup> On this late antique collection of biblical and Roman law texts see for example Detlef Liebs, *Die Jurisprudenz im spätantiken Italien (260–640 n.Chr.)* (Berlin: Duncker & Humblot, 1987): 162–74; Giorgio Barone-Adesi, *L’età della Lex Dei* (Napoli: Jovene Editore, 1992); Robert M. Frakes: *Compiling the Collatio Legum Mosaicarum et Romanarum in Late Antiquity* (Oxford: Oxford University Press, 2011).

<sup>13</sup> Cic. leg. 2.59.

<sup>14</sup> In later times this is undisputed, cf. D. 50.16.178 pr. (Ulp. 49 AD Sab.): ‘*Pecuniae*’ *verbum non solum numeratam pecuniam complectitur, verum omnem omnino pecuniam, hoc est omnia corpora: nam corpora quoque pecuniae appellatione contineri nemo est qui ambiget* (“The designation ‘money’ does not only include coinage but absolutely every kind of money, that is, every substance; for there is no one who doubts that substances are also included in the designation of money”); trans. Watson, *The Digest of Justinian*, vol. 4, 948). Similarly D. 50.16.97 (Celsus 32 dig.); D. 50.16.222 (Hermog. 2 iur. epit.); D. 35.2.1 pr. (Paul. sing. ad leg. Falc.); cf. e.g. Leonhard, “familia”: 1980–81.

<sup>15</sup> See below, at 4.1.

Cic. inv. 2.148: [. . .] PATERFAMILIAS UTI SUPER FAMILIA PECUNIAQUE SUA LEGASSIT, ITA IUS ESTO.

Ulp. reg. 11.14: Testamento quoque nominatim tutores dati confirmantur eadem lege duodecim tabularum, his verbis: UTI LEGASSIT SUPER PECUNIA TUTELAVE SUAE REI, ITA IUS ESTO: qui tutores dativi appellantur.

Gai. inst. 2.224: [. . .] idque lex XII tabularum permittere videbatur, qua cavetur, ut, quod quisque de re sua testatus esset, id ratum habetur, his verbis: UTI LEGASSIT SUAE REI, ITA IUS ESTO.

Cic. inv. 2.148: [. . .] In whatever way a head of a household has made a will concerning his household and property, so let it be.<sup>16</sup>

Ulp. reg. 11.14: That the elected tutors can be confirmed by name in the testament is provided by the Twelve Tables in this words: “As he disposed over estates and tutelages of his own, so let the law be.” They are therefore called given tutors.

Gai. inst. 2.224: [. . .] That was thought to be permitted by the Twelve Tables, which provide that whatever will a man has made of his estate, it should be ratified, by its words: “As a man bequeaths his own, so let the law be.”<sup>17</sup>

All three texts,<sup>18</sup> reconstructed as XII Tab. 5.3,<sup>19</sup> obviously refer to the same original, but they are different. Only one quote can be right, or at least closer to the original wording. Most authors<sup>20</sup> prefer the text of Ulpian’s *liber singularis regularum* (Ulp. reg.),<sup>21</sup> a text

**16** Harry Mortimer Hubbel, trans., *Cicero De Inventione*, The Loeb Classical Library (London: Heinemann London; Harvard University Press, 1949): 317.

**17** William M. Gordon and Olivia F. Robinson, *The Institutes Of Gaius* (London: Duckworth, 1988): 235.

**18** These three texts represent the most precise quotations, but there are numerous other texts that quote XII Tab. 5.3. A conclusive enumeration of the sources is provided by Daniela di Ottavio, *Uti legassit . . . ita ius esto. Alle radici della successione testamentaria in diritto romano* (Naples: Jovene editore, 2016): 4–5.

**19** See Salvatore Riccobono et al., eds., *Fontes iuris romani antejustiniani in usum scholarum*, part 1: *leges* (Florence: Barbèra, 1968): 37–38.

**20** An overview is given by Maria Floriana Cursi, “La mancipatio e la mancipatio familiae,” in *XI Tabulae. Testo e commento*, vol. 1, ed. Maria Floriana Cursi (Napoli: Edizioni Scientifiche Italiane, 2018): 357–58; see also di Ottavio, *Uti legassit*: 60, who is not sure if the original text had *suae rei* or *familia*. Pasquale Voci, *Diritto ereditario romano*, vol. 1, 2nd ed. (Milano: Giuffrè, 1967): 4 insisted on *suae rei*.

**21** Cf. Martin Avenarius, *Der pseudo-ulpianische liber singularis regularum. Entstehung, Eigenart und Überlieferung einer hochklassischen Juristenschrift* (Göttingen: Wallstein, 2005) and Martin Avenarius, ed. and trans., *Die pseudo-Ulpianische Einzelschrift über die Rechtsregeln (liber singularis regularum)* (Göttingen: Wallstein, 2005).

handed down to us by an early medieval<sup>22</sup> manuscript.<sup>23</sup> Cicero's version, as we have already seen, is a summary of what the Twelve Tables said. According to Ulpian, the XII tables did not mention *familia* but referred to *pecunia* and *tutela*. Ulpian interprets *tutela* as pointing to the fact that the testator appoints a *tutor*, a legal guardian, for his wife and children. But the genitive *suae rei* sounds odd. Literally translated, it would be “guardianship over things.” Maybe the Twelve Tables had *suae rei* only and did not mention either *pecunia*, *tutela* or *familia*. In that case, we should prefer the version in Gai. inst. 2.224 or D. 50.15.120 (Pomp. 5 ad Quintum Mucium). As we know from other fragments, the Twelve Tables used the term *res* on several occasions.<sup>24</sup> But in most of these cases, *res* signifies the object of a trial – not the wealth of a testator. On the other hand, as di Ottavio argues, with only the phrase *suae rei*, the meter of the provision would be irregular.<sup>25</sup>

Older scholars agreed<sup>26</sup> that the expression *pecunia tutelave suae rei* is a bracket term, similar to a chiasmus: In the technical sense, *legare suae rei* means “disposing of one's possessions”: cattle (or money?) and the legal guardianship are added right in the middle of this construction in order to clarify that they are part of the overall *res sua*. Behrends argued differently. According to him, *tutela* means the “Verwaltungszuständigkeit” (competence to administrate) of the *pater familias* in general.<sup>27</sup> But even in that case, the occurrence of *res* is strange. We would expect *familia* only, because this is the central term in the following provision (XII Tab. 5.4). Beyond that, it is the *mancipatio familiae* which enacted the oldest form of a will (the *testamentum per aes et libram*<sup>28</sup>).

22 Vat. reg. lat. 1128. On that manuscript see, for example, Wolfgang Kaiser, “Review: Der pseudo-ulpianische liber singularis regularum. Entstehung, Eigenart und Überlieferung einer hochklassischen Juristenschrift, by Martin Avenarius,” *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte Romanistische Abteilung* 127 (2010): 560–607.

23 The manuscript is accessible on [https://digi.vatlib.it/view/MSS\\_Reg.lat.1128](https://digi.vatlib.it/view/MSS_Reg.lat.1128) [accessed 17.05.2022].

24 Cf. di Ottavio, *Uti legassit*: 66–72.

25 Di Ottavio, *Uti legassit*: 79–86. We must bear in mind that the XII tables are described as *carmen*, a song (Cic. leg. 2.59). For a discussion see, for example, Marie Theres Fögen, *Das Lied vom Gesetz* (Munich: Carl-Friedrich-von-Siemens-Stiftung, 2007).

26 Cf. already Friedrich Adolph Schilling, *Bemerkungen über römische Rechtsgeschichte: Eine Kritik über Hugo's Lehrbuch der Geschichte des Römischen Rechts bis auf Justinian* (Leipzig: Johann Ambrosius Barth Verlag, 1829): 97–98; Christian Friedrich von Glück, *Ausführliche Erläuterung der Pandecten nach Hellfeld, ein Commentar*, vol. 34, part 1 (Erlangen: Palm, 1830): 100, n. 17.

27 Okko Behrends, “Das Vindikationsmodell als ‘grundrechtliches’ System der ältesten römischen Siedlungsorganisation. Zugleich ein Beitrag zu den ältesten Grundlagen des römischen Personen-, Sachen- und Obligationenrechts,” in *Libertas. Grundrechtliche und rechtsstaatliche Gewährungen in Antike und Gegenwart. Symposium aus Anlaß des 80. Geburtstages von Franz Wieacker*, ed. Okko Behrends and Malte Disselhorst (Ebelsbach: Verlag Rolf Greimer, 1991): 1–59, 42.

28 On that Eduard Hölder, “Das testamentum per aes et libram,” *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte Romanistische Abteilung* 1 (1880): 67–87.; Francesca Terranova, *Ricerche sul testamentum per aes et libram*, vol. 1 (Turin: Giappichelli, 2011); a shorter presentation (in English) is

This is what Crawford might have had in mind when he reconstructed the provision as, *uti legassit super familia pecuniave tutelave sua, ita ius esto*.<sup>29</sup> This reconstruction sounds logical, because slaves and freedmen formed neither part of the *pecunia* nor did they come under *tutela*. As we already mentioned, only wife and children were in need of a tutor if the *pater familias* died. Cicero's version (*pecunia/familia*) excludes testamentary provisions for wife and children, unless we accept that they were implied in the term *familia*. Anyway, Cicero himself seems to have made such a division, thus including free and unfree members of the household in the term *familia*. What the original wording of XII Tab. 5.3 really was will probably remain a mystery.

## 4 A Change in Meaning: From the Twelve Tables to Ulpian

The different reports on the wording of the Twelve Tables suggest that *familia* underwent a terminological change from the early (XII Tables) to the late Republic (Cicero) and, finally, to the late Empire (Ulpian).<sup>30</sup> If we trust the text referred to by Ulpian (Coll. 16.4.1 and reg. 14.11), the Twelve Tables registered persons and goods in the household as *familia*, whereas Cicero classed slaves and freedmen as *familia* and goods as *pecunia*. Most significant is XII Tab. 5.4–5 (Coll. 16.4.1): A deceased without legal heirs has no children and no wife in his power. Thus, there was no need to arrange for tutors but only for slaves, freedmen and goods. The Twelve Tables comprised all that under *familia*. Cicero distinguished between persons (*familia*) and goods (*pecunia*). Conversely, Ulpian states explicitly that *familia* in that context only means goods.<sup>31</sup> At first glance, that seems to come close to what the Twelve Tables meant, but Cicero's wording suggests a shift: Other than the Twelve Tables, Cicero separates persons and goods into two different categories, and Ulpian's interpretation builds on that. According to his view, the *familia* in XII Tab. 5.4–5 denotes *res* (things) only and thus, the slaves and freedmen which are part of

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provided by Alan Watson, *The Law of Succession in the Later Roman Republic* (Oxford: Clarendon Press, 1971): 11.

<sup>29</sup> Michael Hewson Crawford, ed., *Roman Statutes*, vol. 2 (London: Institute of Classical Studies, University of London, 1996): 637–38.

<sup>30</sup> This has already be outlined by Mayer-Maly, Theo. “familia,” in: *Drei Vorträge zum Privatrecht*, ed. Franz Bydliński, Theo Mayer-Maly, Fritz Sturm (Graz: Leykam, 2001): 25–29.

<sup>31</sup> D. 50.16.195.1: [ . . . ] *et quidem varie accepta est: nam et in res et in personas deducitur. in res, ut puta in lege duodecim tabularum his verbis ‘adgnatus proximus familiam habeto’* (“And indeed it is understood in various ways; for it relates both to things and to persons: to things, as, for instance, in the Law of the Twelve Tables in the words ‘let the nearest agnate have the household’”; tansl. Watson, *The Digest of Justinian*, vol. 4: 949).

the inheritance are not *personae* but *res*. As said before, the Twelve Tables did not distinguish between persons and goods. They focus on the power of the *pater familias* and not on what is subjected to this power.

#### 4.1 Persons and Things under the Control of the *Pater Familias*

This meaning of *familia* is underpinned by some old figures or regulations which similarly go back to the Twelve Tables, or at least to the time of the early Republic. It is the term of *pater familias* itself, which – as Ulpian explains correctly – refers to the power in the household (*domus*) and does not presuppose a biological “father”:

<p>D. 50.16.195.2 (Ulp. 46 AD edictum): [. . .] pater autem familias appellatur, qui in domo dominium habet, recteque hoc nomine appellatur, quamvis filium non habeat: non enim solam personam eius, sed et ius demonstramus:</p>	<p>D. 50.16.195.2 (Ulpian, Edict, book 46): [. . .] Someone is called the head of a household if he holds sway in a house, and he is rightly called by this name even if he does not have a son; for we do not only mean his person but also his legal status. (Watson, vol. IV, 950)</p>
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*Non personam sed ius demonstramus*, we specify not a person, but a right when we speak of a *pater familias*. It is his prerogative, his *ius*, to be the only person in a household with property rights over people and things. To have *dominium in domo* (“ownership on the house”) is Ulpian’s contemporary interpretation. At his time, jurists distinguished ownership (*dominium*) of things including slaves from *potestas* over children and *manus* over a wife. In order to make clear that the existence of a wife and children are not a precondition for being *pater familias*, Ulpian concentrates on the “house” owned by him. But the original meaning was that the *pater familias* owns everything in his household, things as well as persons, regardless of their status.

This original meaning of *familia* is present even in the *actio familiae erciscundae*, an action that every heir could employ in order to divide up the community of heirs.<sup>32</sup> This action did not aim at separating heirs but at ascribing a certain part of the heritage to each. So *familia* denoted the heritage, not the group of heirs. The same connotation is present in the *familiae emptor*, a fiduciary to whom the *pater familias* transferred his assets in a formal way and instructed him to distribute them

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<sup>32</sup> For this subject see, for example, Hein L.W. Nelson, “Zur Terminologie der römischen Erbschaftsteilung. Ercto non cito, familia erciscunda,” *Glotta* 44 (1966): 41–60; Geoffrey MacCormack, “The actio communi dividundo in Roman and Scots law,” in *The Roman Law Tradition*, ed. Andrew D.E. Lewis and David J. Ibbetson (Cambridge: University Press, 1994): 159–81.

to the nominated heirs after the *pater familias*' death.<sup>33</sup> Interestingly, the formula which established such a trust, according to the testimony of Gaius, mentions *familia* and *pecunia* side by side:

Gai. inst. 2.104: [. . .] FAMILIAM PECUNIAMQUE TUAM ENDO MANDATELA TUA CUSTODELAQUE MEA ESSE AIO, EAQUE QUO TU IURE TESTAMENTUM FACERE POSSIS SECUNDUM LEGEM PUBLICAM, HOC AERE – et ut quidam adiciunt – AENEAQUE LIBRA, ESTO MIHI EMPTA. [. . .]

Gai. inst. 2.104: [. . .] “I declare that your family and property are in my administration and custody; let them be bought to me with this bronze and (as some add) the bronze scales, so that you can lawfully make a will according to the public statute.”<sup>34</sup>

The archaic style indicates an early period of Roman law, maybe contemporary with the Twelve Tables or slightly later. The terms *familia* and *pecunia* seem to allude to the classical contrast pair of persons v. things, but it is most likely that they have another meaning. Scholars have suggested three explanations: Most believe that the terms are used synonymously,<sup>35</sup> some think that *familia* means the household as an entity, *pecunia* the single things in it.<sup>36</sup> Others, especially in older literature, believe that *familia* means *res Mancipi* only, that is slaves, cattle, Italian land, and some easements on land, with *pecunia* referring to all other things.<sup>37</sup> This would have enormous consequences for the interpretation of the provisions of the Twelve Tables on testaments. XII Tab. 5.3, which – according to Ulp. reg. 11.14 – allows the writing of a will on *pecunia* and *tutela* only<sup>38</sup> would leave the more important things (the *res Mancipi*) to the legal heirs.

Our focal point is different: The use of *familia* in the formula of the *emptio familiae* by the executor of the will indicates that *familia* comprises persons and things alike. *Familia* at that early stage is a collective term for the objects under the control of the *pater familias*. In later times, the technical term for such objects is *res*. This is

33 By way of the *testamentum per aes et libram*, cf. Hölder, “Das testamentum per aes et libram”; Terranova, *Ricerche sul testamentum per aes et libram*.

34 William M. Gordon and Olivia F. Robinson, *The Institutes of Gaius* (London: Duckworth, 1988): 171, 173.

35 Cf. Max Kaser, *Das Römische Privatrecht, Erster Abschnitt: Das altrömische, das vorklassische und klassische Recht*, 2nd ed. (Munich: Beck, 1971): 97 (with older literature).

36 So, for example, Joseph Bonnet, *Des mots familia et pecunia dans la loi des Douze Tables* (Paris: L. Larose et Forcel, 1900): 43–54, esp. 51.

37 Rudolf von Jhering, *Entwicklungsgeschichte des römischen Rechts* (Leipzig: Breitkopf & Härtel, 1894): 81–91; Otto Karlowa, *Römische Rechtsgeschichte*, vol. 2 (Leipzig: Veit, 1901): 76. A somewhat similar interpretation is given by János Zlinszky, “Familia pecuniaque,” *Index* 16 (1988): 31–42: The pair of terms combined reflects the agricultural origins of Rome: *Familia* represents the persons and goods involved in farming, *pecunia* the wealth of nomadic herders.

38 On this subject see Riccobono et al., *Fontes iuris romani*: 37–38.

what Gaius tells us in his institutes when distinguishing between corporeal and incorporeal things or human and divine things.<sup>39</sup> And Pomponius, a contemporary of Gaius, replaces *familia* by *res* in his record on XII Tab. 5.3:

D. 50.16.120 (Pomp. 5 AD Quintum Mucium): Verbis legis duodecim tabularum his “uti legassit suae rei, ita ius esto” latissima potestas tributa videtur et heredis instituendi et legata et libertates dandi, tutelas quoque constituendi. sed id interpretatione coangustatum est vel legum vel auctoritate iura constituentium

D. 50.16.120 (Pomponius, Quintus Musicius, book 5): In these words of the *Law of the Twelve Tables*, “uti legassit suae rei, ita jus esto,” the widest possible power seems to be conferred of naming an heir and granting legacies and establishing tutelages; but this has been narrowed by interpretation or the authority of laws or those who establish law. (Watson, vol. IV, 943)

By that it becomes clear why Ulpian understood *familia* in XII Tab. 5.4<sup>40</sup> as *res*, even though he was convinced that it should include slaves and freedmen. The division between things and persons, unknown to the Twelve Tables, led the classical jurists to understand *familia* as “things” (*res*) when it referred to the inheritance. I stress this point because in other contexts some jurists insist that slaves are persons.<sup>41</sup>

## 4.2 *Familia* as Collective Name for Slaves

All these observations allow us to reconstruct different meanings of *familia* over the course of time: In the old provisions which originated in the early Republic, *familia* designated the household, all people living and all things existing under the power of a *pater familias*. It therefore comprised free people as well as slaves and freedmen. Later, this power of the *pater familias* was differentiated into *manus* (over a wife) and *potestas* (over children and freedmen) on the one hand, and *dominium* on the other. We have to bear in mind that even *dominium* originally had a wider connotation, comprising the *domus* and all its persons and things.<sup>42</sup> But in legal texts from the late Republic and the Empire, *dominium* is reserved for objects of property. This implicates a clear distinction between free persons on the one hand, and slaves and things on the other. This changed the meaning of *familia* as well: Already Plautus

<sup>39</sup> Gai. inst. 2.1–14 = D. 1.8.1 (Gai. 2 inst.).

<sup>40</sup> D. 50.16.195.1, as he cites: *adgnatus proximus familiam habeto*.

<sup>41</sup> Gai. inst. 1.9 (= D. 1.5.3): *Et quidem summa divisio de iure personarum haec est, quod omnes homines aut liberi sunt aut servi* (“And the most important division in the law of persons is that there all people are either free or slaves.”).

<sup>42</sup> Saller, “‘Familia, Domus’”: 342–49.

used the word to refer to the slaves in a household,<sup>43</sup> and this signification became most frequent in legal texts. An infamous example is the *senatus consultum Silanianum*, according to which the *familia*<sup>44</sup> of a *dominus* who had been killed at home could be tortured to death in order to find out who murdered him.<sup>45</sup>

But even in other and less sanguinary contexts we encounter *familia* as a legal term for a group of slaves, for example in the *familia publicanorum* or, later on, in the *familia Caesaris*. The *familia publicanorum* are the slaves and wage workers<sup>46</sup> of a group of contractors who had taken on a public task (and were therefore called *publicani*), for example the collection of taxes.<sup>47</sup> Such tax farming could be enormously expensive, and therefore a number of people invested together and formed a company. Their slaves were called *familia publicanorum*, which hints at the modern construct of the society itself (the *societas publicanorum*<sup>48</sup>) having a corporate personality;<sup>49</sup> as such, it was the owner of those slaves. The *familia publicanorum* is therefore described

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43 Plaut. Capt. 307–8: *et quidem si, proinde ut ipse fui imperator familiae / habeam dominum, non verear ne iniuste aut graviter mi imperet* (“And indeed, if I might have such a master as I myself was when I was the head of a household, I should have no fear of being treated unjustly or harshly.” Trans. Paul Nixon, *Plautus, in Five Volumes*, vol. 1, The Loeb Classical Library (London: Harvard University Press; Heinemann London, 1956): 491); Poen. 181–86: *Rogato, servos veneritne ad eum tuos. / Ille me censebit quaeri: continuo tibi / negabit. Quid tu dubitas quin exempulo / dupli tibi, auri et hominis, fur leno siet? / Neque is unde efficiat, habet. Ubi in ius venerit, addicet praetor familiam totam tibi* (“Then you ask him if your slave is at his house. He’ll suppose it’s me you’re after: so he’ll promptly say no. Can you doubt he will forthwith be liable to you for twice the value of the money and the slave he stole? And he hasn’t the wherewithal to settle. When he comes to court the praetor will adjudge his entire establishment to you”; trans. Paul Nixon, *Plautus*, vol. 4: 19). For this latter text see di Ottavio, *Uti legassit*: 63–64.

44 Cf. D. 29.5.1 pr. and 15 (Ulp. 50 AD ed.); Paul. sent. 3.5.1; for further sources see Leonhard, “*familia*”: 1982.

45 On the SC Silanianum see for example Danilo Dalla, *Senatus consultum Silanianum* (Milano: Giuffrè, 1980); Alan Watson, *Roman Slave Law* (Baltimore and London: Hopkins University Press, 1987): 134–38; Joseph Georg Wolf, *Das Senatusconsultum Silanianum und die Senatsrede des C. Cassius Longinus aus dem Jahre 61 n. Chr.* (Heidelberg: Universitätsverlag Winter, 1988); Jill Harries, “The Senatus Consultum Silanianum: Court Decisions and Judicial Severity in the Early Roman Empire,” in *New Frontiers. Law and Society in the Roman World*, ed. Paul J. du Plessis (Edinburgh: University Press, 2013): 51–72.

46 Cf. D. 39.4.1.5 (Ulp. 55 AD ed.): [ . . . ] *sive igitur liberi sind sive servi alieni* [ . . . ] (“[ . . . ] might they be free or slaves of another [ . . . ]”).

47 On the *familia publicanorum* cf. Robert Röhle, “Zum Wortlaut des Edikts ‘Quod publicanus vi ademerit’,” *Tijdschrift voor Rechtsgeschiedenis* 46 (1978): 137–40; María-Eva Fernández Baquero, “*Familia publicanorum*,” in *Fundamenta iuris: terminología, principios e interpretatio*, ed. Pedro Resina Sola (Almería: Universidad de Almería, 2012): 101–10.

48 Cf. Ulrike Malmendier, *Societas publicanorum. Staatliche Wirtschaftsaktivitäten in den Händen privater Unternehmer* (Cologne: Böhlau, 2002); Ulrike Malmendier, “Roman shares,” in *The Origins of Value. The Financial Innovations that Created Modern Capital Markets*, ed. William Goetzmann and Geert Rouwenhorst (Oxford: Oxford University Press, 2005): 31–42.

49 Cf. Andreas M. Fleckner, *Antike Kapitalvereinigungen. Ein Beitrag zu den konzeptionellen und historischen Grundlagen der Aktiengesellschaft* (Cologne: Böhlau, 2010): 145–215, 372–420 (esp.

as *corpus servorum vectigalis causa paratorum* by Ulpian (D. 50.16.195.3), “a certain body of slaves collected for one purpose, namely in order to collect taxes.” (trans. Watson). But as Ulpian himself stated elsewhere,<sup>50</sup> the individual slaves do not belong to the community of *publicani*, but to the individual members of the *societas*.

The *familia Caesaris* were the private slaves of a *princeps* who were engaged with public tasks.<sup>51</sup> The concept of private slaves working for the public did not emerge in the Empire. We find it already in the Republican administration, sometimes even in the shape of a *familia publica*,<sup>52</sup> that is a number of slaves owned by a municipal community.<sup>53</sup> The *familia Caesaris* thus imitates and replaces the Republican model – as in so many other instances.<sup>54</sup>

In addition to these well-known examples, Ulpian mentions some actions included in the *edictum praetoris* in which *familia* comprises the entirety of slaves in a household. In most cases, such actions amplify the responsibility of the *dominus* for the behavior of their slaves. The *interdictum unde vi*, for example, states explicitly that a person who has been expelled from his land by force may claim restitution from the intruder, because he or his *familia* expelled him.<sup>55</sup> Such formula makes it

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391–411); Geoffrey Poitras and Frederick Willeboordse, “The *societas publicanorum* and corporate personality in Roman private law,” *Business History* 16 (2019): 1–24.

50 D. 39.4.1.5 (Ulp. 55 AD ed.): *Familiae nomen hic non tantum ad servos publicanorum referemus, verum et ad eos, qui in numero familiarium sunt publicani* (“The word ‘*familia*’ in this context we take as referring not only to the slaves of tax farmers but to anyone who is one of their *familiars*,” trans. Watson, *The Digest of Justinian*, vol. 3: 405).

51 On *familia Caesaris* Paul Richard Carey Weaver, *Familia Caesaris: A Social Study of the Emperor’s Freedmen and Slaves* (Cambridge: University Press, 1972); Leonhard Schumacher, “Hausgesinde – Hofgesinde: terminologische Überlegungen zur Funktion der *familia Caesaris* im 1. Jh. n. Chr.,” in *Fünfzig Jahre Forschungen zur antiken Sklaverei an der Mainzer Akademie 1950–2000*, ed. Heinz Bellen and Heinz Heinen (Stuttgart: Steiner, 2001): 331–52; Sabine Müller, “*Familia Caesaris*,” in *The Encyclopedia of Ancient History*, October 26, 2012, <https://doi.org/10.1002/9781444338386.wbeah22109> [accessed 17.05.2022].

52 Cf. D. 1.15.1 (Paul. sing. de officio praefecti vigiliū).

53 On *servus publici* cf. William Warwick Buckland, *The Roman Law of Slavery. The Condition of the Slave in Private Law from Augustus to Justinian* (Cambridge: University Press, 1908): 318–30; Norbert Rouland, “A propos des ‘*servi publici populi romani*’,” *Chiron* 7 (1977): 261–78; Walter Eder, *Servitus publica. Untersuchungen zur Entstehung, Entwicklung und Funktion der öffentlichen Sklaverei in Rom* (Wiesbaden: Steiner, 1980); János Zlinszky, “Gemeineigentum am Beispiel der *servi publici*,” in *Sklaverei und Freilassung im römischen Recht. Symposium für Hans Josef Wieling zum 70. Geburtstag*, ed. Thomas Finkenauer (Berlin: Springer, 2006): 317–26; Franco Luciani, “Public Slaves in Rome and in the Cities of the Latin West: New Additions to the Epigraphic Corpus,” in *From Document to History. Epigraphic insights into the Greco-Roman World*, ed. Carlos F. Noreña and Nikolaos Papazarkadas (Leiden: Brill, 2019): 279–305.

54 Cf. Aloys Winterling, *Aula Caesaris. Studien zur Institutionalisierung des römischen Kaiserhofs in der Zeit von Augustus bis Commodus (31 v. Chr. – 192 n. Chr.)* (Munich: R. Oldenbourg, 1999).

55 Cf. Otto Lenel, *Das Edictum perpetuum, ein Versuch zu seiner Wiederherstellung*, 3rd ed. (Leipzig: Tauchnitz, 1927; Aalen: Scientia-Verlag, 1985): 461–69, esp. 465.

obvious that in classical legal sources, unlike those from the Republican era, *familia* usually points to the group of slaves (and/or freedmen) living in the household.

D. 50.16.195.3: [. . .] *alia autem parte edicti omnes servi continentur: ut de hominibus coactis et vi bonorum raptorum, item redhibitoria, si deterior res reddatur emptoris opera aut familiae eius, et interdicto unde vi familiae appellatio omnes servos comprehendit. sed et filii continentur.*

D. 50.16.195.3: [. . .] But in another part of the edict, all slaves are included as in the part dealing with gangs of men or force used to seize property or in the action for recovery if something is returned damaged by the activity of the purchaser or his household and in the interdict on the use of force the designation of household covers all slaves. (Watson, vol. IV, 950)

Most interesting in this context is the short note at the end: *sed et filii continentur* (“sons and daughters are as well included”). This is only true for the formula of the actions and interdicts mentioned by Ulpian, not for the *familia publicanorum* or similar contexts. As far as the responsibility of persons is concerned, law usually does not differentiate between slaves and children: both are under control of their master or their father, both can act or contract for the benefit of master or father, and both can be equipped with a *peculium*. Therefore, free persons are responsible both for their children and for their slaves.

### 4.3 *Familia* as “Family”

The division of *familia* into different forms of power relations paved the way for a third meaning, which however failed to establish itself as a legal term in the classical texts.<sup>56</sup> It is referred to by Ulpian in D. 50.16.195.2:

*Familiae appellatio refertur et ad corporis cuiusdam significationem, quod aut iure proprio ipsorum aut communi universae cognationis continetur. iure proprio familiam dicimus plures personas, quae sunt sub unius potestate aut natura aut iure subiectae, ut puta patrem*

The designation of households relates to any kind of body which is covered by a legal status peculiar to its members or common to an entire related group. We talk of several persons as a household under a peculiar legal status if they are naturally or legally subjected to the power

<sup>56</sup> This is not sufficiently taken into account by Gardner who, in investigating classical family law, departs from the agnatic *familia*; Jane F. Gardner, *Family and familia in Roman Law and Life* (Oxford: Clarendon Press, 1998): 1–2.

familias, matrem familias, filium familias, filiam familias quique deinceps vicem eorum sequuntur, ut puta nepotes et neptes et deinceps.

of a single person as in the case of a head of a household, the wife of a head of a household, a son-in-power, a daughter-in-power, and those who thereafter follow them in turn, as, for instance, grandsons and granddaughters, and so on. (Watson, vol. IV, 949–950)

This part of Ulpian's text delineates the *familia* of the agnates, i.e. all free persons under the same *pater familias*. This designation could be classified as a vestige of the original meaning in the Twelve Tables, where *familia* denoted all people and things under the control of the *pater familias*. During the middle Republic two specific legal meanings were separated: *familia* as *inheritance*, and *familia* as a group of slaves or freedmen. The rest describes the power of the *pater familias* over his free people, i.e. the *patria potestas* over his born or adopted children<sup>57</sup> and the *manus* over his wife which, in Ulpian's text, is not mentioned anymore because by his time it had lost its significance.<sup>58</sup> Already in Cicero's time, a woman who did not come under her husband's *manus* could be included in the term *familia*.<sup>59</sup> This reflects its untechnical and somewhat blurred meaning – at least from the late Republic onwards. The increasing social and legal importance of blood ties gradually replaced the agnatic concept, and thus diminished its relevance as a kinship group. Saller lists a series of texts from the Empire which use *familia* in our modern connotation as group of cognates.<sup>60</sup>

This is also reflected by the law of the early Empire: The order of legal heirs based on agnatic relations is impaired by the praetor's measures to favor cognates in the legal order of succession<sup>61</sup> and by special laws which promoted legal succession between mother and children.<sup>62</sup> We may readily suppose that these alterations in the

<sup>57</sup> Cf. also D. 40.16.40.2 (Ulp. 56 AD ed.).

<sup>58</sup> Similar Saller, "Familia, Domus": 338–39; for a more general overview (oder perspective?) see Gardner, *Family and familia*: 29–42.

<sup>59</sup> For example, in Cic. pro Caelio 33; cf. Saller, "Familia, Domus": 339.

<sup>60</sup> Saller, "Familia, Domus": 340–42, such as Fronto 1,12; Suet. Tib. 3; Tac. ann. 6,51.

<sup>61</sup> On the *bonorum possessio intestati* ("praetorian order of intestate succession") and its different ranks (i.e. *unde cognati*) Kaser, *Das Römische Privatrecht*: 697–701; Pasquale Voci, *Diritto ereditario romano*, vol. 1, 2nd ed. (Milano: Giuffrè, 1967): 177–201; Martin Schermaier and Helge Dedek, "Bonorum possessio," in *Encyclopedia of Ancient History*, October 26, 2012, <https://doi.org/10.1002/9781444338386.wbeah13030> [accessed 17.05.2022].

<sup>62</sup> Esp. the *Senatusconsultum Tertullianum* (from the time of Hadrian) and the *Senatusconsultum Orfitianum* (around AD 178); on both Marianne Meinhart, *Die Senatusconsulta Tertullianum und Orfitianum in ihrer Bedeutung für das klassische römische Recht* (Graz: Hermann Böhlau Nachfolger, 1967); Pasquale Voci, *Diritto ereditario Romano*, vol. 2, 2nd ed. (Milano: Giuffrè, 1963): 17–25.; Kaser, *Das Römische Privatrecht*: 701–2; Kimberley Czajkowski, "Senatus consultum Tertullianum," in *Oxford*

law of succession are not the cause, but the effect of the diminishing importance of agnatic relationships in Roman society.<sup>63</sup> Nevertheless, we have a good deal of legal texts in which only the context decides whether *familia* relates to agnates or cognates. Cod. Theod. 7.20.8, a decree of the emperors Valentinian I and Valens, concerns the tax immunity of veterans for the land they are endowed with. If the veterans bring their *servulos familiasve* (“slaves and children”) to live on the land, they are to be exempt from land tax forever. The wording reflects a clear distinction between the slaves and the free persons around the veteran, but it is unclear if *familia* points to those under power of the *pater familias* (agnates) or to those related by blood (cognates). But maybe this is the wrong question. From the point of view of the decree, what matters is not who is part of the family of the veteran, but who is his heir. At the time of Valentinian, the agnatic basis of the law of succession has fallen into abeyance, so *familia* means those free persons who will succeed him after his death. The *servuli* are mentioned because even they, if manumitted, might become heirs.

## 5 The Permanence of Legal Terms . . .

If we focus on the social construct behind *familia*, we become aware of fundamental changes to the meaning of the term. In the time of the Twelve Tables, *familia* denotes all persons and objects under the power of the *pater familias*. In the course of the middle Republic, the term develops two principal meanings: on the one hand, it is applied to the group of slaves in a household; on the other it embraces the members of the agnate family. And finally, during the Empire, *familia* is more and more often used to delineate the cognate family and so comes close to our modern connotation. In Ulpian’s explanatory text (D. 50.16.195) all these meanings are listed side by side, as if they had evolved at the same time. But this interpretation is misleading: Ulpian reports all meanings because in his time they are still present in legal concepts and institutions. Norms and procedural instruments conserved the term in particular connotations. As long as these institutions are observed, the signification in question is frozen and so survives the shifts that the living language undergoes. Therefore, *familia* is a good example for the permanence of legal terms. Its main significations can be reproduced as follows (Fig. 1):

What does this mean for the study of historical forms of dependency? It will not change our admonition not to take any terms at face value in any form of historical inquiry. But we have to formulate an exception for legal studies: As long as certain

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*Classical Dictionary*, February 25, 2019, <https://doi.org/10.1093/acrefore/9780199381135.013.8275> [accessed 17.05.2022]; eadem, “Senatus consultum Orfitianum,” in *Oxford Classical Dictionary*, January 25, 2019, <https://doi.org/10.1093/acrefore/9780199381135.013.8276> [accessed 17.05.2022].

63 See, as well, Gardner, *Family and familia*: 212–20.

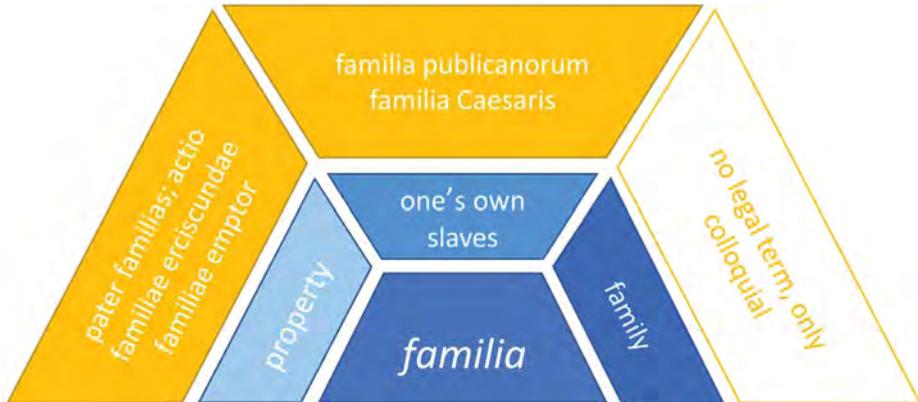


Fig. 1: Meanings of *familia* in Ulpian, D. 50.16.195.

institutions remain valid and rules are observed, the terms to which they refer usually keep their meaning and significance. Normativity fosters relevancy and thus stabilizes the acceptance of terms. The validity of early Republican norms and institutions was rarely challenged throughout Roman history. Many of the old rules contained in the Twelve Tables (ca. 450 BC) remained valid until Justinian's collection (529–534 AC) of classical law. Others were overruled by new provisions but only in a few cases<sup>64</sup> abrogated formally. This is why legal terms covering different concepts coexisted side by side and forced jurists (like Ulpian) to judge their meaning on a case-by-case basis.

This is one side of the coin. The other shows the coherence of institutions and social settings, even in cases of social or economic disruptions. It is a striking phenomenon that in Western societies, the same conflicts have been solved by the same – or at least similar – rules over long stretches of time. This continuity or recurrence of norms<sup>65</sup> and institutions is sometimes indicated by the terminology employed, but it goes even further. This can also be observed in the case of *familia*: In early Roman times, *familia* was the collective term for persons and goods under the power of a *pater familias*. From the point of view of the Twelve Tables, wife, children, slaves, and cattle were his property. This implied that he could reclaim persons and things from any other possessor. If, for example, someone robbed his slave or his children, the *pater familias* could recover them just as he would an ox or a sheep when it appeared to be in the possession of his neighbor. The action used was the so-called *rei vindicatio*, the standard action for an owner to claim his property. The ability to bring this action determined who was the owner. In Rome, ownership was not defined as an abstract power, but as possibility to claim restitution by way of *rei vindicatio*. From this

<sup>64</sup> As, for example, most of the old *legis actiones* in the *lex Iulia iudiciorum privatorum* (17 BC).

<sup>65</sup> Cf. Theo Mayer-Maly, “Die Wiederkehr von Rechtsfiguren,” *Juristenzeitung* 26, no. 1 (1971): 1–3.

perspective, the legal position of slaves and children vis à vis the *pater familias* was similar or even, at least during the early period, the same.

Section 1632 of the German Civil Code provides for exactly the same thing: The guardian (typically one or both parents) can require the return of a child from any person who is unlawfully withholding it from the parent(s). In terms of the underlying concept, this is an owner's claim for restitution. But today, we would of course not consider a guardian or parent the owner of their child. Regarding a child as property would reduce it to the status of a mere thing, because according to section 903 of the German Civil Code, ownership manifests itself in the fact that one can "deal with the object at will." But a child is not an object, and we cannot do with it as we will. But the legal remedy provided in an identical situation (withholding of children) is the same in Roman and in modern civil law. Clearly, the concept of what constitutes property has significantly changed since Roman times, as have ideas of what parents and children are, what family is. These changes have caused a rupture in the system of claiming restitution. One claim became many, expressed in similar ways but conceptualized differently.

But though we now have a different idea of what property means or what family is, we use the same remedy as the Romans to help a father or a mother to claim back their child. From this we can draw an important lesson for evaluating Roman law: The mere fact that Roman *domini* were able to reclaim their slaves with the help of the *rei vindicatio* does not make them "owners of their slaves"<sup>66</sup> in the modern sense, and says little, if anything, about their legal relationship. Therefore, the well-known definition of slavery formulated by Moses I. Finley, which mentions three criteria: "the slave's property status, the totality of the power over him, and his kinlessness,"<sup>67</sup> is inaccurate in one point. What "property status" means depends on the concept of property applied. To reclaim a person from the possession of others does not make this person the property of the claimant. The strange consequence would be that even today, because of section 1632 BGB, children would be considered the property of their parents.<sup>68</sup> This again shows us that when we judge historical texts with modern terms and standards, we fall short of what these texts really contain.

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<sup>66</sup> Therefore, it is useless to say that in the time of the XII tables "slaves were fully owned by their masters," as Alan Watson does in *Rome of the XII tables: Persons and Property* (Princeton: University Press, 1975): 85. Similarly, but with a focus on classical law, Buckland, *The Roman Law of Slavery*: 10–38.

<sup>67</sup> Moses I. Finley, *Ancient Slavery and Modern Ideology* (London: Chatto & Windus, 1980): 77.

<sup>68</sup> A similar example is given by Orlando Patterson, *Slavery and Social Death. A Comparative Study with a New Preface* (Cambridge, MA: Harvard University Press, 2018): 21–22.

## 6 . . . and the Conceptual Changes Behind Them

Only a contextual analysis sheds light on the meaning of *familia* in Roman law texts. In Ulpian's time, the term's different meanings exist side by side and can only be grasped correctly in the context in which *familia* is used. Our inquiry, which analyzed the signification of *familia* over the course of time, suggests a fundamental change in the legal assessment of slaves. When Ulpian speaks of *familia* as an entity of slaves, he thinks of things (*res*). This may be correct for his time, but his synchronic interpretation does not do justice to the meaning of *familia* in the Twelve Tables. We already mentioned the fact that the categorical distinction between persons and things arose at a later stage of Roman history. Rather, the different provisions of the Twelve Tables hinge on whether someone is an object or a subject of rights and powers. Slaves could be either, or both.<sup>69</sup> In the provision on inheritance, they are objects of the power of the *pater familias*, just like his wife or children. But in the law of delict, slaves are protected like free persons. If, for example, a slave suffers a broken bone, the offender must pay half the amount that would be due if a free person suffered an injury.<sup>70</sup> While an enslaved person (*servus*) is worth less than a free one (*liber*), they are equal in terms of their entitlement to legal protection. This would significantly change about 150 years later: The *lex Aquilia*, a plebiscite from 286 BC, considers a slave not in the category of persons at all, but in the category of large livestock. In the case of injury or death of slaves or cattle, the guilty party owes compensation to the owner who has suffered a financial loss. This rule was applied to free persons only in exceptional cases, because *libertas inaestimabilis res est* – freedom cannot be valued in money.<sup>71</sup>

The different meanings of *familia* in Ulpian's text not only reflect the great variety of meanings, but also the conceptual change that slavery underwent during the Republic. The division of objects into things and persons and the development of the *status*-theory, which separated the *status familiae* from the *status libertatis*,<sup>72</sup> reflect the diminishing value and standing of slaves. On the other hand, we must not

<sup>69</sup> This is expressed even by Buckland, *The Roman Law of Slavery*: 10–38 and 73–97, but using the classic division of *res* and “man”; following his example Watson, *Roman Slave Law*: 46–66 and 67–89.

<sup>70</sup> XII Tab. 5.3 (passed down to us in Coll. 2.5.5): *Manu fustive si os fregit libero CCC si servo CL poenam subit* (“If a limb is broken by the force of a hand or a club there is a penalty of 300; if it occurs to a slave, 150”).

<sup>71</sup> D. 50.17.106 (Paulus 2 AD ed.).

<sup>72</sup> As, for example, in Gaius (D. 1.5.3 = Gai. inst. 1.9): *Summa itaque de iure personarum divisio haec est, quod omnes homines aut liberi sunt aut servi* (“Certainly, the great divide in the law of persons is this: all men are either free men or slaves,” trans. Watson, *The Digest of Justinian*, vol. 1: 16); on that Giovanni Negri, “Libertà e status libertatis. Nozioni generali introduttive.” in *Homo, caput, persona. La costruzione giuridica dell'identità nell'esperienza romana*, ed. Alessandro Corbino, Michel Humbert, and Giovanni Negri (Pavia: Pavia University Press, 2010): 115–38.

underestimate the dependency of slaves even in the law of the Twelve Tables. Children and slaves alike, as objects under the power of the *pater familias*, were subject to his *ius vitae necisque* – his right over their life and death.<sup>73</sup> The divergent developments of the legal position of slaves and children respectively during the Republic is paralleled by the diminishing importance of the *ius vitae necisque*. But whereas the *pater familias*’ “right to kill” or at least “to sit in judgement over” his children was already restricted during the early Republic,<sup>74</sup> we only know of legislation to curtail a master’s power over his slaves under the Empire.<sup>75</sup> Obviously, dependencies within the private sphere did not receive the same amount of public attention. This accounts for the close correlation between the legal status of slaves and the social and political developments of the time.

The changing meaning of *familia* reflects such developments. We must be careful not to overlook them when reading texts like that of Ulpian, D. 50.16.195. He wants to give a synchronic account of what *familia* might mean in special contexts. But from the historian’s point of view, it tells us a lot about the history of Roman slavery.

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73 Cf. Wolfgang Kunkel, “Das Konsilium im Hausgericht,” *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte Romanistische Abteilung* 83 (1966): 219–51, esp. 241–46; Kaser, *Das Römische Privatrecht*: 60–63; Gaius (D. 1.5.3 = Gai. inst. 1.9): *Summa itaque de iure personarum divisio haec est, quod omnes homines aut liberi sunt aut servi* (“Certainly, the great divide in the law of persons is this: all men are either free men or slaves,” trans. Watson, *The Digest of Justinian*, vol. 1: 98; William V. Harris, “The Roman Father’s Power of Life and Death,” in *Studies in Roman Law in Memory of A. Arthur Schiller*, ed. Roger S. Bagnall and William V. Harris (Leiden: Brill, 1986): 81–95; Yan Thomas, “Remarques sur la jurisdiction domestique à Rome,” in *Parenté et stratégies familiales dans l’antiquité romaine*, ed. Jean Andreau and Hinnerk Bruhns (Rome: Ecole Française de Rome, 1990): 449–74; Nikolaus Benke, “On the Roman father’s right to kill his adulterous children,” *History of the Family* 17 (2012): 284–308; John Curran, “Ius vitae necisque: The Politics of Killing Children,” *Journal of Ancient History* 6, no. 1 (2018): 111–35.

74 Tentatively, Kaser, *Das Römische Privatrecht*: 62; Curran’s thesis that the *ius vitae necisque* was never exercised on children has good arguments, cf. Curran, “Ius vitae necisque”: 129–31.

75 Kaser, *Das Römische Privatrecht*: 285–86.

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Christian M. Prager

# Visualizations and Expressions of Dependencies in Classic Maya Narratives: A Semiotic Approach

In the Classic Period between 250–950 AD, dozens of densely populated small and hegemonic states emerged on the territory of the Yucatán Peninsula in southern Mexico, Guatemala, Belize and Honduras. Their history has been recorded in thousands of inscriptions, which were written in the context of a courtly culture (Fig. 1).



**Fig. 1:** Hieroglyphic inscription on Stela 2 from the Maya site of Dos Pilas, Petén, Guatemala. Photograph by Karl Herbert Mayer, 1978. CC BY 4.0. [https://classicmayan.kor.de.dariah.eu/resolve/image\\_no/KHM\\_1978\\_F38\\_R06\\_30](https://classicmayan.kor.de.dariah.eu/resolve/image_no/KHM_1978_F38_R06_30) [accessed 17.05.2022].

Rulers and their families, courtiers and priests inhabited monumental palace buildings in the political-ceremonial center of the city states. They were surrounded by settlements and residential structures of the lower nobility as well as numerous small court groups on the peripheries, where the rural social class lived in family units and paid taxes to the nobility in the form of labor for building projects and portions of the agricultural produce. The emergence of these small states or kingdoms should be seen in the context of the flourishing exchange of goods in the central lowlands, which intensified from the Middle Classic period onwards and included trade in commodities, luxury goods and other products. Control over these routes and networks promised the local nobility unrestricted access to resources and supremacy, which were achieved through alliance strategies and military means. Maya war records

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**Note:** I would like to thank Mallory Matsumoto and Elisabeth Wagner for productive discussions and constructive criticism of the text. Mallory Matsumoto also kindly corrected the English of the original draft.

make it clear that from the sixth century onwards, power struggles took place over the domination of these important territories, leading to hegemonic aspirations of the two influential city states of Calakmul and Tikal<sup>1</sup> (Fig. 2) – however, unlike the Inca or the Aztecs, the Maya did not engage in empire-building.<sup>2</sup> Instead, the rulers of around 100 documented small or city states<sup>3</sup> competed over centuries for regional and supra-regional supremacy and consolidated their power through marriage and alliance policies, subsidiarity, and resource control, combined with military strength.



**Fig. 2:** The ceremonial-political center of the ancient Maya polity of Tikal, Petén, Guatemala exhibiting the North Acropolis with ancestral shrines and Temple 1. Photograph by Bjørn Christian Tørrissen, CC BY SA 3.0. <https://upload.wikimedia.org/wikipedia/commons/c/c5/Tikal-Plaza-And-North-Acropolis.jpg> [accessed 17.05.2022].

The inscription data reveal that the macropolitical organization of the Maya lowlands had a hegemonic character<sup>4</sup> and, similar to the whole of Mesoamerica, was characterized by clientelism, the exchange of goods and services for political support. It involved patron-client exchange relationships that functioned on the basis of mutual interests and reciprocal assistance. The patron assumed responsibility for the welfare and security of his clients, offered social affiliation, and in exchange received food and labor in the form of tributes, harvests and military support. Analysis of the inscriptions reveals that the entire Maya territory thus consisted of

<sup>1</sup> Simon Martin, *Ancient Maya Politics: A Political Anthropology of the Classic Period 150–900 CE* (Cambridge: Cambridge University Press, 2020): 34.

<sup>2</sup> Vgl. Michael E. Smith and Maëlle Sergheraert, “The Aztec Empire,” in *The Oxford Handbook of Mesoamerican Archaeology*, ed. Deborah Nichols and Christopher A. Pool (Oxford: Oxford University Press, 2012): 555–69; Gordon F. McEwan, *The Incas: New Perspectives* (Santa Barbara, CA: ABC-CLIO, 2006).

<sup>3</sup> Martin, *Ancient Maya Politics*: 395.

<sup>4</sup> Martin, *Ancient Maya Politics*: 355.

dominant sovereign and subaltern city states, between which there were considerable power differences and asymmetrical dependency relationships. From the texts we learn that hegemonic kings would supervise the enthronement of new rulers of subordinate city-states, expand and consolidate their political influence through exogamous marriage, initiate the founding of settlements, and sanction religious rituals in controlled areas through their on-site participation.<sup>5</sup> Numerous warlike conflicts, however, repeatedly led to shifts in power between patrons and clients and thus also changed political relations in the Maya lowlands. This political order was dynamic: alliances often disintegrated after a few years and new alliances and power blocs emerged.<sup>6</sup> A look at the political map of the Late Classic period shows that between the sixth and ninth centuries, numerous polities competed for regional political supremacy and for control of trade routes and resources, and through alliances and conquests brought neighboring ruling dynasties into their dependency for shorter or longer stretches of time. Particularly successful in the history of the Maya lowlands were the kings and queens of Tikal and Calakmul, who were able to establish large spheres of influence from the fifth century onwards and win numerous rulers of smaller kingdoms as vassals.<sup>7</sup> The latter had to pay tribute in the form of material goods and labor to the royal court; in return, the vassal states enjoyed hegemonic protection, which also ensured balance between the satellite states. The two superpowers avoided direct confrontation, although brief but numerous proxy wars were a feature of the sixth and seventh centuries. In the late seventh century, a direct victory of Tikal over Calakmul ended the hegemonic stability, in the wake of which former vassal states grew stronger in the eighth century and competed in numerous wars for influence and dominance (Fig. 3).<sup>8</sup>

At the micro-political level, the central actors were the Maya rulers and nobility. They bore the title *ajaw*, which means “proclaimer” and emphasized the institutional privilege of giving orders and acting as mouthpieces of the gods (Fig. 4).<sup>9</sup> Originally used to designate leaders in village communities in the Early ClassicPre-classic period, the term *ajaw* came to title the kings of the early city states in the ClassicPreclassic and Early Classic periods with the emergence of the great centers in northern Guatemala and in what is now the Mexican state of Campeche. The earliest *ajaw*, however, derived their claim to rule not only by descent from ancestors but from local deities, and from the fourth century onwards dubbed themselves *k’uh*

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5 Martin, *Ancient Maya Politics*: 32, 129–32, 162, 183.

6 Martin, *Ancient Maya Politics*: 344–46.

7 Simon Martin and Nikolai Grube, “Maya Superstates,” *Archaeology* 48, no. 6 (1995): 41–46.

8 Martin, *Ancient Maya Politics*: 218.

9 David Stuart and Stephen D. Houston, “Of Gods, Glyphs and Kings: Divinity and Rulership Among the Classic Maya,” *Antiquity* 70, no. 268 (1996): 295.



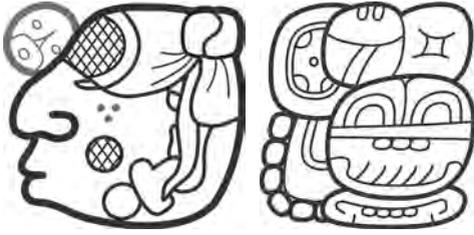
**Fig. 3:** Tikal's victory over the king of Calakmul in 695 is recorded in the inscription and imagery on lintel 3 of Temple 1 at Tikal. Photograph by Peter Horner (1997), courtesy of Museum der Kulturen Basel. Rights reserved.

*ajaw*, “god-king” (Fig. 4).<sup>10</sup> This is because with the increasing population density in the lowlands and the founding of new cities and kingdoms, a process of internal differentiation within the ruling elites of the city states (the so called horizontal level of the Maya society) led to a hierarchical distinction between divine and secular *ajaw*.<sup>11</sup> The attribute “god” in the ruler’s title not only underlined his claim to rule, but also elevated the status of its bearer through a religious component, marking hierarchies and asymmetrical dependencies between the different ruling houses on the vertical level of society.<sup>12</sup> While *k’uh ajaw* or “god-kings” bore their divine title with a claim to uniqueness, the inscription data reveal that several dozen *k’uh*

<sup>10</sup> Stephen D. Houston, *Problematic Emblem Glyphs: Examples from Altar de Sacrificios, El Chorro, Río Azul, and Xultun*, Research Reports on Ancient Maya Writing 3 (Washington, D.C.: Center for Maya Research, 1986).

<sup>11</sup> Stephen D. Houston and David S. Stuart, “Peopling the Classic Maya Court,” in *Royal Courts of the Ancient Maya*, vol. 1, *Theory, Comparison, And Synthesis*, Mesoamerican Archaeology, ed. Takeshi Inomata and Stephen D. Houston (Boulder, CO: Westview Press, 2001): 59; Nikolai Grube, “Das Gottkönigtum bei den Klassischen Maya,” in *Herrscherkult und Heilserwartung*, ed. Jan Assmann and Harald Strohm (Munich: Fink, 2010): 21.

<sup>12</sup> Stuart and Houston, “Of Gods, Glyphs and Kings”: 295.



**Fig. 4a–b:** The hieroglyphs *ajaw* “ruler” and *k’uh pa’chan ajaw* “divine ruler of Pa’chan,” the original name of the archaeological site of Yaxchilan, Chiapas, Mexico.

*ajaw* were in office at the same time, expressing their respective claims to power through locally distinctive strategies of legitimation and representation of rule.<sup>13</sup>

## 1 Kings and Courts

The power and authority of kings was based on politics and religion. During the ritual inauguration, according to the religious ideas of the Classic Maya, a vital force was transferred from the ancestors and patron deities into the blood of the enthroned person, which in Classic Maya is called *k’uh* and means “divine essence.”<sup>14</sup> According to the monistic view, it was a life essence that combined with tangible things in the cosmos and merged with them to form a whole. While it adhered only to kings, queens and gods, it could be transferred from them to objects, living beings, natural phenomena, places, etc. through religious rituals.<sup>15</sup> According to this conception, the stela with the representation of the king or the sculpture of a Maya deity is not only a representation, but carries the life essence and so is the deity – as such, the image of the divine ruler is not only a representation, but the ruler himself, whose image also possessed the divine efficacy (Fig. 5).<sup>16</sup> *K’uh* imbued things in the world with power and vitality, but could be lost through death, breakage, wear and tear or manipulation and had to be periodically renewed by the

<sup>13</sup> Grube, “Das Gottkönigtum bei den Klassischen Maya”: 22.

<sup>14</sup> Christian M. Prager, “A Study of the Classic Maya *K’uh* Concept,” in *Tiempo detenido, tiempo suficiente: ensayos y narraciones mesoamericanistas en homenaje a Alfonso Lacadena García-Gallo*, Wayeb Publication 1, ed. Harri Kettunen et al. (Belgium: European Association of Mayanists WAYEB, 2018): 547–612.

<sup>15</sup> Stephen D. Houston, *The Life Within: Classic Maya and the Matter of Permanence* (New Haven, CT: Yale University Press, 2014): 81.

<sup>16</sup> Stephen D. Houston, “Classic Maya Religion: Beliefs and Practices of an Ancient American People,” *Brigham Young University Studies* 38, no. 4 (1999): 53.



**Fig. 5:** Stela H from Copán, Departamento Copán (Honduras), with the larger-than-life-size portrait of the king “Waxaklajuun Ubaah K’awil” in royal regalia; he ascended the throne in 695 and died in war in 738. Photograph by Elisabeth Wagner.

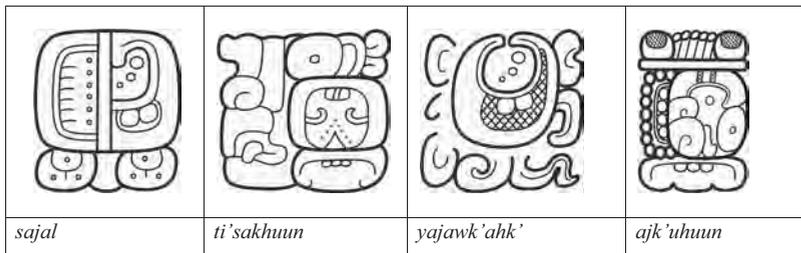
king in cult.<sup>17</sup> Only a king charged with this divine power and essence was able to infuse things in the cosmos with vital energy; his divinity distinguished him from the other *ajawtaak* (plural of *ajaw*, “ruler”) of his state. By sacrificing and so ritually dispersing his own blood the king transferred the *k’uh* to the things in the cosmos, thus maintaining the balance of the cosmos.

After the ruler’s death, male descendants of the deceased usually succeeded to the throne; with few exceptions, women also assumed the queenly dignity and acceded to the throne.<sup>18</sup> However, the power and authority of kings was not only

<sup>17</sup> Elisabeth Wagner, “White Earth Bundles – The Symbolic Sealing and Burial of Buildings among the Classic Maya,” in *Jaws of the Underworld: Life, Death, and Rebirth among the Ancient Maya*, Acta Mesoamericana 16, ed. Pierre R. Colas, Geneviève Le Fort, and Bodil L. Persson (Markt Schwaben: Saurwein, 2006): 55–69.

<sup>18</sup> Martin, *Ancient Maya Politics*: 76; Kathryn Reese-Taylor et al., “Warrior Queens among the Classic Maya,” in *Blood and Beauty: Organized Violence in the Art and Archaeology of Mesoamerica and Central America*, Ideas, Debates and Perspectives 4, ed. Heather S. Orr and Rex Koontz (Los Angeles: Cotsen Institute of Archaeology Press, 2009): 39–72.

based on their divine lineage, but also on loyal members of the secondary nobility on the horizontal level of the city state, which was endowed with political, administrative, religious and artistic functions. Influential players in this regard were provincial rulers, so-called *sajal*, literally “feared ones” (Fig. 6).<sup>19</sup> They were nobles appointed by the king who resided at times at the royal court as high nobility and controlled cities and territories that were within a given kingdom’s sphere of influence. As functionaries of the god-king, *sajal* not only negotiated political relations between the individual city states, but also played a leading military and administrative role, for example in collecting tribute, in which they were supported by tribute officials. Holders of the *sajal* title attained autonomous status in the Late Classic, so that the office was even passed on to descendants, albeit requiring royal sanction.<sup>20</sup> At the local level, we know of a number of administrative, religious and military functions at the royal court. This was under the authority of a so-called *ajk’uhuun*, “guardian of the books.” He not only administered the sacred books, but was also the overseer of scribes and artists and in charge of the artistic design of the palaces and temples.<sup>21</sup> In all political, military and also private decisions, hemerology or day-selection played a leading role among the Classic Maya. The task of the divinatory specialist, the so-called *ti’sakhuun*, “speaker of the books,” was to read the fate in the calendar and to determine favorable or unfavorable days for activities. Another royal office was that of the warrior priest *yajawk’ahk’*, “lord of the fire,” whose task was to sacrifice incense to the gods and to tend the temple fires.<sup>22</sup>



**Fig. 6a–d:** The hieroglyph *sajal* means “feared one” and refers to provincial princes appointed by the king. Important officials at court were *ajk’uhuun*, “guardian of the writings.” They oversaw scribes and artists. Oracle specialists were called *ti’sakhuun*, “speaker of the books,” and also formed part of the royal court. Warrior priests tended the temple fires and were called *yajawk’ahk’*, “lord of the fire.” Drawings by Christian Prager, 2021.

<sup>19</sup> David Stuart, “Early Thoughts on the Sajal Title,” *Maya Decipherment* (blog), November 19, 2013, <http://decipherment.wordpress.com/2013/11/19/early-thoughts-on-the-sajal-title/> [accessed 17.05.2022].

<sup>20</sup> Martin, *Ancient Maya Politics*: 87–88.

<sup>21</sup> David Stuart and Sarah Jackson, “The Aj K’uhun Title: Deciphering a Classic Maya Term of Rank,” *Ancient Mesoamerica* 12, no. 2 (2001): 217–28.

<sup>22</sup> Marc Zender, “A Study of Classic Maya Priesthood” (PhD diss., University of Calgary, 2004): 210.

## 2 Asymmetrical Dependencies in Written and Pictorial Sources

Maya imagery and written records are the most important sources from which researchers derive knowledge and draw conclusions about cultural facts for or about a certain period of time. With all these sources, Maya research in the past decades has been able to explore numerous networks of inter- and intradynastic relationships and dynamics and, combined with the interpretation of archaeological remains, to construct a socio-political model of Classic Maya culture.<sup>23</sup> Not only kings themselves, but also the high nobility and influential members of the court mentioned in the previous section created monuments and left their mark on the history of the divine kingdoms. The most important agent of a text or image was usually the ruler of a city state himself, his relatives and royal cohorts. Texts and images alone had the sole purpose of legitimizing rule and power through religion and history. The inscriptions reflect ideas and information considered appropriate by the nobility to be recorded. We distinguish the sources in terms of their textual and pictorial information content. There are written, written-iconic and iconic media on monumental sculptures, architectural elements, portable objects and features of the natural environment, such as caves or rocks. For researchers, the free-standing stelae, altars and zoomorphs, together with lintels, stairways, marker stones, painted walls, vaulted capstones, wall panels and thrones constitute the most epistemic communicative artefacts from which to infer coherent information about the cultural situations and the underlying systems of thought and belief; they are also the most numerous and, compared to the smaller and mostly portable objects, contain longer text passages with more complex content. Unlike portable objects in tombs and deposits, the majority of the monumental and architectural image and text programs were publicly accessible, and thus fulfilled a representative function in depicting the king and his authority.<sup>24</sup> In terms of content, the texts and images recorded on them focus on the ruler himself, his relatives and subordinates. They reflect, very roughly, biographical details and mention inter- and intra-dynastic relations and show actions such as war or royal visits, describe and depict ceremonies and rituals in the context of accessions, ancestor veneration, calendar anniversaries, inaugurations, processions and other occasions.<sup>25</sup>

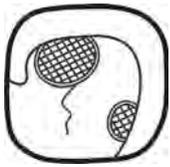
Research into the political organization of the Maya Lowlands focuses on hieroglyphic texts, which are still the most important sources for the reconstruction of

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<sup>23</sup> Martin and Grube, "Maya Superstates."

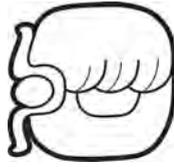
<sup>24</sup> David Stuart, "Kings of Stone: A Consideration of Stelae in Ancient Maya Ritual and Representation," *RES: Anthropology and Aesthetics* 29–30 (1996): 148–71.

<sup>25</sup> David Stuart, "Historical Inscriptions and the Maya Collapse," in *Lowland Maya Civilization in the Eighth Century A.D.: A Symposium at Dumbarton Oaks, seventh and 8th October 1989*, ed. Jeremy A. Sabloff and John S. Henderson (Washington D.C.: Dumbarton Oaks Research Library and Collection, 1993): 321–54.



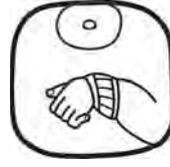
KAB

“earth; to supervise”



IL

“to see; to visit”



ICHON

“body front; in presence of”



Yajaw

“It is his king”

**Fig. 7a–d:** Expressions of asymmetrical dependency in Classic Maya hieroglyphic inscriptions. Drawings by Christian Prager, 2021.

hierarchies and asymmetrical dependency relations in the political organization of the Classic Maya Lowlands.<sup>26</sup> The political landscape of the Classic period, as we have seen, is characterized by regional hierarchy and resembled a patchwork of polities with local autonomy that were politically dominated by larger centers. Some states achieved political dominance and established widely dispersed hegemonic networks, by which dominant kings, for example, not only confirmed the rule of the subordinate nobility of their own states, but also of the kings of other states.<sup>27</sup> In this context, royal rhetoric speaks of the “supervision” of accessions to the throne, the “witnessing” and the “supervision” of religious events of a client by a patron, and describes subaltern kings as the “property” of a superior ruler (Fig. 7).<sup>28</sup>

### 3 Maya Imagery and Texts as Semiotic Artefacts

This paper focuses less on the linguistic, epigraphic and paleographic features of Maya writing and more on semiotic aspects that become apparent upon exploring Classic Maya imagery and hieroglyphic texts. Historians are not only concerned with the material legacies of past societies, but also with the archaeology of thoughts and minds: using written records, historical research attempts to investigate past systems of ideas, values and conceptions to draw conclusions about the intellectual world underlying the cultural achievements of a so-called “interpretative community.”<sup>29</sup> Methodologically, this approach primarily relies on semiotic artefacts, which were intentionally used as instruments for directly and indirectly communicating messages.

<sup>26</sup> Martin, *Ancient Maya Politics*: 344–55.

<sup>27</sup> Linda Schele, Nikolai Grube, and Simon Martin, *Notebook for the 22nd Maya Hieroglyphic Forum at Texas* (Austin: University of Texas Press, 1998): 15–16.

<sup>28</sup> Martin, *Ancient Maya Politics*: 238–40.

<sup>29</sup> Stanley Fish, *Is There a Text in This Class? The Authority of Interpretive Communities* (Cambridge, MA: Harvard University Press, 1980).

Moreover, these artefacts functioned as indices that evoked stored knowledge and experiences and established analogies with other signs. Academic research into the intellectual achievements of a past community thus focuses on all those public representations which, as communicative artefacts based on language or visual codes, encode and convey knowledge.<sup>30</sup> For Mesoamerican studies in general, these artefacts consist primarily of linguistic, semasiographic and iconic texts, as well as images on various media that provide insights into the beliefs, practices, intellectual world, and conceptual systems of pre-Hispanic societies. If image and text are used to complement each other, they constitute an overall message that is conveyed jointly by visual and linguistic codes.<sup>31</sup> According to the theory of semiotics, texts themselves become signs that communicate meaning(s) that are not the signs themselves.<sup>32</sup> The function and meaning of writing and texts as semiotic artefacts thus goes beyond their phonographic and discursive properties.



**Fig. 8:** Maya hieroglyphs are three-dimensional objects that can intersect and overlap, as shown here in the example of a 3D scan of a plaster cast of lintel 24 from Yaxchilan. 3D model by Textdatenbank und Wörterbuch des Klassischen Maya.

Maya hieroglyphic texts are language made visible on writing surfaces that extend into two- and three-dimensional space (Fig. 8). Writing thus has sensual, visual and communicative (and semiotic) potential for which there are no correspondences in spoken language. This visual-iconographic dimension of writing is best described as “notational iconicity,” making writing and text “a hybrid construct in which the

**30** Simon Martin, “On Pre-Columbian Narrative: Representations Across the Word-Image Divide,” in *A Pre-Columbian World*, ed. Jeffrey Quilter and Mary E. Miller (Washington D.C.: Dumbarton Oaks Research Library and Collection, 2006): 55–105, [http://www.mesoweb.com/about/martin/Martin\\_2006\\_Narrative.pdf](http://www.mesoweb.com/about/martin/Martin_2006_Narrative.pdf) [accessed 17.05.2022].

**31** Dorie J. Reents-Budet, “Narrative in Classic Maya Art,” in *Word and Image in Maya Culture Explorations in Language, Writing, and Representation*, ed. William F. Hanks and Don S. Rice (Salt Lake City: University of Utah Press, 1989): 189–97.

**32** Winfried Nöth, “Der Zusammenhang von Text und Bild,” in *Linguistics of Text and Conversation*, ed. Wolfgang Heinemann and Sven F. Sager (Berlin and New York: De Gruyter, 2000): 489–96.

discursive and the iconic intersect.”<sup>33</sup> Maya scribes made use of this hybrid property of writing when designing texts and introduced several semiotic modes or vehicles to transport meanings beyond the text. Aspects of notational iconicity that Maya scribes used to imbue hieroglyph texts with a further level of communicative meaning included, but were not limited to, the shape and arrangement of text fields, the varying size of inscriptions, their elevation or embedding in the text carrier, the play of text and character sizes, the three-dimensionality and “animation” of graphs, colorful accentuations, different sculpting styles within a single text carrier, and more.<sup>34</sup>

## 4 Semiotics of Image and Linguistic Text

The main function of images and linguistic texts is to represent and transmit mental representations, such as ideas, thoughts or conceptions of the environment. A fundamental difference between image and text is the amount of information conveyed within the same time of perception. Since images are perceived holistically and simultaneously and have the potential to be associated with emotions, they are attention-grabbing and more memorable; linguistic information, on the other hand, is conveyed successively and linearly, and the net information of a statement is therefore less than that which may be conveyed by a single picture.<sup>35</sup> According to Nöth, images and texts also possess different semiotic potentials which limit their potential use for public representation in different areas. Images are ideal for spatial-visual representations that accurately reflect the position of objects within space; moreover, images are static and atemporal due to their two-dimensionality and are therefore better suited to representing a moment. Points of time, time periods and duration, on the other hand, can be more accurately described with language according to Nöth.

Semiotic differences between image and text also come into play in representations of the visual and the non-visual. One advantage of language is that although all images can be represented by language, “not everything represented linguistically can be visualized by images.”<sup>36</sup> Whereas visual entities such as objects can be represented by both images and language, other sensory impressions are primarily represented by linguistic signs. Images and iconic symbols are used to represent complex

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33 Sybille Krämer, “Writing, Notational Iconicity, Calculus: On Writing as a Cultural Technique,” *MLN* 118, no. 3 (2003): 519, <https://doi.org/10.1353/mln.2003.0059> [accessed 17.05.2022].

34 Christian M. Prager, “Visual Dimensions of Maya Hieroglyphic Writing: Meanings Beyond the Surface,” in *The Social and Cultural Contexts of Historic Writing Practices*, ed. Philip J. Boyes, Philippa M. Steele, and Natalia Elvira Astoreca (Oxford: Oxbow Books, 2021): 101–24.

35 Nöth, “Der Zusammenhang von Text und Bild.”

36 Nöth, “Der Zusammenhang von Text und Bild”: 491.

and difficult-to-process concepts with open and ambiguous interpretations, i.e. with no limited or predictable potential for drawing conclusions.<sup>37</sup> The semiotic fuzziness of images is a consequence of their semantic openness, which means that images “are potentially infinitely interpretable and thus ‘underlaid’ with an infinite number of possible texts”<sup>38</sup> and therefore have the character of an open message. In this sense, an image supports the construction of knowledge and cognition. By contrast meta-language and self-reference belong to the domain of language and are difficult to represent pictorially. Speech acts, such as questions, requests, promises, or even negation, affirmation and logical relationships cannot be represented visually.<sup>39</sup>

## 5 Understanding Text and Image

The meaning of a text or an image is its use by an interpretative community.<sup>40</sup> Such communities are characterized by the fact that their members share a repertoire of agreed codes and conventions by means of which signs are “understood,” images are “seen,” texts are “read” and messages are thus conveyed. Despite the different semiotic potential of text and image, both types of media assume a form that, due to its materiality, is perceived and processed before the user has grasped the intended content by interpreting the signs that it contains.<sup>41</sup> The design of images and texts thus constitutes a further level of meaning beyond what is represented in them; in other words, the style and layout can express an “overall message” alongside the message conveyed by their linguistic contents. In the Classic Maya case, for instance, the color and texture of image and text carriers (Fig. 9), as well as the proportions used in designing image and text, convey an overarching idea in addition to the linguistic contents contained in the accompanying text,<sup>42</sup> as explained in the following section.

Signs are multimodal objects: they ideally have a constant materialization and fulfil the indexical function of constituting relations between present and absent elements in certain contexts (i.e. meaning).<sup>43</sup> Symbols, icons, pictures, etc., are “occupied” according to the semiotic perspective and thus represent something for someone.

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<sup>37</sup> Dan Sperber, *Rethinking Symbolism* (Cambridge: Cambridge University Press, 1975): 160.

<sup>38</sup> Harald Burger, *Sprache der Massenmedien*, Sammlung Göschen 2225 (Berlin: De Gruyter, 1990): 300.

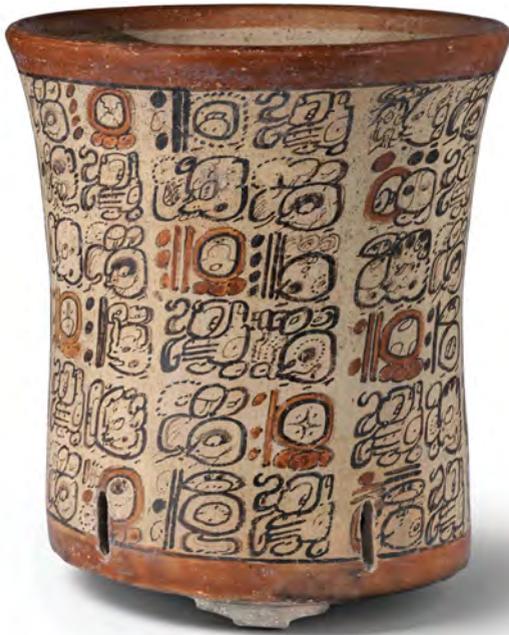
<sup>39</sup> Nöth, “Der Zusammenhang von Text und Bild”: 490–91.

<sup>40</sup> Fish, *Is There a Text in This Class?*.

<sup>41</sup> Susanne Blazewski, *Bild und Text – Photographie in autobiographischer Literatur* (Würzburg: Königshausen & Neumann, 2002): 46.

<sup>42</sup> Martin, “On Pre-Columbian Narrative”: 58.

<sup>43</sup> Christa Dürscheid, *Einführung in die Schriftlinguistik* (Göttingen: Vandenhoeck & Ruprecht, 2006): 223.



**Fig. 9:** To emphasize the calendrical content of an inscription, some glyphs are painted red. In this way, sections of a hieroglyphic inscription are color-coded and highlighted. Photograph by Los Angeles County Museum of Art, Public Domain. <https://collections.lacma.org/node/1903414> [accessed 17.05.2022].

In order for people to be able to communicate and constitute interpretative communities by means of signs, standardizations, conventions or norms of action must be agreed upon and learned. These codes regulate the “meaning” i.e. the application, function and form of signs and images, and thus make them communicable and communicative. The shape or size of a sign or an image represents a multimodal level of action, with whose help various associations with memory content can be established. Not only the sign and image as an integral whole, but also its shape (design) and mode of representation (style) evoke a perceptual experience that is linked to certain memory contents, thus focusing the attention of the recipient and evoking the corresponding knowledge.<sup>44</sup>

<sup>44</sup> Dürscheid, *Einführung in die Schriftlinguistik*: 234–38; Martin, “On Pre-Columbian Narrative”: 59.

## 6 Relations between Text and Image

In many writing cultures, linguistic text and image engage in a collaborative, multi-modal coexistence that compensates for the aforementioned communicative weaknesses of each form of communication alone. The merging of linguistic and image codes creates a complementary semiotic relationship; on this basis images contribute to the understanding of a text and vice versa. What cannot be expressed by the image, such as time, non-visual sensory impressions, modes of the speech act, relations or causalities, can be elucidated by an additional, linguistic text. With the help of this descriptive commentary, the open and ambiguous nature of the image is channeled and transferred to the desired context of meaning.<sup>45</sup>

In principle, the image-text relation raises the question of the overall message. Does an image with an associated linguistic text duplicate the information conveyed in each case – are the statements thus redundant – or do the media forms complement each other and are understood as a coherent whole? The text-image relationships that constitute an overall message can be classified according to their redundancy, dominance and complementarity.<sup>46</sup> In the case of image-text *redundancy*, the text does not add any new information to the image or vice versa; rather, both media forms denote and thus duplicate the same information. Nöth describes this situation as double coding and assumes that it results in more effective retention by the viewer.<sup>47</sup> When the image is more informative than the accompanying text, we speak of the *dominance* of image over text. But the opposite case may also occur in which the picture is subordinate to the text and only fulfils an illustrative function. Another relation is that of *complementarity*. Text and image can be classified as complementary if “both sources of information are necessary to understand the overall meaning of the text-image combination (i.e. the text has gaps which are filled by the image and vice versa).”<sup>48</sup>

## 7 Mesoamerican Text-Image Relations

Compared to linguistic texts, images are semiotically more productive for representing space and objects. In a communicative act, they fulfil the function of depicting and representing. Texts, on the other hand, are superior to pictorial representations

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<sup>45</sup> Dan Sperber, *On Anthropological Knowledge* (Cambridge: Cambridge University Press, 1985): 20–21; Nöth, “Der Zusammenhang von Text und Bild”: 492; Erich Straßner, *Text-Bild-Kommunikation, Bild-Text-Kommunikation* (Tübingen: Niemeyer, 2002): 30.

<sup>46</sup> Nöth, “Der Zusammenhang von Text und Bild”: 492.

<sup>47</sup> Nöth, “Der Zusammenhang von Text und Bild.”

<sup>48</sup> Nöth, “Der Zusammenhang von Text und Bild”: 493.

for expressing causality, time sequences, abstract thoughts and social facts, and they thus assume the communicative functions of telling and reporting.<sup>49</sup> Individually or in combination, image and linguistic text constitute narrative representations in Mesoamerican traditions. Discourses are narratives when they report on an event or a series of events and are constituted from the components of place, time, action and actors. Such narrative texts are forms of action that convey content through communicative-linguistic transmission and are characterized by chronological sequences of action in which events cause changes in the situation.<sup>50</sup> However, narrative representations are not necessarily bound to a linguistic code, i.e. to the media of spoken or written language; they may also be conveyed through image in the form of narrative pictographies or pictorial narratives, independent of language.<sup>51</sup> The message is represented by means of graphic conventions and codes and in this way signifies something to members of an interpretative community.

Visual narratives are semasiographies and represent content without linguistic coding (Fig. 10).<sup>52</sup> Such systems have been attested for Mesoamerica since the Pre-classic period (2000 BC–250 AD); they had the function of representing narrative content pictorially or iconographically, especially in the Zapotec, Mixtec and Aztec traditions.<sup>53</sup> Although glottography was used to some extent among the Aztecs, these narrative texts did not literally record a spoken narrative, but were recorded in the form of images and episodes. In the interpretative communities mentioned above, only personal and place names and chronological records and, in the case of Zapotec, verbs, were denoted by linguistic signs complementing pictorial information.<sup>54</sup> Classic Maya writing traditions differed from these glottographic writing systems by enabling phonetic reproduction of spoken texts. In addition to being able to linguistically name objects, persons and places, Classic Maya writing enabled the public representation of narrative texts that could be recorded phonetically, word for word.

In Classic Maya traditions, linguistic text and image can each represent a message either discretely or in combination with each other. In the latter case, text and

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49 Nöth, “Der Zusammenhang von Text und Bild”: 491–92.

50 Martin, “On Pre-Columbian Narrative”: 61.

51 Seymour Chatman, *Story and Discourse: Narrative Structure in Fiction and Film* (New York: Cornell University Press, 1978): 34.

52 Ignace J. Gelb, *A Study of Writing: The Foundations of Grammatology* (Chicago: University of Chicago Press, 1952): 245.

53 Hanns J. Prem, “Calendrics and Writing,” in *Observations on the Emergence of Civilization in Mesoamerica: Papers Presented at the Wenner-Gren Foundation for Anthropological Research*, vol. 9, Contributions of the University of California, Archaeological Research Facility 11 (Berkeley: University of California, Department of Anthropology, 1971): 112–32, <https://digitalassets.lib.berkeley.edu/anthpubs/ucb/proof/pdfs/arf011-010.pdf> [accessed 17.05.2022].

54 Gordon Whittaker, “The Zapotec Writing System,” in *Epigraphy*, Supplement to The Handbook of Middle American Indians 5, ed. Victoria R. Bricker (Austin: University of Texas Press, 1992): 5–19.



**Fig. 10:** Example of a visual narrative found in the pre-Hispanic Mixtec Codex Zouche-Nuttall. Page 75 shows ruler “Eight Deer” standing on a canoe on a lake during the conquest of Five Caves Island, surrounded by the calendrical dates of war campaigns and conquests. Facsimile by Zelia Nuttall, 1902. Public Domain. [https://archive.org/details/gri\\_33125011146541](https://archive.org/details/gri_33125011146541) [accessed 17.05.2022].

image on an information carrier may be spatially separated from or integrated with each other. In either constellation, such text-image relationships can be generally characterized according to the previously mentioned aspects of redundancy, dominance and complementarity. For Maya studies, a relation of redundancy offers a particularly important, insightful connection by allowing researchers to derive linguistic or iconic interpretations if the image content is known even if the text is unknown, and vice versa. In such cases, image and text refer to each other without additions that could influence the interpretation of one or the other. In other instances, however, either the text or the image is in a position of dominance over the other, or they are in a relationship of complementarity.<sup>55</sup>

<sup>55</sup> Janet C. Berlo, “Conceptual Categories for the Study of Texts and Images in Mesoamerica,” in *Text and Image in Pre-Columbian Art: Essays on the Interrelationship of the Verbal and Visual Arts*, BAR International Series 180, ed. Janet C. Berlo (Oxford: BAR, 1983): 1–39; Arthur G. Miller, “Comparing Maya Image and Text,” in *Word and Image in Maya Culture Explorations in Language*,

Generally speaking, Classic Maya images fulfil a representational and representative function. The space itself, objects placed within it, and the people or beings depicted, as well as their relations to each other, are represented through visual codes. Texts, on the other hand, break the stasis of the picture and fulfil the communicative function of reporting about time sequences, movement through space, motivations, intentions, events or causalities. Coupling image and text allowed Maya artists to depict space and simultaneously to record movement, time periods, events, causalities and changes or to represent the persons' status through visual language and graphic conventions while also indicating biographical reasons for the status.

## 8 The Codes of Maya Scribes and Kings

The thousands of Maya monuments inscribed with texts and imagery are more than just philological or iconographic artefacts from which we can derive culture-historical information. Each monument, whether with or without text or imagery, fundamentally constitutes a communicative unit and thus a semiotic artefact. In this capacity, it conveys linguistic and/or nonverbal conceptions, beliefs, memories, histories, ideas, correspondences, ontologies, thoughts, fantasies, intentions, norms, classifications and values; moreover, it concretizes them publicly in a space of collective experience that is shared by an interpretative community. Drawing on culturally shared conventions and codes, members of an interpretative community can read and interpret the message that is expressed in these cultural representations. The task of modern researchers is to recognize the codes and conventions entailed in these semiotic artefacts and to try to decode them in order to reconstruct past situations, ideas and norms.

In this chapter, I present conventions that Classic Maya scribes and sculptors used when producing stone monuments in order to convey implicit information that was not expressed in the texts or imagery and thus require understanding of these codes for correct interpretation. Stela 1 from the site La Amelia, a freestanding monument which was discovered in 1937 and is currently housed in the National Museum of Archaeology and Ethnology in Guatemala City, serves as an introductory example (Fig. 11a). The preserved front is carved in bas-relief with two vertically arranged registers; the upper register contains the image of a person and the lower one a jaguar in repose.<sup>56</sup>

According to the hieroglyphic texts, the stela represents the king of La Amelia, *K'ahk' Hoplaj Chan K'awiil*, dancing on a platform or step with a jaguar in front of

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*Writing, and Representation*, ed. William F. Hanks and Don S. Rice (Salt Lake City: University of Utah Press, 1989): 176–88.

<sup>56</sup> Christian M. Prager et al., *Documentación Digital En 3D de Monumentos Mayas Del Museo Nacional de Arqueología y Etnología, Guatemala: Informe Final, Temporada Enero – Abril 2017, Proyecto*



**Fig. 11a–d:** Stela 1 from the site of La Amelia, Petén, Guatemala, with three fields of text, carved in different styles. Images based on 3D model by Text Database and Dictionary of Classic Mayan.

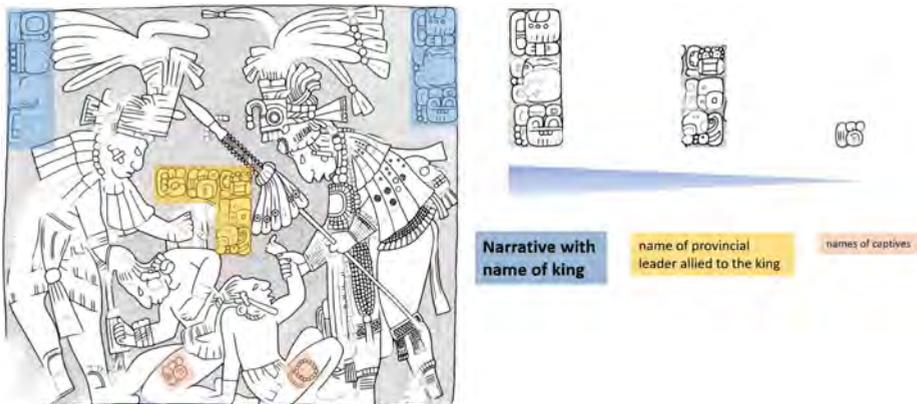
him. The ruler's attire indicates that he is presented as a dancing incarnation of the deity known as the "Waterlily Serpent": his headdress is composed of a waterlily pad or flower and his mask represents a serpent's snout. The king's other items of clothing, in particular the wide belt and the knee brace on the right leg, represent the garments of a ball player. The connection between the Classic Maya theme of ball games and dance in Stela 1's iconography, as well as the jaguar and iconographic and hieroglyphic references to a staircase as an architectural context in which the scene takes place, collectively allude to a symbolic ball game field, also known as a "false ball game field." It is assumed that dance-dramas were performed in these ritual spaces, including mythical ball games, and that during such performances war captives were presented and ritually sacrificed.<sup>57</sup>

Three fields of hieroglyphic text, carved in different styles, surround the image of the dancing king and provide information about the context of the recorded event and the monument's production (Fig. 11b–d). The most visually striking inscription occurs to the lower right of the figure and displays ten hieroglyphic blocks sculpted in relief; their dimensions are noticeably bigger than the blocks in the text fields on the upper right and lower left of the monument. Because of the blocks' dimensions and the raised relief carving, this text is easily visible from a distance, a feature that underscores the centrality of the information it contains. The inscription records that the king of La Amelia made a blood sacrifice for the dedication of his ball court on August 13, 807. The same date also occurs in the upper right-hand

«Base de Datos de Textos y Diccionario Del Maya Clásico», *Universidad de Bonn, Alemania. Informe Presentado a La Dirección General Del Patrimonio Cultural y Natural Del Ministerio de Cultura y Deportes de Guatemala* (Bonn: Textdatenbank und Wörterbuch des Klassischen Maya, 2019): 19–28, <http://dx.doi.org/10.13140/RG.2.2.22690.89280> [accessed 17.05.2022].

<sup>57</sup> Matthew G. Looper, *To Be Like Gods: Dance in Ancient Maya Civilization*, Linda Schele Series in Maya and Pre-Columbian Studies (Austin: University of Texas Press, 2009): 157–60.

text field, which has been rotated 45° counterclockwise; however, because the date has been lightly incised on the surface, it is hardly visible to the viewer. This text field, whose hieroglyphs are also relatively small, contains a sculptor’s signature and proclaims that the monument was also completed on August 13, 807. This delicate inscription names the sculptor, although it is now too damaged to be deciphered. In the lower left is another scribal signature accompanied by a declaration that the relief was dedicated on August 13, 807. This text field has likewise been rotated 45° counterclockwise, but because it has been carved as an inset relief, its visibility is much better than that of the incised signature in the upper right. Both latter text fields share the same rotation, which makes visually explicit their shared theme of “sculptor signature.” However, the signatures differ in mode of production, size of component hieroglyphs and position on the monumental surface. The much more noticeable signature in the lower left is at the same vertical level on the monument’s surface as the main inscription in the lower right. They primarily differ in that the signature is carved in inset relief, whereas the main inscription that refers to the image and names the ruler was produced in raised relief and contains the largest hieroglyphs on the monument.



**Fig. 12:** Lintel 8 from the site of Yaxchilan shows the taking of two captives by the Yaxchilan king named “Bird Jaguar” and his *sajal*, a vassal called K’an Tok’ Wayib. Full view and details of Yaxchilan, Lintel 8, underside, drawing by Ian Graham © President and Fellows of Harvard College, Peabody Museum of Archaeology and Ethnology, 2004.15.6.5.8.

The significance of varying hieroglyph size and text positioning can be derived from studying a range of text and image carriers produced by Classic Mayas. Lintel 8 from Yaxchilan, for instance, illustrates the capture of two nobles by the king to the right and his vassal K’an Tok’ Wayib, who is shown on the viewer’s left (Fig. 12). The scene is bordered by a text whose hieroglyphs are much larger than those in the text field between the two actors, as well as the glyphs on the captives’ bodies. The text framing the scene records the historical event on the left and the name of

the Yaxchilan, Yaxun Balam IV, on the right. The text field between the king and his provincial ruler gives the latter's name and title. This field is not only smaller than the one containing the king's name above; it is also positioned lower in the scene and thus communicates the dominance of king Yaxun Balam IV over his vassal, K'an Tok Wayib. The smallest hieroglyphs on the lintel are positioned on the thighs of the two noble captives whose names they record. Notably, these names are not given their own text field; instead the captives' bodies serve as a writing surface, tagging the captives. In Classic Maya art, it is usually objects or artefacts that are tagged with glosses; for instance bundles of cacao, corn, beans or tobacco jars are marked with their contents, or playing balls are measured at a particular size. By directly incising the captives' names onto their bodies, they are ontologically transformed from humans to (possessable) things.<sup>58</sup>

In the first example from La Amelia, we established that inset relief, which is framed and carved into the monumental surface, is significantly more visible than incised text. Visibility is a semiotic index for making visually perceptible or encoding high value, great significance or importance. In order to give different values to different components of a carved monument, for instance, the sculptor deployed varying styles, including incision, high and bas-relief or inset relief. Additionally, these nonverbal forms of (de)valuation could be expressed through other aspects such as dimension, position, layout relief style, sign font or color. These features are elements of image and text composition that transport meaning, communicate ideas, norms, conventions, beliefs, status, roles, themes, etc., that are not made verbally explicit on public monuments. Together with imagery and text, these artistic modes of expression constitute a level of messaging at which values, meaning, relationships and hierarchies can be expressed through semiotic signs. Even the text or image carrier and its context become signs themselves, as in the case of stairways illustrating captives and hieroglyphically documenting war, conquest and destruction, for example.

The potential extent of this semiotic interplay of dimension, position, layout, style, etc., with all their facets and nuances, is especially apparent on Stela 12 from Piedras Negras (Fig. 13). The monument, which stands at over 3 m tall, is sculpted on one broad and two narrow sides with illustrated scenes and hieroglyphic texts.<sup>59</sup>

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**58** Catherine E. Burdick, "Held Captive by Script: Interpreting 'Tagged' Prisoners in Late Classic Maya Sculpture," *Ancient Mesoamerica* 27, no. 1 (2016): 31–48, <https://doi.org/10.1017/S0956536116000031> [accessed 17.05.2022].

**59** Sylvanus G. Morley, *The Inscriptions of Petén*, vol. 5, Carnegie Institution of Washington Publication 437 (Washington, D.C.: Carnegie Institution of Washington, 1937): III: 262–71, <https://hdl.handle.net/2027/mdp.39015029403725> [accessed 17.05.2022]; David S. Stuart and Ian Graham, *Corpus of Maya Hieroglyphic Inscriptions*, vol. 9, part 1, *Piedras Negras* (Cambridge, MA: Peabody Museum of Archaeology and Ethnology, Harvard University, 2003): 60–63.



**Fig. 13:** Stela 12 from Piedras Negras, Petén, Guatemala exhibits a complex scene depicting victory, headed by Ruler 7 from Piedras Negras. Piedras Negras, Stela 12, front, drawing by David Stuart © President and Fellows of Harvard College, Peabody Museum of Archaeology and Ethnology, 2004.15.6.19.38.

The monument belongs to a cohort of stelae that were erected at Structure O-13 during the reign of Ruler 7 (AD 771–808) and constitute public memorials of that king.<sup>60</sup> Dedicated in 795, Stela 12 commemorates Ruler 7's victories over Pomona, Piedras Negras' antagonistic neighbor, in 792 and 794, feats which he achieved with support from his vassals from nearby La Mar. The military events, participating actors and relevant places are documented in the long texts on both narrow sides and represented in part on the broad front. This latter face shows a complex scene of conquest with the king in the middle, as well as his two noble vassals and conquered members of the royal court at Pomona.

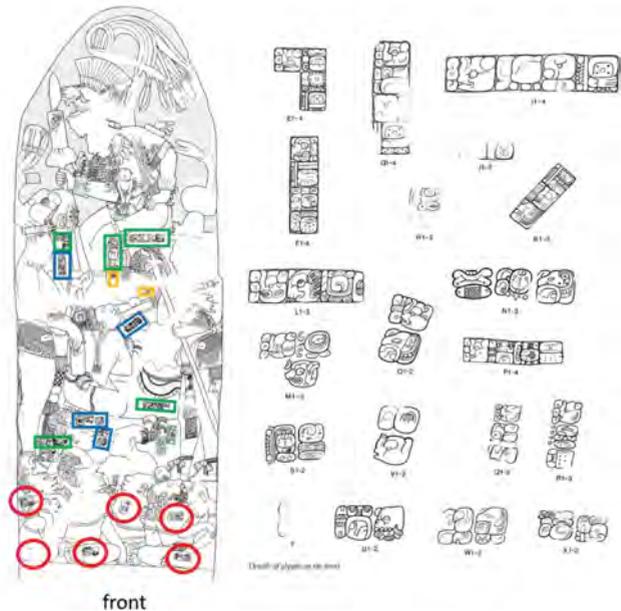
Among and on the twelve figures illustrated on the front are scattered twenty text fields of varying size, execution, orientation and position (Fig. 14). Two fields represent glosses in micro-writing that refer to objects that are being presented to the king. Eight fields feature signatures from sculptors and polishers, and another ten contain the personal names and roles of the depicted figures, except for the king. Status, hierarchy, social differentiation or moral concepts are visualized on this monument using iconographic conventions and semiotic codes, especially figure composition. The proudly posing victors appear gigantic in comparison to the

<sup>60</sup> Simon Martin and Nikolai Grube, *Chronicle of the Maya Kings and Queens: Deciphering the Dynasties of the Ancient Maya*, 2nd ed. (London: Thames & Hudson, 2008): 152–53.

**Piedras Negras, Stela 12**

Tagging hierarchies

- artist's signatures
- name tags
- name tags
- iconographic glosses

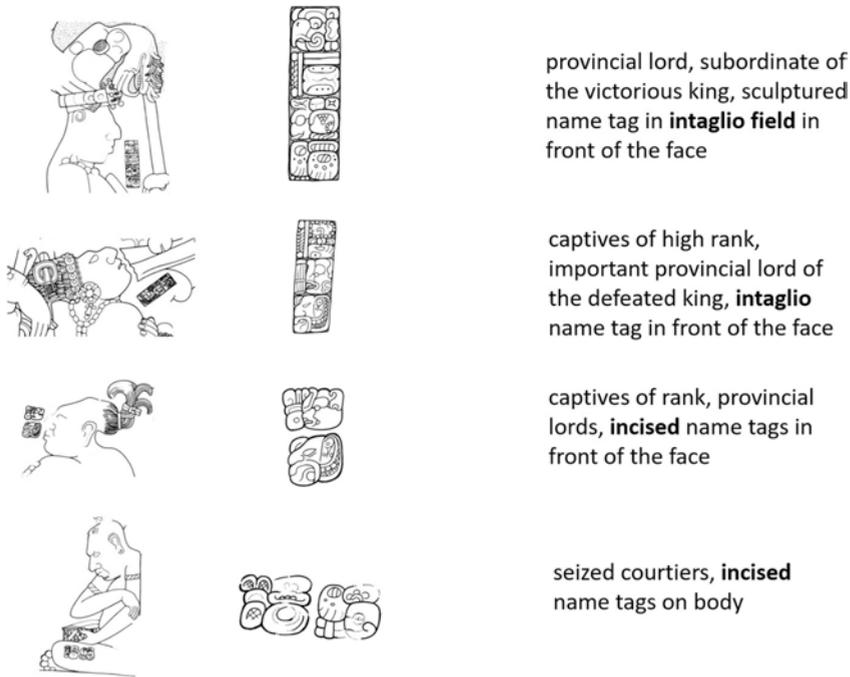


**Fig. 14:** The distribution of text and iconography on Stela 12, Piedras Negras. Piedras Negras, Stela 12, front, drawing by David Stuart © President and Fellows of Harvard College, Peabody Museum of Archaeology and Ethnology, 2004.15.6.19.38. Piedras Negras, Stela 12, details of glyphs on front, drawing by David Stuart © President and Fellows of Harvard College, Peabody Museum of Archaeology and Ethnology, 2004.15.6.19.41.

captives cowering at their feet at the bottom of the platform. The Piedras Negras king, dressed as a warrior and seated at ease atop the social pyramid, dominates the proceedings below him. His triumphant position at the top of the platform, with his imposing headdress of numerous elongated macaw and quetzal feathers, his body language and the three-quarter view of his front render him the most dominant figure in the image. He is the only person on the front who needs no label with a hieroglyphic name. Instead, his name concludes the historical narrative on the right-hand side, before the text continues on the narrow left-hand side with a listing of the military victories achieved during his reign. His vassals from La Mar stand a level below him on the platform, wearing insignias of their rank and presenting to the sovereign their important captives from the enemy court. A defeated local ruler seated between them is named in the inscription on the narrow side as an ally of the king of Pomona; he sits reverently before the Piedras Negras king and demonstrates deference with his folded arms. Unlike the captives cowering below him, however, he still wears his headdress and ornaments, which attest to his status as an important member of a royal court.

A visibly chaotic and disheveled group of eight bound captives sits on the lowest level, all stripped of their headdresses, ear ornaments and other accoutrements,

in contrast to the subjugated noble ally. Name glyphs or titles are incised on their shoulders, backs and thighs that allude to their royal activities as scribes, musicians, local rulers and other persons who must have played important roles in the court of the defeated vassal. The sculptors again followed the convention of incising the captives' personal names on their bodies. Nonetheless, two captives stand out among the group: their names are placed not on their bodies, but on the blank surface in front of their heads. According to these labels, both men were so-called *sajal* or local rulers over smaller settlements in the periphery of city states, who in these settlements represented the political and economic interests of the king and supported him in war. Their position in society must have been higher than that of the other captives portrayed farther down the stela, given their prominence within the group and their position above the very bottom of the depicted hierarchy.



**Fig. 15:** Possible evidence of textual style and social status expressed in the iconography of Stela 12 of Piedras Negras. Details of Piedras Negras, Stela 12, front, drawing by David Stuart © President and Fellows of Harvard College, Peabody Museum of Archaeology and Ethnology, 2004.15.6.19.38. Piedras Negras, Stela 12, details of glyphs on front, drawing by David Stuart © President and Fellows of Harvard College, Peabody Museum of Archaeology and Ethnology, 2004.15.6.19.41.

At the level of these two men's portraits, additional text fields are either carved in inset relief or incised in the background, all with different glyph sizes (Fig. 15).

These fields contain the names of sculptors who participated in the monument's production. It is notable that two names were carved in an inset field and two were incised on the stone surface. The dimensions of the incised hieroglyphs are smaller than those in the inset fields. Variable glyph sizes can encode differences in value and meaning on text and image carriers, so we can assume in this case that a hierarchy differentiated the various scribes and sculptors, one that was expressed in the style, composition and form of their individual text fields. Stephen Houston suggested that the distribution of signatures on this monument not only exhibits the hierarchy among the artists, but also their different tasks in preparing and processing the monument.<sup>61</sup>

The examples presented here suggest in particular that the incised text fields contain the names and titles of persons who were positioned lower in the social order (Fig. 15). In addition, lower status was semiotically indicated by varying sizes of glyph blocks and positioning of the text fields, a phenomenon also exemplified by Piedras Negras, Stela 12. Three text fields with sculptors' names are carved in inset relief at the level of the portraits of the La Mar vassals. According to the inscription, all three sculptors originated from the place *Bik'al*. Their social status must have been high enough that they were permitted to place their signatures at the eye level of the La Mar nobles, memorializing their names below the seated king.

Framing inscriptions and carving them in inset relief made the hieroglyphs clearer and more visible, thereby directing the viewer's attention to the text passage. Significance, meaning, and hierarchies are thus expressed not only through visual language, but also through the execution, elaboration and position of text fields, as well as their composition. Systematic examination of all text fields on the front of Piedras Negras Stela 12 underscores how layout, form, size, position and carving style scaled and projected implied values that Classic Maya elite culture ascribed to particular persons, objects or themes. No text field was executed at the level of the seated Piedras Negras ruler. As the main protagonist of text and imagery, the king alone claimed this position on the stela itself. One step below are the images of the La Mar vassals with their names carved in hieroglyphs in inset relief. At the same level, three sculptors also signed their names and titles, likewise using inset relief to publicly represent their equal standing with the depicted persons. Just below them is the image of the captured local noble, whose personal name is also carved in an inset field, although this field has been rotated 45° clockwise and smaller-scale hieroglyphs are used. Various sculptors signed their names at the level of his name and portrait; their glyphs are noticeably smaller, however. Farther down are more signatures from sculptors who, instead of carving their names in

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<sup>61</sup> Stephen D. Houston, "Crafting Credit: Authorship among Classic Maya Painters and Sculptors," in *Making Value, Making Meaning: Techné in the Pre-Columbian World*, Dumbarton Oaks Pre-Columbian Symposia and Colloquia, ed. Cathy L. Costin (Washington, D.C.: Dumbarton Oaks Research Library and Collection, 2016): 391–431.



**Fig. 16:** Execution and style of the text reflects the social status of the person associated with it as depicted on Stela 12, Piedras Negras. Details of Piedras Negras, Stela 12, front, drawing by David Stuart © President and Fellows of Harvard College, Peabody Museum of Archaeology and Ethnology, 2004.15.6.19.38. Piedras Negras, Stela 12, details of glyphs on front, drawing by David Stuart © President and Fellows of Harvard College, Peabody Museum of Archaeology and Ethnology. 2004.15.6.19.41.

inset relief, incised them on the surface next to or above the figures. The name glyphs of two captured local nobles who stand out among the captives have also been incised at this level, on the surface next to their portraits. Notable here is how only incised glyphs, rather than inset text fields, were executed here and in the low-est visual register (Fig. 16).

The lowest level of the scene shows the group of beaten and humiliated captives who are visually positioned at the bottom of the social hierarchy represented on this monument. Their names and titles are incised on their bodies, in contrast to the situation of the other figures. Previously, we saw how captives lost their ontological status as people through this “tagging” and in such cases functioned only as property or, more generally, “things.” The fact that they really do represent the lowest level of the depicted social ranking or hierarchy is also expressed by the absence of sculptor signatures from this register. One could speculate that no sculptor wanted to associate his name with the disgraced captives. In sum, the example of Stela 12 from Piedras Negras clearly highlights that not only visual language, i.e. the composition of visual elements, can express hierarchies, values and status. In addition, layout, form, size and execution of inscriptions or text fields were semiotically charged to visually manifest these social phenomena. There is much evidence to suggest that these semi-otic codes to indicate hierarchy were intentionally deployed to this end.

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Anna Kollatz

# How to Approach Emic Semantics of Dependency in Islamic Legal Texts: Reflections on the Ḥanafī Legal Commentary *al-Hidāya fī sharḥ bidāya al-mubtadī* and its British-Colonial Translation

## 1 Introduction

Historical semantics as a method of study has yet to be applied to Islamicate concepts of strong asymmetrical dependency.<sup>1</sup> A major reason for this is simply a lack of technology: a constitutive part of historical-semantic studies is the evaluation of large source corpora by means of digital quantitative methods, to identify and count, for example, certain conceptual terms or *Schlüsselbegriffe* in a body of source material.<sup>2</sup> But we still lack the technical means to search digitally manuscript material or even

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1 The study of historical semantics still lacks a pronounced theoretical foundation in other disciplines, since the amount of data provided by case studies is as yet too small, as Simone Schultz-Balluff notes for German Studies. Cf. Simone Schultz-Balluff, *Wissenswelt 'triuwe': Kollokationen – Semantisierung – Konzeptualisierung* (Heidelberg: Universitätsverlag C. Winter, 2018): e.g. 13. Schultz-Balluff's study shows the possibilities inherent in digitally supported historical-semantic research. In the field of Islamic studies, Ulrich Haarmann has pointed to the connection of jurisprudence and morphology; cf. Ulrich Haarmann, "Religiöses Recht und Grammatik im klassischen Islam," *Zeitschrift der Deutschen Morgenländischen Gesellschaft*, Supplement 2 (1974): 149–69. Kurt Franz' seminal article, "Slavery in Islam: Legal Norm 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): 51–141 is an excellent starting point for the study of conceptual terms in the context of Islamic slavery, especially for the use of conceptual terms in the Qur'an and his detailed discussion of the current state of research. Another 2017 publication, *Das islamische Sklavenrecht* by Rainer Oßwald, gives detailed insight into concepts of strong asymmetrical dependency in Mālikī law: Rainer Oßwald, *Das islamische Sklavenrecht* (Würzburg: Ergon Verlag, 2017).

2 The present essay does not seek to expand the discussion of the concepts and theory of historical semantics, but translates certain concepts from neighboring disciplines in a heuristic manner, to test their applicability on the text corpus in question. As there is to date no substantial literature on historical semantics in the field of Islamicate History, I rely on recent publications from German and Asian studies. For a discussion of the concept *Begriff* see Dietrich Busse, "Begriffsstrukturen und die Beschreibung von Begriffswissen: Analysemodelle und -verfahren einer wissenschaftlich ausgerichteten Semantik (am Beispiel von Begriffen aus der Domäne Recht)," *Archiv Für Begriffsgeschichte* 56 (2014): 153–95. In a similar way, Christian Schwermann uses the term *Schlüsselwort*, cf. Christian Schwermann, *'Dummheit' in altchinesischen Texten: Eine Begriffsgeschichte*, Veröffentlichungen des Ostasien-Instituts der Ruhr-Universität Bochum 62 (Wiesbaden: Harrassowitz, 2011): 32. His analysis of the word field "stupidity" is, in addition to Schultz-Balluff's study (see n. 1),

editions written in the Arabic alphabet, which makes it virtually impossible to base research on large source corpora in Arabic, Persian or Urdu.<sup>3</sup>

The first part of this essay therefore discusses the experimental workaround mode I tried to apply in order to generate a set of data that would give me initial insights into the historical semantics of strong asymmetrical dependency in Indian Ḥanafī legal texts. A crucial part of this workaround mode is the use of English translations of the texts in question, because these are digitally searchable. My aim was not to use the English version as a basis for my analysis, but merely to help me identify relevant passages in the original text. However, this approach proved to be problematic for reasons which I will discuss below. The most challenging part was the textual history of the English translation itself, which is a product of British colonial appropriation and the transformation of what colonial officials found in their new realm. Due to this particular genesis, the English translation is of limited use as a reference text for research into the emic semantics inherent in the original text. However, the special setting of this case offers the opportunity to investigate changes in the semantics of the translation process. The *Hidāya* actually has a long history of translation, in which the original Arabic text was translated into Persian and then into English.

The main part of this article consists of a qualitative analysis of key words in the original Arabic source text. It will focus on the *Kitāb al-‘itāq*, the *Book on Manumission* from the Ḥanafī legal commentary *al-Hidāya fī sharḥ bidāya al-mubtadī*, which served as a reference text for Islamic jurisprudence for British Colonial officials; a function it had already previously fulfilled during Islamic rule in northern India. My analysis suggests that forms of strong asymmetrical dependency are not limited to *slavery*: not only in the *Hidāya*, but in Islamic law in general. The practice of releasing and partially or gradually manumitting enslaved persons over a longer period of time results in gradations of strong asymmetrical dependency, for which Islamic law has special terms. I will trace these terms in a part of the text and will localize them on a continuum of dependency, following the concept developed by David Eltis and Stanley L. Engerman.<sup>4</sup> In a final step, I will compare the results of this analysis with the method employed by the English translator. For future interest in the development of historical semantic fields, it would be most helpful to study

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another example of the manifold and fruitful use of digital searches of text corpora in the research of historical-semantic questions.

<sup>3</sup> Initial promising results have recently been announced by “The Digital Orientalist,” see e.g. <https://digitalorientalist.com/2020/03/04/some-thoughts-about-arabic-script-ocr/> [accessed 17.05.2022], and the JEDLI toolbox developed at Hamburg University that allows indexing and context searches in digitized texts, see <https://www.islamic-empire.uni-hamburg.de/publications-tools/digital-tools/jedli.html> [accessed 17.05.2022]. However, until the launch of a software that allows OCR’ing manuscripts and editions, digitally assisted research will be restricted to a small corpus of recent editions.

<sup>4</sup> 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 1420–1804*, ed. David Eltis et al. (New York: Cambridge University Press, 2011): 1–21.

the full translation process of the *Hidāya* from the Arabic original into Persian translations that were used by both the Mughal and the British authorities in India, with the subsequent British-colonial rendering. As the Persian versions are available only in manuscript, and thus require much preliminary work in Indian archives, this aspect cannot be considered until further studies have been carried out.

## 2 The *al-Hidāya fī sharḥ bidāya al-mubtadī*

This article concentrates on a normative text from the Ḥanafī legal school. The selected source implies that the study will initially only allow conclusions to be drawn about the historical semantics of normative perceptions of strong asymmetrical dependencies in this particular *madhhab* (legal school). This complements Veruschka Wagner's essay in this volume, which focuses on historical-semantic studies of praxeological texts, namely archive material from Ottoman court registers.<sup>5</sup> The *al-Hidāya fī sharḥ bidāya al-mubtadī* (commonly known as *Hidāya*, “The Guidance”) is a twelfth-century legal commentary by the Ḥanafī scholar Burhān al-Dīn Abu 'l-Ḥasan al-Marghīnānī (1135–1197), a native from the region of Farghana (modern Uzbekistan).<sup>6</sup> The multi-volume Arabic text is a concise commentary (*mukhtaṣar*)<sup>7</sup> on al-Marghīnānī's own compendium *al-Bidaya al-mubtadī* (hence the title *Guidance through al-Bidaya al-mubtadī*), which was in turn based on two renowned legal treatises, the *Mukhtaṣar* by al-Qudūrī and al-Shaybānī's *al-Jāmi' al-ṣaghīr*. It belongs to the corpus of Ḥanafī normative literature and is considered one of the most influential compendia in Ḥanafī law to this day. There are numerous super- and supra-commentaries and additions by contemporary and later scholars.<sup>8</sup> This rich hypertextual tradition linked to our basic text would invite further investigation into how historical-semantic notions of strong asymmetrical dependencies developed over centuries of discussion among Islamic jurists, and – an aspect that makes this source genre especially interesting – in different geographical contexts of the Islamic and Islamicate world. While the *Hidāya* was written by an author from Transoxania, i.e. the eastern parts of the Islamic world, it spread

5 The Mughal Empire and the Ottoman Empire both count among the predominantly Ḥanafī Islamic realms.

6 He is regarded as the most important member of a well-established family of Ḥanafī legal scholars, cf. Willi Heffening, “al-Marghīnānī,” in *Encyclopaedia of Islam, Second Edition*, ed. Pery Bearman et al., [http://dx.doi.org/10.1163/1573-3912\\_islam\\_COM\\_0685](http://dx.doi.org/10.1163/1573-3912_islam_COM_0685) [accessed 17.05.2022].

7 The genre flourished in the field of Islamic jurisprudence, among many others. See Albert Arazi and Haggai Ben-Shammai, “Mukhtaṣar,” in *Encyclopaedia of Islam, Second Edition*, ed. Pery Bearman et al., [http://dx.doi.org/10.1163/1573-3912\\_islam\\_COM\\_0792](http://dx.doi.org/10.1163/1573-3912_islam_COM_0792) [accessed 17.05.2022].

8 Cf. Willi Heffening, “al-Marghīnānī”; for the transmission of the main text and of many of the related commentaries see Carl Brockelmann, *Geschichte der Arabischen Litteratur*, 2 vols., 2nd ed. (Leiden: Brill, 1943–49): vol. 2: 466–69 and vol. 1: 644–49.

quickly over all regions inhabited by Ḥanafī Muslims, among those the Islamicate realms on the Indian subcontinent.<sup>9</sup> It would be an intriguing task to compare the historical-semantic notions of strong asymmetrical dependency in the two hypotexts mentioned above with those in the *Hidāya* itself and several super-commentaries from beyond the region.

The *Hidāya* covers, in a total of eight volumes,<sup>10</sup> all aspects of Islamic law. This includes both provisions concerning the relationship between God and human beings (*ibāda*), such as prerequisites for the proper conduct of worship and other religious duties of Muslims, and juridical regulations for the social life in Muslim societies (*muʿamalāt*), including marital or criminal law, among others.<sup>11</sup> For example, volume one of the 1791 English translation contains Book 1 on *zakāt* (i.e. the obligation of giving alms, which as a religious duty for Muslims comes directly after the obligation of five prayers a day), Book 2 on marriage, Book 3 on fosterage, Book 4 on divorce, Book 5 on the manumission of slaves, and Book 6 on vows.<sup>12</sup> The *Hidāya* has no separate chapter or book dedicated to slave law exclusively, a fact that seems astonishing only at first glance. As slavery and other forms of strong asymmetrical dependency formed an integral part of Islamicate societies,<sup>13</sup> special legal provisions

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**9** Other regions with a majority on Ḥanafī Sunni Muslims are the Levant, Egypt and Turkey, parts of the Balkans and Central Asia. Ḥanafī minorities lived and still live in most other regions of the Islamic *umma*.

**10** The edition I used for this article is Shaykh Burhān al-Dīn Abu ʿl-Ḥasan al-Marghīnānī, *al-Hidāya fī sharḥ bidāya al-mubtadī*, ed. ʿAbd al-Ḥayy Luknawī (Karachi: Maktaba al-Bushra, 2011). All quotations from the Arabic texts in this article are based on this edition. All translations, except otherwise stated, are mine. I will refer to the Arabic text as *Hidāya*, with the volume number given in Latin numerals.

**11** On the architecture and development of Islamic jurisprudence, see e.g. Gotthelf G. Bergsträsser, *Bergsträsser's Grundzüge des islamischen Rechts*, ed. Joseph Schacht, *Lehrbücher des Seminars für Orientalische Sprachen zu Berlin* 35 (Berlin: De Gruyter, 1935); Joseph Schacht, *The Origins of Muhammadan Jurisprudence* (Oxford: Clarendon Press, 1950); Wael B. Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunni uṣūl al-fiqh* (Cambridge: Cambridge University Press, 1997). A French translation of one of the *Hidāya*'s sources, together with an analysis of the regulations on personal status, is available in Georges Henri Bousquet and Léon Bercher, eds., *Le statut personnel en droit musulman hanéfite: Texte et traduction annotée du Muḥtaṣar d'al-Qudūri*, Institut des hautes études de Tunis: Bibliothèque juridique et économique 3 (Paris: Recueil Sirey, [1952?]).

**12** Cf. Charles Hamilton, trans., *The Hedāya, or Guide. A Commentary on the Mussulman Laws Translated by the order of the Governor-General and Council of Bengal by Charles Hamilton*, 4 vols. (London: Bensley, 1791): vol. 4, without a table of contents in the original edition. For a table of contents, see the second edition, which however omitted the text of "Book V on Manumission," cf. Charles Hamilton, trans., *The Hedāya, or Guide. A Commentary on the Mussulman Laws Translated by the order of the Governor-General and Council of Bengal by Charles Hamilton*, 2nd ed. (Lahore: Premier Book House, 1957).

**13** Franz, "Slavery in Islam"; see also Oßwald, *Das islamische Sklavenrecht*. On the development of concepts of freedom in Islamic law, see Irene Schneider, "Freedom and Slavery in Early Islamic Time (1st/7th and 2nd/8th Centuries)," *Al-Qanṭara* 28 (2007): 353–82 and the classic Franz Rosenthal, *The*

concerning the legal position and treatment of dependent people form part of all sections of the commentary. It might thus be misleading to use a term like *Islamic slave law*, because this would imply the notion of a separate body of provisions relating to slaves or other dependents. Moreover, as the analysis of emic conceptual terms in this article will show, the *Hidāya* knows far more variations of strong asymmetrical dependency than *slavery* alone. It is worth pointing out in passing that slavery and forms of strong asymmetrical dependency directly derived from it are always discussed in this legal commentary, as they are in other Islamic legal writings, in close conjunction with legal statuses of, for example, a minor child, a married woman or a not wholly sane person.<sup>14</sup>

The structure and argumentation in all books and chapters correspond to the genre characteristics of Islamic legal commentaries: they are based on the citation of Qur'ānic verses and/or material from the *sunna* (the tradition) of the Prophet Muḥammad. In a second step, the author refers to relevant Ḥanafī teachings, including discussions or controversies, occasionally also differences to other Islamic schools of law, without bringing forward a definite answer to the questions raised.<sup>15</sup> The commentary is obviously intended for a specialist readership, as it neither explains nor defines the legal vocabulary used. So to approach the semantic fields of our interest, we need to scrutinize the argumentation related to the defined keywords. This approach via qualitative analysis includes the search for definitions by opposing terms and by indirect definitions, e.g. in the context of exemplifying passages.<sup>16</sup>

As an important Ḥanafī legal text, the *Hidāya* was held in high regard in the Mughal Empire as well; some volumes of the text, formerly in the library of Mughal emperor Farrūkh Siyār (r. 1713–1719), have been preserved in the British Library,<sup>17</sup> and numerous copies are in Indian manuscript libraries.<sup>18</sup> Given the discursive character of Islamic jurisprudence, we may imagine that al-Marghīnānī's twelfth-

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*Muslim Concept of Freedom Prior to the Nineteenth Century* (Leiden: Brill, 1960); and on a more general level Hans Müller, "Sklaven," in *Handbuch der Orientalistik*, vol. 1, *Wirtschaftsgeschichte des Vorderen Orients in islamischer Zeit*, ed. Bertold Spuler (Leiden: Brill, 1977): 53–83.

**14** Similarly Oßwald, *Das islamische Sklavenrecht*: 113 and especially esp. 123.

**15** Such a form of open argumentation that allows different conclusions is also typical for the genre and stands witness to the degree of tolerance towards ambiguous positions in Islamic culture. Cf. Thomas Bauer, *Die Kultur der Ambiguität: Eine andere Geschichte des Islams* (Frankfurt am Main: Verlag der Weltreligionen, 2011).

**16** The detection of emic definitions and related keywords, moreover, is a prerequisite for future qualitative analysis.

**17** For example, MS London, British Library, RSPA 85, a manuscript of the first volume of the *Hidāya* bearing seals from the courts of the Mughal emperors Muḥammad Mu'azzam Bahādur Shāh (r. 1708–1712) and Farrukh Siyar (r.1713–1719), and a further one of the British governor Henry Vansittart, dated 1164/1750, and RSPA 86, the second part of the text, which bears a possession mark of Sir William Jones (1746–1794), who presented the copy to the Royal Society in 1792.

**18** E.g. Khudā Bakhsh Oriental Public Library, 1970. Catalogue of the Arabic and Persian manuscripts in the Khuda Bakhsh Oriental Public Library. 2nd ed. Patna: The Library, vol. 39, Jurisprudence,

century compendium still served as a standard reference work during late Mughal rule in India, together with commentaries and supra-commentaries by later generations. It was an established practice of the Mughals to translate works from Arabic as well as Sanskrit or Hindi into Persian, the *lingua franca* of the empire.<sup>19</sup> The British could draw on the experience of specialists trained in Mughal service when they in their turn had the *Hidāya* translated into Persian. Finally, in 1791, Charles Hamilton published an English translation of the commentary in London. This text has an extensive preface, which, incidentally, would offer interesting material for the study of colonial governance and scholarship, and the positionality of scholars in this context. The preface also contains a short outline of sources, functions and institutions of the “Mussulman Law,”<sup>20</sup> written to introduce British colonial officials to the basics of Indian society and the evolution of Islamic law. Prepared on behalf of the British governor in Bengal, the translation formed part of British efforts to structure the law of their colonial subjects according to British standards<sup>21</sup> and thus stands witness to “a Western style for dominating, restructuring, and having authority over the Orient.”<sup>22</sup> Clearly observing the topic with an “imperial gaze,” it “defines the identity of the subject, objectifies it within the identifying system of power relations and confirms its subalternity and powerlessness,”<sup>23</sup> and therefore cannot serve as a reliable basis for any research on the Arabic or Persian source texts, but must be recognized as a highly problematic adaption.<sup>24</sup> This is precisely the reason why this text is suitable for exemplifying translation problems from a historical-semantic point of view.

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No. 2352/ HLÖ No. 4079, *Hudayah Farsi* is a manuscript of the Persian translation of the *Hidāya* prepared on behalf of the British governor of Bengal, Warren Hastings (1732–1818), by the Indian Muslim scholars Ghulām Yaḥyā Khān Bihārī (d. after 1776), Maulavī Tājuddīn Bangālī (d. unknown), Mīr Muḥammad Ḥusain Irānī (d. unknown) and Sharīʿatullāh Sanbhalī (d. unknown), later revised by Muḥammad Rashīd b. Ziyāuddīn Bardawānī (d. unknown).

**19** On translation as a cultural technique in the Mughal empire, see e.g. Carl W. Ernst, “Muslim Studies of Hinduism? A Reconsideration of Arabic and Persian Translations from Indian Languages,” *Iranian Studies* 36, no. 2 (2003): 173–95; for the impact of translations from Indic languages see Audrey Truschke, *Culture of Encounters: Sanskrit at the Mughal Court* (New York: Columbia University Press, 2016). The ANR/GRF funded project PersoIndica has prepared an extensive list of translated manuscripts, see <http://www.perso-indica.net/> [accessed 17.05.2022].

**20** Taken from the title of the English translation by Hamilton, *The Hedāya, or Guide*. Other Colonial paraphrases use *Moohumudan* as a reference to Islamic law, cf. Neil Benjamin Edmonstone Baillie, *A Digest of Moohumudan Law* (London: Smith, Elder & Co., 1875).

**21** As Hamilton, *The Hedāya, or Guide* writes in his translator’s preliminary discourse, cf. vol. 1, especially v–vii.

**22** Edward Said, *Orientalism* (London: Penguin, 2003): 3.

**23** Bill Ashcroft et al., *Post-Colonial Studies: The Key Concepts*, 2nd ed. (New York: Routledge, 2007): 19, 207.

**24** Even more problematic are digests prepared from a number of Islamic sources, like e.g. digests of Islamic juridical texts. See for example Baillie, *A Digest of Moohumudan Law*.

### 3 Workaround Mode and Problems

But before we start the actual semantic analysis, I will briefly turn to the workaround mode for texts that cannot be searched digitally. A simple search for “slave” in the first volume of the English translation brought a total of 514 results on 676 pages. The hits are evenly distributed over all chapters. This confirms one of the central findings of Rainer Oßwald’s study on Mālikī law<sup>25</sup> where he showed that Islamic legal provisions on slavery are much more than just a distinct legal corpus dedicated to slavery-specific issues such as enslavement, sale, etc. Oßwald’s impressive collection of evidence suggests that slavery was a factor firmly embedded in the social order of Mālikī societies in North Africa. This implies that practically all aspects of legal regulation of human life include distinct provisions for free, enslaved and partly dependent people. Legal provisions for enslaved persons thus do not form a separate body of *slave* law, but instead are integrated in all areas covered by Islamic law. Due to this situation, searching for a single translated keyword can only reveal a fraction of the relevant text passages,<sup>26</sup> so further searches for possible keywords were necessary. I then manually traced the relevant passages and the emic Arabic terms, in the Arabic text. A multitude of Arabic emic terms are represented in the English translation as “slave(ry),” “manumitted/manumission” and “free(dom)/freed.” Figure 1 shows that the translation has often been transverse to emic semantic fields. The emic terms *‘abd*,<sup>27</sup> *ama*, *mamlūk*<sup>28</sup> and *riqq*, which originate from different semantic fields and can therefore refer to different legal statuses, are synonymously translated as “slave,” “slavery” and “bondage.” In a similar way, words belonging to the different emic semantic fields of *ḥ-r-r* (related to “freedom”)<sup>29</sup> and *‘ayn-t-q* (related to “manumission”) were translated crosswise into the English words “manumitted” and “free(dom),” respectively (see Fig. 1).

In relation to the historical semantics of the English terms chosen by the translator, this transversal translation practice may have produced feasible renditions of the emic concepts in individual cases. In the overall picture, however, it has resulted in terminological obscurities that can only be clarified by semantic analysis of the original source text. That the crosswise translation into a single semantic

<sup>25</sup> Oßwald, *Das islamische Sklavenrecht*.

<sup>26</sup> The same would hold true for quantitative searches based on a limited set of keywords in Arabic or Persian texts.

<sup>27</sup> The Arabic root *‘-b-d* is of common Semitic origin and refers both to the semantic fields of worship (of God) and to the semantic field of work (in Hebrew), service and slavery. Cf. Arthur Jeffrey, *The Foreign Vocabulary of The Qur’ān* (Baroda: Oriental Institute, 1938): 209–10.

<sup>28</sup> See below.

<sup>29</sup> Translations of Arabic terms in brackets serve exclusively to make the terms comprehensible to readers who do not read Arabic. They do not represent the result of a semantic analysis, but are merely approximations. I denote the semantic fields associated to Arabic verbal roots as related to an English translation of the emic concept the root is connected to.

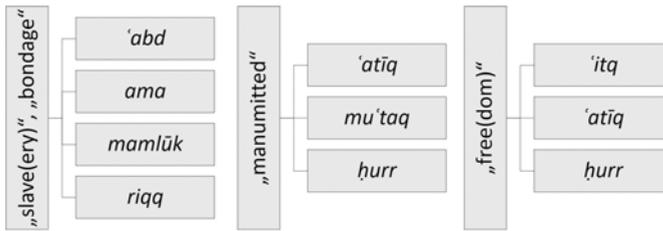


Fig. 1: Translation across emic semantic fields. Graphic by A. Kollatz.

field in English is problematic can also be seen from Kurt Franz’s analysis, who found, for example, that the different terms in the Qur’ānic terminology of manumission were not interchangeable.<sup>30</sup> In what follows, I will concentrate on the first step of this clarification, namely the examination of the Arabic source terms. This is where the possibilities of digitally supported search in the translated text end. Until such times as suitable applications for Arabic are available, it is therefore advisable to resort to a qualitative analysis for clarifying emic semantic fields. Due to the sheer volume of text, such analyses can only be carried out as individual case studies.

## 4 Emic Semantic Fields

The analysis in this article concentrates on the fifth book of the *Hidāya*, following the British count, the *Kitāb al-‘itāq* (*Book on Manumission*),<sup>31</sup> which discusses the manumission of dependent people. As this chapter deals with the conceptual terms for different states or grades of dependency separately, it is the ideal starting point for an investigation into the emic definitions of these concepts. By studying the different ways of manumission and the legal states a former dependent could reach, it is possible to delineate the different states and their position on a continuum of dependency.

Figure 2 illustrates the Arabic roots, each defining its own semantic field, and several selected keywords that derive from the respective root.<sup>32</sup> The following

<sup>30</sup> Franz, “Slavery in Islam”: 66.

<sup>31</sup> The Arabic edition has no chapter numbering; the *Kitāb al-‘itāq* is part of the third volume of the Karachi edition, cf. *Hidāya* III, 346–414.

<sup>32</sup> For better readability, instead of referring to the semantic fields by their root structure, I will choose one of the derived terms, e.g. for the semantic fields ḥ-r-r (related to “freedom”) and m-l-k (related to “possession”), I will use the keywords ḥurriyya (“freedom”) and milk/mamlūk (“possession/a person possessed by another”) respectively. To distinguish the naming of a semantic field from the reference to a specific source term, I will refer to Arabic terms as used in the *Hidāya* with

discussion will focus on three semantic fields: *ḥurriyya* (related to “freedom”) and *milk* (related to “possession”) appear in the chapter on manumission as two important, but clearly distinct, pillars of the definitions of dependence and manumission respectively. A third semantic field is *‘itāq* (related to “manumission”), which features in the title of the fifth book of the *Hidāya*, the *Kitāb al-i‘tāq*, the *Book on Manumission*. Finally, I will also look at the emic semantic fields of three central Arabic terms denoting enslaved people, *‘abd* (translates both as “servant” and “slave,” from the root *‘ayn-b-d*, related to *‘ubudiyya* “service”), *ama* (from the old Semitic root *a-m-m*, translates as “female slave”) and *riqq* (the most common term used to denote enslaved people in the *Hidāya*, from the root *r-q-q*, related to “being enslaved”). The text part under consideration here did not contain translations of terms belonging to the Arabic root *kh-d-m*, which is related to the semantic field of “service,” e.g. *khādīm*, which may denote both free and enslaved servants.

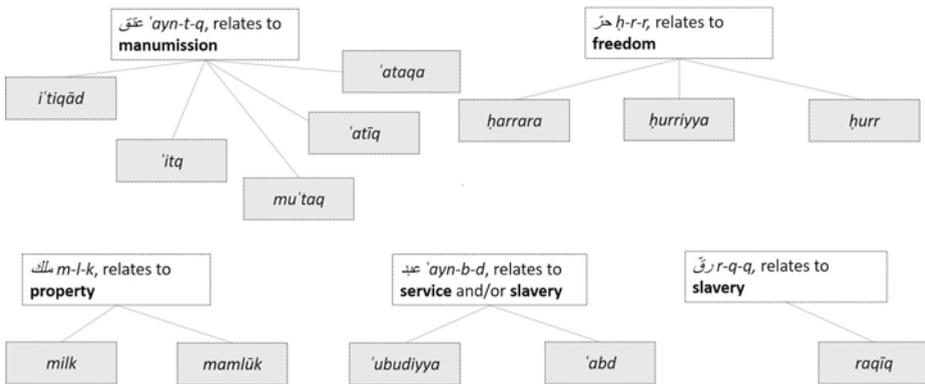


Fig. 2: Semantic fields and related conceptual terms. Graphic by A. Kollatz.

Before commencing with my semantic analysis of terms used in the Arabic original of the *Hidāya*, we need to take a brief look at the two semantic fields of *‘ubudiyya/riqq* (“slavery”) and *ḥurriyya* (“freedom”). There is no exclusive semantic field or conceptual term in Arabic that would equal “slavery.” Instead, several terms from at least two semantic fields are usually translated as “slavery” or “slave.” Kurt Franz has discussed the individual conceptual terms to be found in the *Qur’ān* and the *ḥadīth*, the tradition of prophet Muḥammad’s sayings and deeds, which form the main normative basis for Islamic legislation.<sup>33</sup> Among the most common terms

an approximate English translation and the Arabic source term in brackets, e.g. manumission (*i‘tiqād*).

<sup>33</sup> For the terminology of slavery and related concepts in *Qur’ān* and *ḥadīth*, see Franz, “Slavery in Islam”: 59–69, 73–81. For the ambiguity and emic discussions of the conceptual term *ḥurriyya*, see also Oßwald, *Das islamische Sklavenrecht*: 23.

translated as “slavery” are *‘ubūdiyya* and *riqq*, while terms derived from the semantic field *ḥurriyya* exclusively refer to the state of freedom. The *Kitāb al-i’tāq* does not contain a discussion of the binary opposition of “slavery” and “freedom,” which however underlies legal concepts of strong asymmetrical dependency in Islamic law. Islamic jurisprudence as well as research on the topic usually refer to two quotations that express the Islamic principle of understanding human beings as free, owing to their status as God’s creatures:

The general doctrine reads *al-nās aḥrār fi l-aṣl*, ‘people are freemen in principle (or: by origin),’ or *al-aṣl huwa al-ḥurriyya*, ‘the basic principle (or: the original state) is freedom.’ Slavery is thus an exceptional state, sharply distinguished from the original.<sup>34</sup>

However, given the discursive character of Islamic law, there is no constitutional definition of either *ḥurriyya* or the different terms for strong asymmetrical dependencies that would apply across all schools of law. Law books and commentaries usually derive their individual definitions from Qur’ānic quotations, or abstain from sharp definitions, relying on the recipients’ knowledge. The *Hidāya* discusses definitions of terminology only in such passages where a more precise description is necessary for clarifying the context: for example when it is a matter of presenting different views in different schools of law. The divergence between semantic fields, mentioned above, becomes obvious when al-Marghinānī compares the definition of manumission from a Shāfi’ī and a Ḥanafī perspective. In this case, manumission (*i’tiqād*) is defined by contrasting it with characteristics of its opposing legal status, namely *riqq* (slavery). The first definition explains the Shāfi’ī opinion, according to which it is impossible to manumit a slave partially. Manumission, or the *legal status* of being manumitted (*‘itq*) is contrasted with slavery (*riqq*), which is defined as a *legal status* as well, namely as the absence of legal capacity:

Manumission (*i’tāq*) is the establishment of the status of being manumitted (*‘itq*), which means the capacity of taking decisions (*quwwa ḥukumiyya*). It is established by the removal (*izāla*) of its opposite (*ḍidduhā*), which is slavery (*riqq*), and which means the absence of the capacity of taking decisions (*ḍa’f ḥukumī*). Both criteria cannot be separated from each other, like (the criterion of being married) in the case of divorce.<sup>35</sup>

As long as both manumission and slavery are defined as legal statuses, both are regarded as inseparable entities. The second definition, however, explaining the Ḥanafī point of view, establishes a differentiation between the personal right of possession (*milk*), to which the slave owner is entitled, and the legal status of slavery (*riqq*). According to the Ḥanafī definition, manumission does not affect the legal status of the slave in question, but only removes the owner’s right of possession,

<sup>34</sup> Franz, “Slavery in Islam”: 81–82. The quotation is followed by an extensive discussion of the question whether this principle is to be acknowledged as generally valid.

<sup>35</sup> *Hidāya* III, 363. All translations from the Arabic, unless otherwise stated, are mine.

because the owner can make decisions only for such items as they possess.<sup>36</sup> In a case of shared ownership, a slave cannot become fully manumitted if only one owner gives up their right of possession, because the owner is not entitled to decide on possessions owned by others:

Manumission (*i'tāq*) is the establishment of the status of being manumitted (*'itq*). It is established by the removal (*izāla*) of possession (*milk*). Possession is (a person's) right, while slavery (*riqq*) is a legal status. [. . .] This means that (the owner) can remove (a part) of his right, without touching upon any other.<sup>37</sup>

This definition suggests that slave owners cannot affect the legal status of an enslaved person, but it does not explain which person or institution is entitled to do so. So the commentary does not present an absolute definition of either term, nor does the text mark one of the definitions as preferable. However, in the case of partially manumitted slaves, the *Hidāya* recommends that the remaining owners should either release them as well, or at least grant them the right to ransom themselves, for example in the context of a *kitāba* contract (see below).

It is also important to note that the *Hidāya* regards the conceptual terms it discusses as having different qualities. For example, al-Marghinānī defines a phrase a slave-owner can use to manumit an enslaved person as “clear and well understood both in the legal terminology and in common use” (*ṣarīḥa fihi and musta'ammila fihi shar'an wa 'urfan*).<sup>38</sup> If a slave owner uses such a phrase in front of a slave, they will be manumitted fully and immediately, even if the owner did not intend to set them free. Such phrases operate with the two semantic fields *ḥurriyya* (“freedom”) and *'itāq* (“manumission”), which may contain either a verbal construction or constructions with different active or passive participles of the verbs in question.<sup>39</sup> The text lists examples for synonym formulations: “‘You are free,’ or ‘a manumitted person,’ or ‘manumitted,’ or ‘a freed person,’ or ‘I have set you free,’ or ‘I have manumitted you’” (*Anta ḥurr, au mu'attaq, au 'atīq, au muḥarrar, au qad ḥarrartuka, au*

<sup>36</sup> In the general remarks on manumission (*'itāq*) at the beginning of the *kitāb al-'itāq*, al-Marghinānī notes that a slave can only be legally released if the person releasing them has full legal capacity and the slave is in their possession, cf. *Hidāya* III, 346–47. For the definition of enslaved persons as *milk* in Māliki law, see Oßwald, *Das islamische Sklavenrecht*: 59–61.

<sup>37</sup> *Hidāya* III, 363–64.

<sup>38</sup> *Hidāya* III, 347.

<sup>39</sup> As a Semitic language, Arabic is based on a system of so-called verbal roots, which are formed of a combination of three, sometimes four, basal consonants that each define a semantic field, from which further verbs and nouns can be derived by the use of fixed morphological patterns. For a discussion of the semantic field *ḥurriyya*, see below. For an introduction into traditional Arabic grammar and morphology, see Jonathan Owens, “Traditional Arabic Grammar,” in *Morphology. An International Handbook on Inflection and Word-Formation*, vol. 1, ed. Geert Booij, Christian Lehmann and Joachim Mugdan (Berlin and New York: De Gruyter, 2000): 67–75.

*qad i'taqadtuka*).<sup>40</sup> As al-Marghinānī describes these phrases as equally effective in leading to full and immediate manumission, we may conclude that the verbal roots *ḥurriyya* and *'itāq* relate to the same concept of freedom, the first describing the legal status of being free and enjoying full legal capacity, the second the legal process of becoming free. Other terms are regarded to have a certain ambiguity, for example phrases that use verbs or nouns from the semantic field *milk*. This semantic field relates to ownership, chiefly from the slave-owners' perspective in the context of manumission. According to al-Marghinānī, phrases such as “I no longer have any ownership rights over you” (*lā milkun lī 'alaika*)<sup>41</sup> are considered ambiguous and therefore only effect a manumission if that is the owner's intention.<sup>42</sup> Ambiguity may also result from the use of different languages, as al-Marghinānī explains. Both the Arabic and Persian form of address “oh free one” (arab. *yā ḥurr/yā ḥurra*, pers. *yā āzād*) to an enslaved person by their owner are regarded as clear and thus sufficient to manumit a slave immediately, even if this was not the intention of the slave-owner. So the Arabic and Persian terms seem to be regarded as synonymous. However, al-Marghinānī mentions an exceptional case: if *āzād* happens to be the slave's personal name, the address *yā āzād* from an Arabic-speaking owner would not effect an immediate manumission against the owner's intentions. To clarify the intention of setting such a slave free, it would however suffice to use the Arabic formulation *yā ḥurr*, which cannot be mistaken for the slave's personal name.<sup>43</sup>

## 5 Semantics of Manumissions and the Continuum of Dependency

The *Kitāb al-'itāq* discusses a great variety of possible ways of manumitting a slave, all of which are commonly found in Islamic legal treatises.<sup>44</sup> There are several ways of manumitting a slave or granting them the possibility to ransom themselves. Several of these legal procedures result in (temporal) statuses of partial enslavement, or partial manumission. As mentioned above, partial manumission can occur when one of several joint owners of an enslaved person decides to release their share of

<sup>40</sup> *Hidāya* III, 347. Arabic is a consonant script, so it is frequently not clear from the written text whether the female or male – or both – grammatical forms are referred to. In the transliterations given here, I only display the male forms for ease of reading.

<sup>41</sup> *Hidāya* III, 348.

<sup>42</sup> *Hidāya* III, 348–49.

<sup>43</sup> *Hidāya* III, 348. For the semantics of the Persian *āzād* in Ottoman Ḥanafī documents, see the article by Veruschka Wagner in this volume.

<sup>44</sup> For a general overview, see Franz, “Slavery in Islam.” For a case study on Mālikī law see Oßwald, *Das islamische Sklavenrecht*.

the slave. Other procedures involve contractually guaranteed manumission at a specified time in the future; or they may grant the enslaved person certain rights, for example the right to accumulate possessions and dispose freely of them. These forms of partial enslavement still feature characteristics of strong asymmetrical dependency: while some cases include a contractual agreement between owner and slave, others leave the slave without any written guarantee and can easily be retracted by the owner or their heirs. The aim of the following discussion is to locate the different forms of partial manumission on a continuum of dependency<sup>45</sup> in order to gain better insights into the architecture of concepts of strong asymmetrical dependency in Ḥanafī law, and the emic classification of legal statuses between the two extremes of *‘ubudiyya*, *riqq* (“slavery”) and *ḥurriyya* (“freedom”). They represent the extreme ends of the continuum of dependency sketched here. My criteria are as follows: 1) The binding character of the contract or agreement between owner and enslaved; 2) the differentiation of legal capacity: partially enslaved people with the prospect of manumission may gain limited legal capacity either on their own account, or as deputies of their owners. Depending on the form of partial manumission, some partially enslaved persons thus enjoy more, or different, capacities than others; 3) the semantic relations established between the different statuses in their definition by al-Marghīnānī. This is a tentative first approach to classifying the semantics of dependency on the basis of a relatively small text basis. It should not be understood in any shape or form as an attempt at an overall concept for Ḥanafī law on the subcontinent, nor of Islamic law at large.

A pressing question that arises from reading the *Kitāb al-‘itāq* concerns the status of a formerly enslaved person. Where on the continuum between their former status and that of a freeborn Muslim do they fall? To put it plainly: is the status of a *mu‘attaq* (“manumitted one”) equal to the status of *ḥurr* (“free”), i.e. are they equal in status to a freeborn Muslim? My earlier comparison of different phrases for manumitting a slave suggested that the semantic fields *ḥurriyya* and *‘itāq* were considered synonymous,<sup>46</sup> but the way the two terms *mu‘attaq* and *ḥurr* are used in the present text sample indicate different connotations. In the *Kitāb al-‘itāq*, al-Marghīnānī uses only the term *mu‘attaq* (or other derivatives from the root) to describe the status of manumitted slaves, which suggests a differentiation between this semantic field and the field of *ḥurriyya*. So *mu‘attaq* should be placed slightly below *ḥurr* on the continuum of dependency. This assumption is supported by the fact that after the dissolution of their legal bond to their former master, manumitted slaves enter into a new form of social dependence towards them. This social status of *walā’* (*al-‘itq*), “the enduring

45 Eltis and Engerman, “Dependency, Servility and Coerced Labor in Time and Space.”

46 Jeffrey gives “to be free” as the original meaning of the root in ancient Arabic poetry, cf. Jeffrey, *The Foreign Vocabulary of The Qur’ān*: 211.

attachment of the manumitted to the liberator,”<sup>47</sup> keeps a manumitted slave in a life-long social connection to their former master or the latter’s heirs, which includes certain obligations such as asking for permission to marry.<sup>48</sup> Even full manumission thus keeps the formerly enslaved in a form of dependence and thus cannot be understood as equal to the status of a freeborn person (*ḥurr*). On the continuum of dependency, I therefore placed the status of full manumission in the same range as *walā’/mawlā* close to *ḥurr*, but slightly further down.

*Mu’attaq* (“manumitted”) works as an umbrella term for all fully manumitted former slaves. This legal status can be achieved directly and without preconditions,<sup>49</sup> for example when the sole owner manumits by using an unambiguous formula, as discussed above. Manumission can also come about under certain preconditions, such as a vow by the owner (*al-khilf bi-l-‘itāq*),<sup>50</sup> or by self-ransom either with a contract (*kitāba*) or without (*‘itāq ‘alā ju’l*).<sup>51</sup> Lastly, manumission may be contractually deferred to a specified date, or enacted after the master’s death (*tadbīr*).<sup>52</sup>

In the case of both contractual and non-contractual self-ransom, the fulfilment of the conditions depends on the actions of the slaves: they have to pay a certain amount of money or provide a service to achieve manumission, in some cases within a set period of time. Once the contract has been concluded, the (at this point still enslaved) holders obtain certain rights that are denied to fully enslaved people. If they do not manage to meet the conditions, they fall back into full enslavement. However, if the conditions for a manumission set at a later date are independent of the actions of the slave, such as when the master fixes a specific date of release, the legal status of a slave with the prospect of conditional manumission changes from the moment these conditions have been fixed and they cannot fall back into full enslavement. In both cases, the slave thus enters one of a number of legal statuses between slavery and full manumission. Each of these legal statuses is named according

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47 Franz, “Slavery in Islam”: 78. See also Daniel Pipes, “Mawlas: Freed Slaves and Converts in Early Islam,” in *Slavery and Abolition* 1 (1980): 132–77. Reprinted in Robert Hoyland, ed., *Muslims and Others in Early Islamic Society, The Formation of the Classical Islamic World* 18 (Farnham: Routledge, 2004): 277–322, 37 and Ulrike Mitter, *Das frühislamische Patronat: Eine Studie zu den Anfängen des islamischen Rechts*, Kultur, Recht und Politik in muslimischen Gesellschaften 8 (Würzburg: Ergon, 2006).

48 On the different conceptualizations of *walā’*, see e.g. Arent Jan Wensinck and Patricia Crone, “Mawlā,” in *Encyclopaedia of Islam, Second Edition*, ed. Pery Bearman et al., [http://dx.doi.org/10.1163/1573-3912\\_islam\\_COM\\_0714](http://dx.doi.org/10.1163/1573-3912_islam_COM_0714) [accessed 17.05.2022], and Patricia Crone, *Roman, Provincial and Islamic Law: The Origins of the Islamic Patronate*, Cambridge Studies in Islamic Civilization (New York: Cambridge University Press, 1987); as well as Pipes, “Mawlas.”

49 For unconditional manumission in early Islamic law see Ulrike Mitter, “Unconditional Manumission of Slaves in Early Islamic Law: A *Ḥadīth* Analysis,” in *Der Islam* 78 (2001): 35–72.

50 See the relevant chapter, *Hidāya* III, 389–91.

51 *Hidāya* III, 392–99; *Hidāya* IV, 338–400.

52 *Hidāya* III, 400–402.

to the manner of conditional manumission decided by the owner or agreed with the slave. Another form of conditional manumission concerns a female slave who bears her owner's child. Once the owner recognizes the child (who is then born free), the woman enters the legal status of *umm walad* ("mother of the child")<sup>53</sup> and is automatically manumitted upon his death.

In his analysis of Mālikī law, Rainer Oßwald proposed to unite all forms of partial manumission (or enslavement) under the umbrella term "Hybridsklave" (hybrid slave); he defines the shared feature of all these forms as a "Beimengung" (an admixture) of freedom to the enslaved status.<sup>54</sup> But the different forms of partial manumission result in very different sets of hybrid legal statuses and differently restricted forms of legal capacity. In the following analysis of four terms used to denote variations of *hybrid enslavement*, I propose to evaluate these differentiations as criteria for placing the different hybrid forms on the continuum of dependency (Figs. 3 and 4).

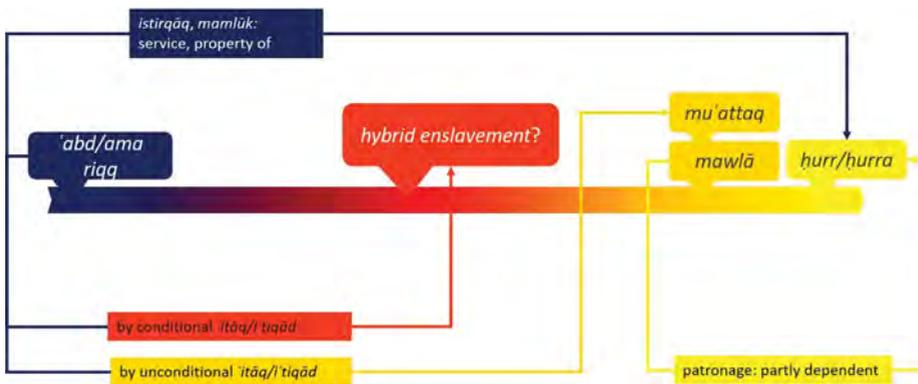


Fig. 3: Outline of the continuum of dependency. Graphic by A. Kollatz.

## 5.1 Contractual Conditional Manumission: *kitāba* / *mukātab*

While Islamic law does not provide for contract-based enslavement, e.g. of debtors, it does allow contractually agreed self-ransom. From a legal point of view this is a contract (*kitāba*) which regulates the manumission of an enslaved person upon the payment of a certain sum. For this reason the *Hidāya* does not discuss the *kitāba* in the *Book on Manumission*. Instead, there is a separate *Kitāb al-mukātab* ("Book on the holder of a *kitāba* contract") with six chapters which discuss, for example, how a *kitāba* contract needs to be worded to be considered valid, the rights and obligations of

<sup>53</sup> *Hidāya* III, 403–14.1.

<sup>54</sup> Oßwald, *Das islamische Sklavenrecht*: 207–8.

a *mukātab*, and special cases like the *kitāba* for a slave in shared ownership, or the question which legal status the child born by a *mukātaba* to her owner will have.<sup>55</sup> The *Hidāya* interprets holders of such a *kitāba* as slaves who for a number of reasons are no longer completely dependent on their owners. As soon as the contract is drawn up, a *mukātab* has the right to acquire property (which is a prerequisite for the self-ransom) and to dispose freely of their possessions. This is very different from a fully enslaved person, who is not allowed to own property (*lā milk li-l-mamlūk*, “the owned one has no possession”).<sup>56</sup> Interestingly, the right of accumulating possessions includes the right to buy slaves, a legally complicated constellation on which the *Hidāya* has a separate chapter.<sup>57</sup> However, the *mukātab* still remains in a state of full enslavement with respect to the work they owe their owner.<sup>58</sup> The *Book on Manumission* does, however, briefly discuss *kitāba* in the context of the manumission of a slave owned by more than one owner. Once more, we clearly see the high degree of ambiguity that results from the variable definitions of manumission. A *mukātab* who agreed a *kitāba* with their single owner will eventually fall back into the status of full enslavement if they cannot pay the ransom within the time agreed and so fails to fulfill their part of the contract. But a *mukātab* who contracts a *kitāba* with just one of their several owners will never fall back into full enslavement. In this case, the process of self-ransom is interpreted as only affecting the property rights (*milk*) of the owner with whom the contract was agreed. The *mukātab* cannot lose the property rights that have come to them even upon incomplete payment, and so cannot revert into full enslavement.<sup>59</sup> Such subtleties ultimately make it impossible to determine the status of the *kitāba* at a fixed point in the continuum of dependency. We should instead expect a number of very different combinations of, on the one hand, a *mukātab*'s capacity to act, and on the other their continuing dependency.

## 5.2 Non-Contractual Manumission Upon Payment: *‘itāq ‘alā ju‘l and ma’dhūn*

In contrast to the *mukātab*, who may revert to a fully enslaved status if they fail to fulfil their contractual obligations, and who in any case remains a slave in terms of their tasks, the *Hidāya* states that a slave to whom the owner promises release for a certain price (*ju‘l*) is subject to immediate manumission. The first paragraph of the “chapter on manumission for a certain price” (*bāb al-‘itq ‘alā ju‘l*) compares this

<sup>55</sup> *Hidāya* VI, 338–400.

<sup>56</sup> *Hidāya* III, 346.

<sup>57</sup> *Hidāya* VI, 360–66.

<sup>58</sup> *Hidāya* III, 364–65.

<sup>59</sup> *Hidāya* III, 365.

process to a contract of sale, by which the buyer receives the merchandise immediately but has to pay off their debts subsequently.

If someone releases his slave (*'abd*) for money and the slave accepts, he is (immediately) free (*ḥurr*). For example, if someone says 'For a thousand dirhams you are free', the slave is released at the moment this is spoken (*bi-qaulihi*), because this is an exchange of property for a different kind of property (*mu'āwāḍa al-māl bi-ghair al-māl*) [. . .] As in a contract of sale, he is free (*ḥurr*) at the moment he agrees to the contract. The price he has to pay is a debt upon his person. This differs from *kitāba*, because the latter comes into force only upon full payment and concerns the termination (*qiyām*) of enslavement (*riqq*).<sup>60</sup>

Again, the defining criterion is the nature of the item involved: while *'itāq 'alā ju'l* refers solely to property rights (*milk*), *kitāba* is about a contract that changes the legal status of the slave. Ultimately, therefore, *'itāq 'alā ju'l* comprises two logical steps: first, the enslaved buys the title to themselves. From the legal point of view, this is a sales contract by which the property right is transferred to the buyer with immediate effect, even before full payment of the contracted price has been made. As such, it does not affect the legal status of the enslaved. But since no human being can own themselves, they are automatically declared free (*ḥurr*) in a second step. This form of sales contract, by which an enslaved person is immediately and fully freed but may still have to pay off a debt, is probably the most direct and safest way to leave the slave status. This also explains why there is no specific term for slaves released in this way: the process turns them directly into *mu'attaqs*. However, even if they are no longer threatened by re-enslavement, a debtor continues to be in a strong asymmetrical relationship of dependency to their former owner. They also lose their entitlement to the care (however limited) which slave owners were required to provide to both slaves and *mukātab*s.

The owner can also make full payment of the price a condition, in which case the slave is manumitted only upon such payment. In the meantime, the *Hidāya* tells us, they count as *ma'dhūn*, because they are neither completely released nor in possession of a written guarantee for their right to be freed by a *kitāba* contract.<sup>61</sup> By demanding a compensation for manumission from the *ma'dhūn*, the owner implicitly grants them the right to accumulate property, similar to the case of the *mukātab*. However, according to the *Hidāya* there is no legal consensus on the question of whether the owner's promise is to be regarded as legally binding. In the case of a contractual *kitāba* the owner must completely manumit his *mukātab* after full payment, but a *ma'dhūn* remains dependent on their owner's willingness to keep to the verbal agreement – or on

<sup>60</sup> The text goes on to explain that this form of contract resembles marriage and divorce contracts, because in all three cases, property is used to "buy" something that is not property. Cf. *Hidāya* III, 393.

<sup>61</sup> *Hidāya* III, 393.

a judge's willingness to interpret it as a binding contract.<sup>62</sup> As *ma'dhūns* can still be sold and remain under their owner's authority until full payment,<sup>63</sup> I placed this status of dependency next to full enslavement at the lowest point of the continuum of dependency.

### 5.3 Unilateral Manumission Practices: Vows, *tadbīr/mudabbar* and *istilād/umm walad*

Finally, it is also possible for the owner to make the manumission of a slave subject to conditions that cannot be influenced by the slave. Nur Sobers Khan proposed a classification of manumission practices according to the criterion of whether manumission was effected solely by the owner (*unilateral* manumission), or with the consent or cooperation of the enslaved person, which we might describe as *bilateral* manumission, though she does not use this term.<sup>64</sup> None of the types of manumission discussed in this last section can be influenced by the enslaved person, and we might therefore describe them as *unilateral*, thereby distinguishing them from the practices discussed earlier. However, even these manumission types result in a gradual *upward* shift of the enslaved person's legal status on the continuum of dependency, even though they do not necessarily lead to full manumission.

The *Hidāya* mentions vows by the owner and discusses several examples of legally binding or invalid wordings.<sup>65</sup> Since such vows do not result in special legal statuses between full enslavement and freedom I will not discuss them here. A special case is the owner's commitment to grant the slave manumission upon their death, the guarantee being called *tadbīr*.<sup>66</sup> Slaves whose status is tied to such a promise or oath enter the status of *mudabbar*. The *Hidāya* defines the promise of *tadbīr* as a "clear" (*ṣarīḥ*) statement of manumission planned for the future (*ithbāt al-'itq 'an dabr*); therefore, a *mudabbar* may not be sold or otherwise transferred to another

<sup>62</sup> *Hidāya* III, 393–95.

<sup>63</sup> *Hidāya* III, 395.

<sup>64</sup> Nur Sobers-Khan, *Slaves Without Shackles. Forced Labour and Manumission in the Galata Court Registers, 1560–1572* (Berlin: Klaus Schwarz Verlag, 2014): 70, where she defines the Ottoman practice of *'itāq* as "unilateral." It must be noted that the Ottoman practice of *'itāq* as described by Sobers-Khan differs from the rather general designation of the word in the *Hidāya*, where it serves as an umbrella term for the various manumission practices discussed in it.

<sup>65</sup> *Hidāya* III, 389–91, *bāb al-ḥilf bi-l-'itāq*.

<sup>66</sup> Cf. *Hidāya* III, 400–402, *bāb al-tadbīr* (chapter on *tadbīr*). In its original sense, *tadbīr* means "to plan" or "to look forward to some action to be implemented in the future." Cf. Hans Wehr, s. v. "dabara," in *A Dictionary of Modern Written Arabic: Arabic-English*, ed. J. Milton Cowan (Urbana IL: Spoken Language Services, 1994).

owner. In this aspect, the status of *mudabbar* resembles that of the *mukātab* in Ḥanafī doctrine.<sup>67</sup> *Tadbīr* is defined first as a gift, but later, the *Hidāya* prefers to define *tadbīr* as an inheritance (*waṣīya*). If one were to understand *tadbīr* as a gift, the *mudabbar* would receive full freedom upon the death of the owner. Yet if *tadbīr* is defined as an inheritance, the *Hidāya* again interprets enslaved persons including *mudabbars* as property. So the *mudabbar* paradoxically is both part of the estate and an heir at the same time. Since all property must be divided among the heirs, the *mudabbar* only receives the title to one third of himself, while the other two thirds go to the other heirs or to the treasury. He will have to ransom the remaining two thirds from the owner's heirs, if they agree, and otherwise remains partly dependent.<sup>68</sup> So a *mudabbar* does not directly advance to the status of a manumitted person (*mu'attaq*), but rather into that of a partially released person; their status seems to lie somewhere between the contractually secured *mukātab* and the *ma'dhūn*. Since the promise of manumission is linked to the death of the owner, a *mudabbar* may not be sold<sup>69</sup> – this would violate the conditions. They do, however, remain completely dependent on their owner in all other ways, and do not obtain any further rights, such as the right to acquire property, because the right of ownership remains untouched.<sup>70</sup>

Finally, the *Hidāya* also discusses a form of conditional manumission that results in a temporal intermediary status of dependency achievable for female slaves. If a female slave bears the child of her owner, and the owner recognizes this child as his own, the female slave (*ama*) will gain the status of *umm walad* (“mother of the child”) upon the birth of the child.<sup>71</sup> There has been some debate on whether a woman can also achieve this status in the case of a miscarriage, but that is not of interest for the purpose of this article. The status of *umm walad* safeguards the living conditions of the woman to a degree that might even appear favorable compared to the status of a married woman. An *umm walad* cannot be sold (like the *mukātab* and the *mudabbar*), nor can she be coerced into concubinage or given to other men for that purpose.<sup>72</sup> Her owner has to offer her a decent standard of living, as he would to a wife from a lower class family; but he cannot end the relationship by divorce as he can a marriage. As such, he is obliged to look after the *umm walad* until his death, unless he marries her off to another man. Apart from sexual services, an *umm walad* however is required to render the same sorts of services as an enslaved person and so retains the status on an enslaved person in this respect.

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67 *Hidāya* III, 400.

68 *Hidāya* III, 402.

69 *Hidāya* III, 400.

70 *Hidāya* III, 402.

71 *Hidāya* III, 403–14, *bāb al-istilād* (“chapter on the [manumission following] the birth of a child”).

72 *Hidāya* III, 403.

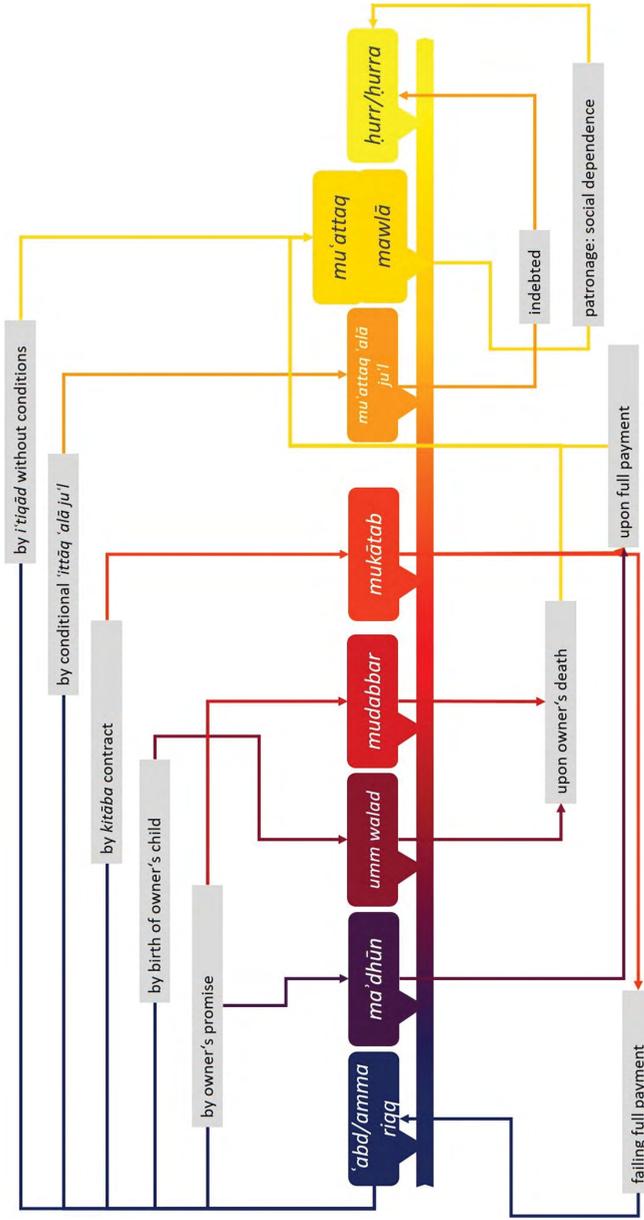


Fig. 4: Hybrid statuses on the continuum of dependency (tentative order). Graphic by A. Kollatz.

She is only manumitted fully upon the death of her owner. Unlike the *mudabbar*, she does not form part of the deceased owner's estate.<sup>73</sup>

## 6 Conclusion

The *Hidāya* describes a number of ways of achieving partial or full manumission. Similar manumission practices are also described in other Islamic *madhhabs*, and have been analyzed e.g. by Rainer Oßwald for the Mālikī school of law; and by Nur Sobers-Khan for Ḥanafī manumission documents from the Ottoman Empire.<sup>74</sup> While Rainer Oßwald suggested that the manumission practices in question should be described as *hybrid enslavement* (“Hybridsklaven”), Nur Sobers Khan proposed to distinguish unilateral – and thus, implicitly, also bilateral – forms of manumission. As a result of my historical-semantic analysis in this article, I would suggest the duration of the process as a third criterion of definition. While some rare forms of manumission discussed in the *Hidāya* lead to immediate and full manumission in the legal sense (e.g. the manumission without condition, the *‘itāq ‘alā ju’l*), most other practices might be described as *gradual*. These forms cause a slow upwards movement on the continuum of dependency, which may lead only to partial manumission – and, as such, to temporal or on-going hybrid legal statuses that constitute a stronger or lesser form of asymmetrical dependency. The different manumission practices discussed in this article are regarded as distinct legal procedures (contract, oral promise, contract of sale, etc.) by the *Hidāya* and therefore result in very different *combinations*, e.g. of legal capacity in certain areas with absolute dependency in others. Some forms of manumission that proceed via intermediate legal statuses protect the formerly fully enslaved person from a relapse into full enslavement, while others may preserve the intermediate status or even lead to a relapse into full enslavement, as in the case of *mukātab*. In some cases, even complete manumission intended by the owner, as in the case of *tadbīr*, may result in a partially enslaved status which can only be resolved through new agreements, e.g. *kitāba*. From the normative perspective of the *Hidāya*, partial manumissions are limited either temporally or by certain conditions, or by a combination of the two. The application of these normative standards results in a great variability in practice. We should therefore assume the existence of a large number of gradations of different legal and social dependencies between the absolute opposites of *full enslavement* and *freedom* or *manumission*, some of which in their practical implementation may have diverged considerably from the norms.

If we turn away from a clear dichotomy of *enslaved* and *free* (which, however, is also present in the historical semantics of Islamic legal texts) it becomes evident

<sup>73</sup> *Hidāya* III, 406–7.

<sup>74</sup> Sobers-Khan, *Slaves Without Shackles*.

that the normative legal texts not only discuss a number of different forms of strong asymmetrical dependency, but also distinguish them in semantic terms. The high degree of ambiguity and discursivity of the *Hidāya* bears witness to how difficult to grasp these legal statuses must have been for legal theorists. Clearly, this is not an a priori defined normative system, but rather an attempt at legal containment of practices that evolved, and continued to evolve, over time. The fact that the *Hidāya* puts a strong emphasis on discussing legally valid, clear or ambiguous wordings also shows that the negotiation and definition of legal status in the context of strong asymmetrical dependency must always have been a complex undertaking, and difficult to implement for both legal theorists and practitioners. Marc Bloch's dictum about historians and their struggle with emic semantics probably applies just as much to the historical Ḥanafī legal theorists in Transoxania and India as it does to us who, from the perspective of slavery and dependency studies, are today trying to clarify historical semantics: "To the great despair of historians, men fail to change their vocabulary every time they change their customs."<sup>75</sup>

Obviously, this effect is amplified when the texts and their underlying semantic connections are translated into another language, as a comparison of the semantic attributions between the Arabic original and the English translation by Charles Hamilton has shown. In the discussion of the various hybrid forms, I purposely refrained from quoting the Arabic original text together with Hamilton's translation. The latter is in fact not so much a translation as a paraphrase of the original which intervenes in the text, in sometimes heavily interpretative ways. His translation across emic semantic fields deserves particular mention. This technique enables the translator to bring the text statements closer to the etic historical semantics of strong asymmetrical dependency in his target language, i.e. English. This leads to the impression that many of the legal statuses that arise from the various forms of manumission are not directly related to *slavery*. The actual variety of strong asymmetrical dependency relationships described in the legal commentary is obscured by this technique, though they were not only a constitutive element of Muslim society in India, but also in all other parts of the Islamicate world. The two extremes of *slavery* and *freedom*, as they are established by the translation, seem to be a clear dichotomy, behind which the gradations of forms of strong asymmetrical dependency determined by legal theory fade away. For the historical recipients of the colonial translation, this impression must have been reinforced when, after the formal abolition of slavery, the *Book on Manumission* was omitted from the second edition of the translation. However, we may assume that the hybrid and ambiguous forms of strong asymmetrical dependency, and especially the social dependency of *mu'attaqs* on their former owners, remained formative principles of social interaction and hierarchy even after the formal abolition of slavery.

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<sup>75</sup> Marc Bloch, *Reflections on the Nature and Uses of History and the Techniques and Methods of Those Who Write It*, trans. Peter Putnam (New York: Vintage, 1953): 34.

It would be beyond the scope of this essay to further investigate the relationship between the original as hypertext and the translation as hypertext. But a comparison of the key terms identified in the translation and the corresponding places in the original text alone has shown that the semantic concepts of the two texts do not match perfectly. The translation process began with the Arabic text analyzed here, and led through the Persian translation, which is only available in manuscript, to the British-colonial paraphrase. In order to understand at which point in the process these shifts entered the text, it would be necessary to examine the different text levels in detail and to compare the emic semantics in each case. My analysis of the emic terminology in the Arabic text could be a first step on this path. The results of such a comparison would then also have to be matched with practical legal documents, e.g. from the Mughal period or the early colonial period. This analysis would be a necessary step to understand the legal and social implementation of normative semantics in each time and society. If we want to further investigate emic historical semantics of strong asymmetrical dependency in Arabic or Persian texts, the only path open to us at present is that of dense qualitative studies, since translations in OCR'able languages cannot be carried out at all without a reconfiguration of the historical semantics inherent in the text.

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Veruschka Wagner

# Modes of Manumission: What Terms Used for Emancipation Tell Us about Dependencies in Ottoman Society

## 1 Introduction

One of the formative elements of Ottoman society were slaves, who were found in all parts of life. They came from different regions, including the Balkans and the Black Sea, and they were entrusted with a variety of tasks in different spheres. One important component were domestic slaves, who worked as part of the property in or around the household of their owner. A particular feature of Ottoman slavery was the fact that it was designed to be impermanent: slaves were manumitted after a certain period of time. If necessary, freed slaves were given documents that confirmed their manumission, enabling them to identify themselves. There are innumerable copies of such manumission papers from the sixteenth and seventeenth centuries in the archives of several law courts in Istanbul. The results of a semantic analysis of these documents is the subject of this contribution. I will look at the terms that were used in the context of slavery and emancipation, how they relate to each other, and how those terms and concepts depict relationships of strong asymmetrical dependency.<sup>1</sup> What information about manumissions documents, manumissions and freed slaves do they give us? And did different forms of dependency exist especially between (freed) slave and owner?

## 2 Slavery in the Ottoman Empire

Society in the Ottoman Empire made fundamental distinctions – legally, at least – between Muslims and non-Muslims, between men and women; it also distinguished very clearly between the statuses of the free and the unfree. Free people were referred to as *hür*, unfree ones as *köle*, the basic term for *slave*. Although a *köle* was, legally

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<sup>1</sup> The term is used in the way as it is determined by Julia Winnebeck, Ove Sutter, Adrian Hermann, Christoph Antweiler, and Stephan Conermann in their concept paper “On Asymmetrical Dependency,” Concept Paper, Bonn Center for Dependency and Slavery Studies, January, 2021, <https://www.dependency.uni-bonn.de/en/publications/bcdsss-publishing-series/bcdss-concept-papers> [accessed 17.05.2022].

speaking, not a person, but an object owned by another person, slaves were granted certain rights and freedoms, which they could even enforce in a court of law.<sup>2</sup>

In the sixteenth and seventeenth centuries, most enslaved people were brought in from the Balkans and the Black Sea region,<sup>3</sup> but also from other areas such as Southern and Central Europe, North and West Africa or Iran. They were captured in raids and in wars<sup>4</sup> and taken on trade routes<sup>5</sup> to slave markets, where merchants sold them to their new owners. Istanbul, which had its own slave market,<sup>6</sup> was an important center for the trade; the slave dealers had their own guild there, which was reported to have had as many as 2000 members in the first half of the seventeenth century.<sup>7</sup> In order to regulate and control the slave trade and prevent unauthorized merchants from joining in, a register was drawn up in 1640 which listed 40 official slave dealers – including eight women – many brokers were probably former slaves themselves.<sup>8</sup> Many more people

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**2** There is an ongoing research concerning slave agency that deals with the capacity of slaves to act and their scope of action. One way of slave agency is for example actively shaping the relationship to the owner. For slave agency in premodern Istanbul see Veruschka Wagner, “‘Speaking Property’ with the Capacity to Act: Slave Interagency in the 16th- and 17th-Century Istanbul Court Registers,” in *Slaves and Slave Agency in the Ottoman Empire*, ed. Stephan Conermann and Gül Şen (Göttingen: V&R unipress, 2020): 213–36.

**3** For the slave trade and the import of slaves from the Black Sea region, see Alan W. Fisher, “Muscovy and the Black Sea Slave Trade,” *Canadian-American Slavic Studies* 6, no. 4 (1972): 575–94 and Dariusz Kołodziejczyk, “Slave Hunting and Slave Redemption as a Business Enterprise: The Northern Black Sea Region in the Sixteenth to Seventeenth Centuries,” *Oriente Moderno: The Ottomans and Trade* 25 (2006): 149–60.

**4** For slave capture and the slave trade in the Crimea, where Caffa was one of the most important trading ports for the Ottoman Empire, see Mikhail Kizilov, “Slave Trade in the Early Modern Crimea from the Perspective, of Christian, Muslim, and Jewish Sources,” *Journal of Early Modern History* 11 (2007): 1–31.

**5** For trade routes, see Hayri Gökşin Özkoray, “La géographie du commerce des esclaves dans l’Empire ottoman et l’implication des marchands d’Europe occidentale,” *Rives méditerranéennes* 53 (2017): 103–21.

**6** Alan W. Fisher, “The Sale of Slaves in the Ottoman Empire: Markets and State Taxes on Slave Sales, Some Preliminary Considerations,” *Boğaziçi Üniversitesi Dergisi* 6 (1978): 149–74, here 149–50; Zübeyda Güneş Yağcı, “İstanbul Esir Pazarı,” in *Osmanlı Devleti’nde Kölelik – Ticaret, Esaret, Yaşam*, ed. Zübeyde Güneş Yağcı and Fırat Yaşa (Istanbul: Tezkire, 2017): 57–90. For the slave markets around the Black Sea region see Zübeyde Yağcı, “16. Yüzyılda Kırım’da Köle Ticareti,” *Karadeniz Araştırmaları Dergisi* 8 (2006): 12–30. For Bursa see Halil Sahillioğlu, “Onbeşinci Yüzyılın Sonu Onaltıncı Yüzyılın Başında Bursa’da Kölelerin Sosyal Hayattaki Yerleri,” *ODTÜ Gelişme Dergisi*, Sayı: Özel (Special Volume) (1979): 67–138.

**7** Fisher, “The Sale of Slaves”: 156.

**8** Mübahat S. Kütükoğlu, ed., *Osmanlılarda Narh Müessesesi ve 1640lı Tarihli Narh Defteri* (Istanbul: Enderun Kitabevi, 1983): 256; Madeline C. Zilfi, *Women and Slavery in the Late Ottoman Empire: The Design of Difference* (New York: Cambridge University Press, 2010): 144. In the Istanbul court records I came across one entry that refers to a Jewish woman who worked as a slave dealer. *İstanbul Kadı Sicilleri, Hasköy Mahkemesi* 10, 95 [56–4].

were involved in the trade.<sup>9</sup> It has been estimated that one fifth of the population of Istanbul in the sixteenth century either were or had been slaves.<sup>10</sup> Many emancipated slaves remained in the city and did not return to their former homes. Often, a connection between a slave and their former owner continued even after manumission. Documents from the Istanbul law courts tell us, for example, that slaves were made beneficiaries of endowments or donations by their former owners, managed businesses together with them or continued to live in their households. This tie to the household meant that the (manumitted) slaves continued to have access to protection, work and a social status.<sup>11</sup> Of course, that was not true for all; the files also tell us about the recapture of escaped slaves, lawsuits against owners who did not treat their slaves properly; and about dissatisfied owners who returned slaves who did not meet their requirements or expectations, or who sold them on. And what emerges very clearly from all court records is the dominance of owner over slave and the dependency, to varying degrees, of slave on owner. This contribution will focus on manumission papers from the Istanbul law courts in the sixteenth and seventeenth centuries, in the hope that they will help elucidate the question of how dependency is being represented in the sources.

### 3 Manumission and Manumission Papers

Court registers (*kādı sicilleri* or *şer'iyye sicilleri*) are an important source for research into the history of the Ottoman Empire. The legal matters of everyday life, both urban and rural, are document in resolutions and court notices issued and written down by a judge (*kādı*). Frequently these were contracts or conflicts between two parties who could belong to any stratum of society. On average, a register has one hundred pages and contains between 400 and 500 records. A record can be as short as two lines, and as long as several pages.<sup>12</sup> Many of the Istanbul

<sup>9</sup> For the guild and the slave merchants, see Fisher, "The Sale of Slaves": 156; Mustafa Akkaya, "XVII. Yüzyılın İlk Çeyreğinde Üsküdar'da Köle Ticareti, Kölelerin Ticaretle Uğraşması," *Balıkesir Üniversitesi Sosyal Bilimler Enstitüsü Dergisi* 14, no. 25 (2011): 204–17, here 205.

<sup>10</sup> Madeline C. Zilfi, "Slavery," in *Encyclopedia of the Ottoman Empire*, ed. Gábor Ágoston and Bruce Alan Masters (New York: Facts On File, 2009): 530–33, here 531.

<sup>11</sup> Ehud Toledano, "An Empire of Many Households: The Case of Ottoman Enslavement," in *Slaves and Households in the Near East*, ed. Laura Culbertson (Chicago: University of Chicago Press, 2011): 85–97, here 94.

<sup>12</sup> For an overview of the existing *sicils* in the archives, see Ahmet Akgündüz, *Şer'iye Sicilleri. 1. Mahiyeti, toplu kataloğu ve seçme hükümler* (Istanbul: TDAV Yay, 1988). For an introduction into the topic, see Yunus Uğur, "Şer'iyye Sicilleri," *Türkiye Diyanet Vakfı İslâm Ansiklopedisi (TDVİA)* 39 (2010): 8–11; Halil İnalçık, "Osmanlı Tarihi Hakkında Mühim Bir Kaynak," *A.Ü. DTCFD* 1, no. 68 (1943): 89–96; Dror Ze'evi, "The Use of Ottoman Shari'a Court Records as a Source for Middle Eastern Social History: A Reappraisal," *Islamic Law and Society* 5, no. 1 (1998): 35–56. For studies drawing on the

court records<sup>13</sup> concern slaves; there are contracts of all kinds, papers that prove a person is no longer a slave, records about the recapture of escaped slaves, manumission papers and more. They document significant moments in the lives of enslaved persons, moments that often were decisive turning points. My aim in this contribution is to shed more light on the dependency of slaves on their owners. That is why I will focus on manumission papers, which constitute a large proportion of the documents in the Istanbul court records; because the manumission of slaves was a widespread phenomenon in the Ottoman Empire. While in the nineteenth century it was customary to manumit slaves after between seven and nine years,<sup>14</sup> in premodern Istanbul the duration of enslavement could vary much more.<sup>15</sup> Most house slaves were manumitted either during their owners' lifetime, or posthumously by testamentary disposition.<sup>16</sup> We cannot say exactly what percentage of emancipations were in fact officially recorded. It is likely that some slave owners preferred not to have to pay the legal fees for registering the emancipation and having a certificate issued.<sup>17</sup> Manumission itself could take a variety of forms. One of them was based on a contract (*mükātebe/kitābe*), which came into force once the condition(s) which had been set out in the contract between the slave and their owner had been fulfilled. This could be the payment of a sum of money, the elapsing of a specified period of time, or the handing over of a particular item. As such, contract-based emancipation consisted of two parts: the contract itself; and the manumission document, which referred back to the contract and was not handed over to the (now manumitted) slave until the

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Istanbul court registers see Yvonne J. Seng, "The *Şer'iye Sicilleri* of Istanbul Müftütlüğü as a Source for the Study of Everyday Life," *Turkish Studies Association Bulletin* 15, no. 2 (1991): 307–25; Eunjeong Yi, *Guild Dynamics in Seventeenth-Century Istanbul. Fluidity and Leverage* (Leiden: Brill, 2004); and Nur Sobers-Khan, *Slaves Without Shackles. Forced Labour and Manumission in the Galata Court Registers, 1560–1572* (Berlin: De Gruyter, 2014).

**13** The Istanbul-area court records for the sixteenth and the majority of the seventeenth centuries have been digitized and are accessible online. İSAM (İslam Araştırmaları Merkezi/The Center for Islamic Studies) published 40 volumes of sixteenth- and seventeenth-century court registers from Istanbul-area courts, and another 60 volumes of the Istanbul-area court registers from 1557 to 1911 each volume containing transliterations into the Latin alphabet of the entries with modern Turkish summaries and facsimiles of the original texts. Access to digital copies of these entries enables a keyword search and simplifies analysis and examination (<http://www.kadiscilleri.org> [accessed 17.05.2022]).

**14** Zilfi, "Slavery": 532.

**15** The figures I found when I examined the documents from the Istanbul court files show that slavery ended after only one year for some slaves, but could last much longer for others. According to Tahiroğlu, the number could vary between two and fourteen years; see Bülent Tahiroğlu, "Osmanlı İmparatorluğunda Kölelik," *İstanbul Üniversitesi Hukuk Fakültesi Memuası* 45 (2011): 667.

**16** Zilfi, "Slavery": 531.

**17** Joshua M. White, "Ottoman Slave Manumission Documents," in *Christian-Muslim Relations. A Bibliographical History*, vol. 12, *Asia, Africa and the Americas (1700–1800)*, ed. David Thomas and John Chesworth (Leiden: Brill, 2018): 227–33, here 230.

previously agreed condition(s) had been met. The Istanbul court files for the period under investigation here contain mainly *mükātebe/kitābet* contracts in which the specified condition is either a certain sum of money or a specified period of time.<sup>18</sup> Another variant (called *tedbîr*) was manumission after the owner's death, where the contract lay down that the slave was to be manumitted upon the death of their owner. A distinction was made between unconditional (*tedbîr-i muṭlak*) and conditional emancipation (*tedbîr-i muḳayyed*), such as the owner's death from an illness.<sup>19</sup> It was considered, like the contract-based version, an agreement between slave owner and slave, and as such had to be registered.<sup>20</sup> Then there was manumission as a charitable act (*ʿitk*), where the owner could freely determine a point in time at which the slave would gain their freedom. This unilateral form of emancipation appears very frequently in the records.<sup>21</sup> Lastly, the records contain the type of cases known as *ümm-i veled* (literally "mother of the child"), where an enslaved woman achieved liberty upon her owner's death if she had given birth to his child. The child inherited its father's free legal status and was an heir equal in rights to his other children.<sup>22</sup> The religious factor played an important role in all types of manumission. Whether conditional or not, enacted unilaterally or bilaterally, manumission was regarded as a pious act.<sup>23</sup> Some manumission papers state that Allah will save the parts of the manumittor's body from the fires of hell. Religious motives will therefore have been important for Muslim slave owners. For a slave of a Muslim owner, conversion could be a short-cut to manumission.<sup>24</sup>

**18** In contrast to Bursa, for example, where the contract stipulated the production of a certain quantity of cloth; see Halil Sahillioğlu, "Slaves in the Social and Economic Life of Bursa in the Late 15th and Early 16th Centuries," *Turcia* 17 (1985): 43–112.

**19** In cases of unconditional manumission, a slave was freed immediately after the owner's death, as long as their value did not exceed one third of the total of the owner's property. Two-thirds of the property had to go to the rightful heirs. See Sahillioğlu, "Slaves in the Social and Economic Life of Bursa": 43–112, here 58. In addition, there were two other types of *tedbîr* manumission. Emancipation that was conditional not only on the owner's death, but also an additional stipulation such as completion of a particular task, was called *tedbîr-i mu'allak*; while manumission from a specified time (such as the next day) was *tedbîr-i muzāf*. Fahrettin Atar, "Tedbir," *Türkiye Diyanet Vakfı İslâm Ansiklopedisi (TDVIA)* 40 (2011): 258–59.

**20** Sahillioğlu, "Slaves in the Social and Economic Life of Bursa": 58.

**21** See also Sobers-Khan, *Slaves Without Shackles*: 70.

**22** Sobers-Khan, *Slaves Without Shackles*: 77.

**23** Ron Shaham put it as follows, "Manumission is regarded by Islamic law as a pious act that deserves a reward in heaven." Ron Shaham, "Masters, Their Freed Slaves, and the Waqf in Egypt (Eighteenth–Twentieth Centuries)," *Journal of the Economic and Social History of the Orient* 43, no. 2 (2000): 162–88, here 162.

**24** Cf. Sobers-Khan, *Slaves Without Shackles*: 119. For the hadith on which the comment is based see, "The man who frees a Muslim (v.l. 'a believer') slave, God will free from hell, limb for limb." See Robert Brunschvig, "'Abd,'" in *Encyclopaedia of Islam, Second Edition*, ed. Pery Bearman et al., [http://dx.doi.org/10.1163/1573-3912\\_islam\\_COM\\_0003](http://dx.doi.org/10.1163/1573-3912_islam_COM_0003) [accessed 17.05.2022].

## 4 Semantic Analysis

The semantic analysis in this paper focuses on two aspects: terms and word fields related to slaves. The lexical dimension of individual terms depends on the context in which they are used. The chapter *Terminology* therefore looks at expressions that were used in manumission documents for slaves. In doing so, we pay attention to the setting and structure in which these words were used. Under the section *Semantic Fields*, we look at word fields that occur in manumission papers in the context of slavery. We examine numerous terms that can be traced back to the same root. From the study of semantic fields related to slaves, we try to derive information about dependency structures.<sup>25</sup>

### 4.1 Terminology

Manumission documents were comparatively standard in terms of both structure and content, despite the existence of different types and modes of manumission. They give the name and place of residence of the slave owner; the name, origin, religious affiliation, appearance and characteristic features of the slave; the time and manner of emancipation and, where applicable, the condition that must be met before emancipation can be complete; and, lastly, the date and the names of the witnesses. All the manumission documents in the court records are copies, since the original was given to the – now freed – former slave, enabling him to produce it if necessary.<sup>26</sup>

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**25** For reflections on semantics of slavery see the edited volume by Stefan Hanß and Juliana Schiel, eds., *Mediterranean Slavery Revisited (500–1800) / Neue Perspektiven auf mediterrane Sklaverei (500–1800)* (Zurich: Chronos, 2014), esp. “Introduction” / “Einleitung,” 11–48. In this regard, see also the work of the Research Area A (Semantics, Lexical Fields, and Narratives) in the Cluster for Excellence “Beyond Slavery and Freedom: Asymmetrical Dependencies in Pre-Modern Societies” at the University of Bonn. This paper is the result of a participation in a workshop on “Semantics and Lexical Fields of Slavery and Other Forms of Asymmetrical Dependencies,” organized by Research Area A in March 2020. <https://www.dependency.uni-bonn.de/en/our-research/research-areas/research-area-a-semantics-lexical-fields-narratives> [accessed 17.05.2022]. An examination of the various terms in the field of Ottoman slavery in their semantic spectrum is provided by Özkoray in his study. However, he is not interested in examining semantic or lexical fields with regard to degrees of dependency, but rather in a differentiated presentation of the terminological variations, their etymology, and their connotations. Hayri Gökşin Özkoray, “L’esclavage dans l’Empire ottoman (XV<sup>e</sup>-XVII<sup>e</sup> siècle): fondements juridiques, réalités socio-économiques, représentations” (PhD diss., PSL University, 2017).

**26** Cf. Sahillioğlu, “Slaves in the Social and Economic Life of Bursa”: 51. Sometimes manumission papers were not handed over – and, as such, entered into the court records – until years (in some cases up to twenty years) after the act of manumission, because there was no need to hand over the document. Furthermore, the fee charged for registration was another reason not to do so. It was only when a slave wanted to leave their place of residence and risked being taken for a fugitive that

A manumission document in a court file from 1653 in one of the Istanbul courts (Ahi Çelebi Mahkemesi) reveals that a man named El-Hac Osman bin Abdullah<sup>27</sup> had manumitted an enslaved woman, Canfeda bint Abdullah, for reasons of piety.<sup>28</sup> It begins by giving the place and the name of the slave owner who appeared in court to manumit his slave. The first thing said about the woman is that she has admitted to being a slave (*nıkkamı mu'terife*), then follows a description of her appearance and background (amongst others, she is described as being light-eyed, blonde and of Ukrainian origin). The document states that she was present during the manumission and now identifies her as *cāriye-i memlūkesi*. She is next referred to in direct speech: her owner declares that *cāriyem*, literally “my slave,” is now free.

So there are three terms in the document that describe the slave's relationship of dependency: *nıkkamı mu'terife*, *cāriye-i memlūkesi* and *cāriyem*. *Rıkk* is the state of slavery which a person acquires through the loss of their freedom, either by capture or sale (alternatively, Ottoman Turkish also uses the term *nıkkıyyet*). It is a general expression that does not contain any further information about the slave in question. *Rıkk* may also refer to a male or female slave, and as such can denote a person as well as a state. If *mu'terife* is added, we know that the slave in question must be female (the male form is *mu'terif* without the final “e”) and that she has acknowledged her slave status. This was important. Admitting to being a slave was a precondition for manumission, since it defined the slave's status. A person who claimed to be free could not be freed.<sup>29</sup>

The second expression, *cāriye-i memlūkesi*, tells us that this is about a female slave (*cāriye*). The equivalent masculine term for a male slave is *abd*.<sup>30</sup> So on this level there is a clear lexical distinction between a male and a female slave. The attribute *memlūk* signified something that was owned by another person, the word derives from the term for property (*mülk*). It was used not only for slaves but also for other items that might be a person's property, such as houses, estates, land and so forth (e.g. *bağ-ı memlūk* = a garden belonging to s.o. or *menzil-i memlūk* = a house belonging to s.o.). But *memlūk* could also be a stand-alone term denoting a male slave, and *memlūke* a female slave. In *memlūkesi*, -si is the possessive suffix in the

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they needed their manumission document as proof of their freed status. As such, the act of manumission was not dependent on the document, Sahillioğlu, “Slaves in the Social and Economic Life of Bursa”: 52.

**27** All names are written in the modern Turkish spelling.

**28** İstanbul Kadi Sicilleri Ahi Çelebi Mahkemesi 1 Numaralı Sicil, 8 [3a–1] (H. 1063–1064 / M. 1652–1653).

**29** Another category of document relevant to slavery in the Istanbul court records are the proofs of non-slave status (*isbāt-ı hürriyet*). Alleged slaves went to court to bring proof of either their freeborn or freed status.

**30** In current usage, *köle* is frequently used as the male equivalent of *cāriye*, but the sixteenth- and seventeenth-century court records show that *köle* was the overall, general term for both male and female slaves.

third person singular which tells us that the enslaved woman (*cāriye*) is owned by her owner. The third term, *cāriyem*, again combines *cāriye* but this time with the possessive suffix -m for the first person singular. Here, the owner talks in direct speech. With the following words he completes the act of manumitting her:

I unconditionally emancipate my said female slave (*cāriyem*) from my possession (*mülkümden āzād*). She shall be free like other freeborn persons (*sā'ir ḥarā'ir-i ašliyyāt [gibi] hürre*). From today onward I shall have no more rights over her except for the *velā* right (*ḥaḳḳ-ı velādan gayn ḥaḳḳam kalmadı*).<sup>31</sup>

In legal terms, the woman is now as free as all other free persons. Her owner relinquishes all the rights he was entitled to, with the exception of *velā*. The *velā* right indicates that, in legal terms at least, the relationship between former owner and former slave did not completely dissolve upon manumission. The law stipulates that, if a manumitted slave has no agnates, their former owner and his paternal kin will be as agnates to the freed slave, particularly with regard to their guardianship in matrimonial matters and co-responsibility in criminal cases. In return, and assuming that the freed slave owns property and has no heirs of their own, they will name their former owner or his relations as heirs. In this way, their property will not vanish into public coffers but benefit the former owner.<sup>32</sup> So in most cases manumission did not mean an end to the relationship between former slaves and their owners; often it was transformed instead into a sort of patron-client relationship.<sup>33</sup> Such patronage relationships seem to have significantly influenced the lives of former slaves both during and after their enslavement, often only terminating with death.<sup>34</sup> Moreover, this is all an indication that freed slaves never attained the same free status as other freeborn ones.

<sup>31</sup> İstanbul Kadi Sicilleri Ahi Çelebi Mahkemesi 1 Numaralı Sicil, 8 [3a–1] (H. 1063–1064 / M. 1652–1653).

<sup>32</sup> Brunschvig, “‘Abd,”; Zilfi, *Women and Slavery*: 134.

<sup>33</sup> Halil İnalçık, “Servile Labor in the Ottoman Empire,” in *The Mutual Effects of the Islamic and Judeo-Christian Worlds: The East European Pattern*, ed. Abraham Ascher, Tibor Halasi-Kun, and Bela K. Kiraly (Brooklyn: Brooklyn College Press, 1979): 25–52, here 30, n. 26; White, “Manumission Documents”: 230.

<sup>34</sup> A quite recent study on the topic is Olga Todorova’s essay, “Нищо друго освен правото на покровителство . . .’: робската интеграция в Османската империя в светлината на отношенията между господари и роби (по материали от Централните Балкани, средата на XVI – началото на XVIII век)” (“‘Nothing but the right of patronage . . .’: Slave integration in the Ottoman Empire in the light of the relationship between masters and slaves [on materials of the Central Balkan from the middle of the 16th to the early 18th century]”), *Исторически преглед / Historical Review* 3–4 (2016): 22–88. In her article, which looks at the city of Sofia in the 1670s, Todorova underlines the active role played by the slave owner and their family in all phases of a slave’s socialisation process, especially during the “post-emancipatory phase” when, in accordance with to Islamic law, the relationship between a former slave and a former owner grew into a patron-client relationship.

Another document in the Istanbul court records (*Eyüb Mahkemesi*) from the year 1680 tells us that one İbrahim bin Sırrı manumitted his slave Rıdvan bin Abdullah, also originally from Ukraine. This was a contract-based manumission (*mükātabe/kitābet*), where emancipation was conditional on the payment of a sum of money (*bedel-i kitābet*). As in our previous example the owner's name and place of residence come first, followed immediately by the slave's admission of being a slave. Again the term used for the slave is *nk̄k̄ı mu'terif* (here in the masculine form without the final -e, because it denotes a male slave); and again this in turn is followed by a description of the slave's outward appearance and characteristic features (these include a note that he is of medium height and has injured his right eye) and his place of origin. Where a slave has converted to Islam, there is an additional patronymic: "ibn/bin Abdullah," as in this case, or "bint Abdullah," as in my previous example; i.e. *son* or *daughter* of Abdullah, as the case may be.<sup>35</sup> The document tells us that it has been agreed that the owner will manumit the slave from his possession (*mālmdan āzād*, an alternative wording of the phrase *mülkümden āzād* in the previous document – literally, "from my possession," since this passage is in direct speech and as such in the first person singular) and from the bond<sup>36</sup> of slavery (*kayd-ı nk̄k̄dan ıtlāk*), as soon as the slave has paid the previously agreed sum of 27,500 *akçe*.<sup>37</sup> After handing over the sum, the slave will be free like other freeborn persons (*sā'ir ahrār-ı aşliyyin gibi hür*) and his owner will have no more rights over him except for the *velā* right (*velā-i şer'iden gayn hak̄kım bākī kālmadı*).<sup>38</sup>

The declaration of emancipation is in direct speech; the owner declares in the first person singular that he is manumitting his slave. Sobers-Khan has identified the act of manumission itself as "a speech act [. . . or] a performative utterance,"<sup>39</sup> positing that speech is constitutive to the act, so that manumission would have been impossible without the verbal declaration. We may assume that even when the documents do not quote the act of manumission in direct, first-person speech, it will have been performed as such. Official acts only began to be put into writing from the fifteenth century onwards,<sup>40</sup> while the original format – the legal act in the form of an oral declaration

35 In some cases, instead of Abdullah the document gives the names Abdulmennan or Abdulvehhab.

36 Alternatively, this might be translated as the "clutches" or "shackles" of slavery.

37 *Akçe* was a silver coin that became devalued over time. Until the end of the 17th century it was the main monetary unit in the Ottoman Empire. According to İnalçık, in the second half of the fifteenth century in larger Ottoman cities the average market price for a slave fluctuated between 1600 and 3200 *akçe*. Halil İnalçık, "Part I – The Ottoman State: Economy and Society, 1300–1600," in *An Economic and Social History of the Ottoman Empire, 1300–1914*, ed. Halil İnalçık and Donald Quataert (Cambridge: Cambridge University Press, 1994): 9–41, here 284.

38 *Eyüb Mahkemesi* (Havass-ı Refia) 90 Numaralı Sicil, 440 [66a–1] (H. 1090–1091/M. 1679–1680).

39 Sobers-Khan, *Slaves Without Shackles*: 70.

40 The earliest court registers in the Ottoman Empire are to be found in Bursa and date to the year 1455. See Uğur, "Şeriyye Sicilleri": 9. For slaves in the Bursa court registers in the late fifteenth and sixteenth centuries see Sahillioğlu, "Slaves in the Social and Economic Life of Bursa": 43–112.

with witnesses – was retained. Direct speech is a common legal form that occurs in a variety of document types.<sup>41</sup> But the fact that manumission, whether unilateral or bilateral, could only be effected through the slave owner’s verbal declaration, points to the strong asymmetrical dependency of slave on owner. The owner needed to declare the manumission for the act to become effective.<sup>42</sup>

These cases, which I chose because they are typical examples of manumission papers, show that these documents contain a number of structural, linguistic and content-related elements that emphasize the slave’s position and dependency. We must also bear in mind the guidelines that existed for the textualization of legal matters in terms of structure, wording and composition. They too, symbolize and transport particular hierarchies and dependencies. Sobers-Khan pointed, for example, to the location of the manumittor’s and manumittee’s names on a manumission document, which underlines the slave’s subordinate position vis-à-vis their owner. First came the name and place of residence and sometimes also the profession of the slave owner (for whom there was, incidentally, no specific administrative category); then, in some cases, the name(s) of his legal representative and his witness; and only then was the slave named: all of which indicated both the superior status of the owner and his full legal capacity to act and stood in sharp contrast to the slave who had neither free status nor full legal capacity to act at the time the verbal declaration was performed.<sup>43</sup>

Not only the structural features, but also the linguistic elements of the documents indicate strong asymmetrical dependency. In addition to the different terms that categorize the slave and define their status, the grammatical elements also spell out clearly the fact that the enslaved was their owner’s property. The stylized description of the slave’s physical appearance purportedly served to aid with identification and recognition,<sup>44</sup> although it is somewhat questionable how much use it really was, given the limited number of markers. Sobers-Khan makes the point that apart from its practical purpose, the description also functioned as a “symbolic domination of the slave through language,” by reinforcing symbolically and linguistically the enduring dominance of the Ottoman legal system (represented by the court and the scribe)

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**41** On the aspect of first-person narratives in the documents see Boğaç A. Ergene, *Local Court, Provincial Society and Justice in the Ottoman Empire. Legal Practice and Dispute Resolution in Çankırı and Kastamonu (1652–1744)* (Leiden: Brill, 2003): 133–38 and on the representation of slave voices see Veruschka Wagner, “Slave Voices as Represented in the Ottoman Court Records – A Narrative Analysis of the Istanbul Registers from the Sixteenth and Seventeenth Centuries,” in *Narratives of Dependency*, ed. Marion Gymnich and Elke Brüggem (Berlin: De Gruyter, forthcoming).

**42** Yavuz Aykan uses the term “asymmetrical fictive kinship” to describe the relationship between slave and former owner after manumission. Yavuz Aykan, “On Freedom, Kinship and Market Re-thinking Property and Law in the Ottoman Slave System,” *Quaderni Storici* (2017): 3–29, here 4.

**43** Sobers-Khan, *Slaves Without Shackles*: 71.

**44** In order to be able to return an escaped slave to their rightful owner, or to protect a freed slave from being re-enslaved.

over the freed slave and over the bond between them and their owner.<sup>45</sup> Whether it was intended as a tactic of symbolic domination or as protection against mistaken identity: it clearly emphasized the hierarchical structures.<sup>46</sup> And the latter, in turn, allow us to identify dependencies which would go on to define the slave's position even after manumission.

This is also evidenced by the patronymic, which can't have been any real use in helping to identify or differentiate the slave (it is unlikely that a missing patronymic would have made any difference to the document). So its purpose was also to signify the slave as such<sup>47</sup> and to indicate their position and their dependency. A fixed scheme was used systematically for the content. About the slave it was noted that the manumittee was a person who had acknowledged their slave status (See above for the importance of this admission). The document then tells us that the said person has been freed from their previously admitted condition of slavery, and so inscribes their status. The other regular component relates to ownership. We learn from the text that the enslaved person is the property of the owner, who now proceeds to release them from being in his possession. It may be deduced from this that an enslaved person is not free until their owner has declared them free *both* from being in his possession *and* from being a slave. Since slaves could be sold on from one owner to the next, being released from someone's possession did not necessarily also free an enslaved person from the status of slavery. Only when both of these components were enacted did a slave become "free like other freeborn persons."

## 4.2 Semantic Fields

The information that these manumitted slaves are now "free like other freeborn persons" is common, with some slight variations, to all manumission papers. Whichever actual wording is used, the word stem of the terms for "free" and "freeborn" is always a form of the word *hür* (*sā'ir ḥarār-i aṣliyāt [gibi] hür(re)* or *sā'ir aḥrār-ı asliyyin gibi hür*) (Fig. 1).

The adjective *hür(r)* means *free*; the feminine form *hürre* denoting a female free person. The plural of *hür(r)* is *aḥrār*; the plural of *hürre* is *ḥarā'ir*, both meaning "free" or "freeborn" persons. *Ḥürriyet* is liberty/freedom, and *taḥrīr* liberation/release, including the manumission or emancipation of a slave.

<sup>45</sup> Cf. Sobers-Khan on the significance of Ottoman manumission documents including a description and classification of a slave's physical appearance. Sobers-Khan, *Slaves Without Shackles*: 270.

<sup>46</sup> Sobers-Khan, *Slaves Without Shackles*: 236.

<sup>47</sup> It is very likely that most persons with the patronymic bin/bint Abdullah are (former) slaves, even if the document does not provide additional information or allow us to clearly identify them from the context, since in the majority of cases the patronymic marks a convert. See Suraiya Faroqhi, "From the Slave Market to Arafat: Biographies of Bursa Women in the Late Fifteenth Century," *The Turkish Studies Association Bulletin* 24, no. 1 (2000): 3–20, here 10.

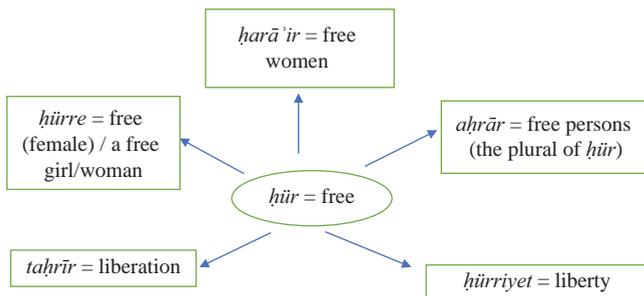


Fig. 1: Semantic field *hür*.

After the owner's declaration that he has released the slave from being in his possession (*mülkümden* or *mālımdan*), the slave has now obtained the status of being free in the same way that other, originally free(born) (*harā'ir*) people are free (*hür*). While we have seen that the terms for "free" and "freeborn" go back to the same word, i.e. *hür*, the terms employed in the act of manumission go back to another word, i.e. *āzād* and not *hür*. So for "free," we have two different words or word stems. An enslaved person had to undergo the process of liberation (*āzād*) in order to obtain the status of being "free" (*hür*) legally, like other free people. We can infer from this that *hür* defines a status, while *āzād* seems to describe a process.<sup>48</sup> At the end again, a slave never really attained the free status of a freeborn person.

There are more semantic fields in the manumission papers. This linguistic peculiarity occurs with other Arabic loan words, because the relevant terms are all based on the same word stem; just as they were around the word *hür*. If we look at manumission papers that tell us about slaves who have been manumitted in the course of a pious activity, we find, first of all, the term *'itk*, which we encountered earlier. *'Itk* describes manumission as a charitable act without stipulating a condition for it.

A 1670–1671 record from the registers of one of the Istanbul courts (Bab Mahkemesi) tells us about one such manumission as a pious act.<sup>49</sup> Written in the margin is a note that this is a manumission document (*'itknāme*). Such annotations referred to the nature of the decision. This *'itknāme* records the manumission of a slave who is, again, of Ukrainian descent, whose name was Şahin. The word *'itknāme* is a composite of *'itk* (Fig. 2), which has an Arabic root, and the Persian word *nāme*, which denotes a written

<sup>48</sup> Some manumission papers explicitly state that a manumitted slave obtained, along with their new status, not only rights but also duties, just like other freeborn persons. Sobers-Khan has pointed out that under Ottoman law, slaves had diminished responsibility for any crimes they committed. As such, liberation not only brought emancipation but also full accountability before the law, which meant that freed slaves now had to face full legal punishment for all crimes committed. Sobers-Khan, *Slaves Without Shackles*: 72.

<sup>49</sup> Bab Mahkemesi 11 Numaralı Sicil, 79 [16b–3] (H. 1081 / M. 1670–1671).

communication or a certificate. *İtk* as an act of emancipation was accomplished by a unilateral and unconditional action on the part of the slave owner. The freed slave is referred to as a *mu'tāk*, while the owner is *mu'tık* (and the mistress *mu'tıka*). The word *mu'tāk* denoted the person who was freed by a pious act; *mu'tık* was the person who did the freeing. Both share a root with *'itk*. While *mu'tāk* can function both as a noun (as it is here, in the masculine) or as an adjective in combination with other expressions for slaves (such as *'abd-i mu'tāk* or, in the feminine, *cāriye-i mu'tāka* or *mu'tāka cāriye*); other words which are formed from the same word stem function only as nouns such as *'atıka* (pl. *'atıkāt* or *'utekāt*) that denotes a freedwoman or *'atık* (pl. *'uteka*) which denotes a male slave. Our record goes on to state that the slave owner had in fact manumitted (literally, liberated, *tahrir ü i'tāk*) the slave three years earlier. The term (*i'tāk*) is again formed from the same word stem; it is here redundantly combined, as is typical in Ottoman Turkish, with another verb, *tahrir*, which also means “to liberate” but without specifying the kind of liberation. *Tahrir* in turn shares a root with *hür* (free). The term *i'tāk* is used only in manumission papers of slaves who have been emancipated in accordance with *'itk*, i.e. for pious reasons.

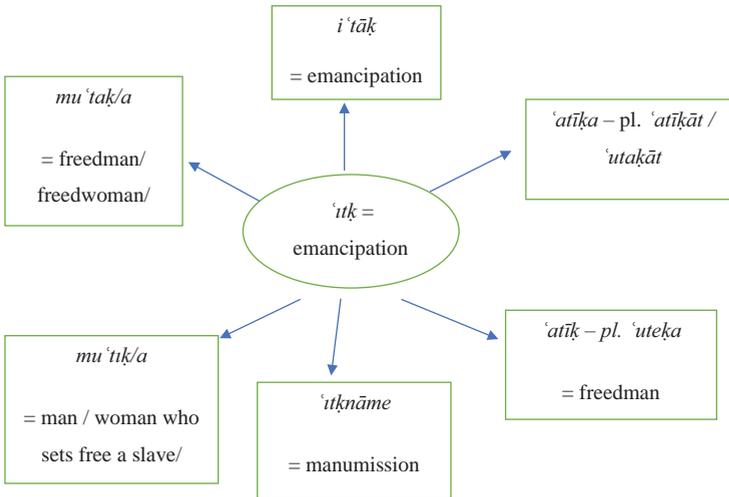


Fig. 2: Semantic field *'itk*.

Another semantic field in this context is the one around the term *tedbır*. *Tedbır* was the type of manumission where a slave was promised their freedom after the owner’s death. There were a number of different variations; the two most common ones in the Istanbul court records are unconditional manumission, *tedbır-i muṭlaḡ*, and conditional manumission, *tedbır-i mukayyed*. In a case of unconditional emancipation, a slave was simply given their freedom upon the owner’s decease. If emancipation was tied to a condition – for example only if the slave’s owner died from illness – the other

variant came into play. Conditional manumission also occurred if a slave owner stipulated during their lifetime that their slaves were to be manumitted a specified time before their death, albeit retroactively.

A record from the year 1666–1667 states that a slave owner was going to manumit her slave, whose name was Mülayim bint Abdullah, after her death. The slave was to go on to serve her mistress during the latter’s lifetime and was then to be freed by *tedbîr-i muṭlak*, i.e. emancipation was not tied to any further conditions.<sup>50</sup> The term used for emancipation is *müdebbere eyledim*, literally, “I have freed in accordance with *tedbîr*” (Documents in the Istanbul court registers also use the variant expression *tedbîr eyledim*, which has the same meaning). *Müdebbere* (freeing in accordance with *tedbîr*) originates from the same semantic field as *tedbîr* (Fig. 3). The freedwoman emancipated in this way is also called *müdebbere* and the freed man *müdebber*. These terms, though, do not occur in manumission papers. Documents that refer to freedmen as *müdebber* or freedwomen as *müdebbere* deal with cases in which former slaves who have been emancipated according to *tedbîr* are being left property or assets by their former owners, such as donations or foundations. Manumission papers, however, describe an action that will not happen until after the slave owner’s death, so at the time the document is being drawn up the slaves are still caught in their slave status. That is why in the document we just discussed, Mülayim bint Abdullah is referred to as *cāriye-i memlûkem* (“my slave”) and not as *müdebbere(m)* (“my freedwoman”).

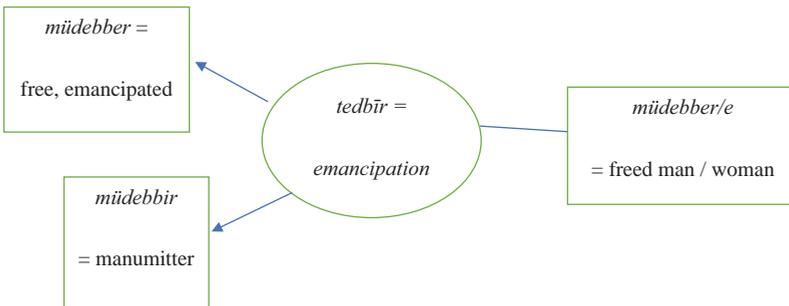


Fig. 3: Semantic field *tedbîr*.

In the Istanbul records we find *tedbîr* both as a noun meaning “manumission”; and, in combination with the Turkish verb *etmek* or *eylemek* (= to do, to make), meaning “to manumit,” or in combination with *olmak*, then meaning “to be manumitted.” The same applies for *müdebber/e etmek* or *eylemek* and *olmak*. *Müdebber* is being used both for the act of manumission through *tedbîr* and for the male slave so manumitted;

<sup>50</sup> Bab Mahkemesi 3 Numaralı Sicil, 41 [5b–4] (H. 1077 / M. 1666–1667).

while *müdebbere* is the female slave who has been emancipated through *tedbîr* by the *müdebbir*, the manumitter.

Another record from the year 1662 that has the word *müdebber* noted in the margin also concerns a manumission through *tedbîr*.<sup>51</sup> But the case concerns not only emancipation, but also the transfer of certain items from the ownership of the slaveholder to the to-be-freed slave (both, incidentally, are women). The document refers several times to the manumittee and at one point uses the term *müdebberem* (my slave woman manumitted through *tedbîr*). Even though the slave has not yet been freed at the time the decision is being made, because her mistress is still alive, she will be free at the point when she will receive the items in question as a beneficiary. That is why the document refers to her future self, so to speak, and calls her *müdebbere*, a female slave manumitted through *tedbîr*.

The form of manumission through *tedbîr* – i.e. *tedbîr-i muqayyed* – which is most frequently found in Istanbul’s court registers is the one whereby a slave was already considered manumitted before the owner’s death. To achieve this, the owner declared in the document that they had freed the slave a certain number of days (usually 40, although some documents stipulate 20 instead) before their passing. So it is in the case where Mihâl veled Hristo<sup>52</sup> (probably a *dhimmi*<sup>53</sup> of Bulgarian origin) declares in a manumission document that he freed his slave Yuvan veled Bahto 40 days before his death.<sup>54</sup> By employing this retroactive procedure a slave could be prevented from remaining in their owner’s possession after the latter’s death; in this way they would not become part of the estate and pass into the possession of – and, as such, into a fresh relationship of dependency with – the heir or perhaps even a new owner, in case the heir decided to sell them on. This would have made manumission impossible. So slave owners put a set date on the record during their lifetime to ensure that their slave(s) really were manumitted after their death by freeing them retroactively and so preventing them becoming part of their estate.<sup>55</sup>

While in most manumission papers the act of emancipation is linked to only one mode of manumission, there are also those that describe a combination of several. One document from 1578 (Galata Mahkemesi) for example records an agreement between Ali bin Veli and his *‘abd-ı memlûk* Yusuf bin Abdullah to the effect that Yusuf

51 İstanbul Mahkemesi 10 Numaralı Sicil, 547 [66b–7] (H. 1072–1073 / M. 1661–1663).

52 The *v.* stands for “veled” meaning of “son” and was used for non-Muslim men to show whose son they were.

53 *Dhimmi*s was the term for followers of other religions who had legal protection from the Muslim community. See Claude Cahen, “*Dhimma*,” in *Encyclopaedia of Islam, Second Edition*, ed. Pery Bearman et al., [http://dx.doi.org/10.1163/1573-3912\\_islam\\_SIM\\_1823](http://dx.doi.org/10.1163/1573-3912_islam_SIM_1823) [accessed 17.05.2022].

54 Ahi Çelebi Mahkemesi 1 Numaralı Sicil, 27 [5a–4] (H. 1063–1064 / M. 1652–1653).

55 See also Sobers-Khan, *Slaves Without Shackles*: 77.

would work for him for three years and then be freed.<sup>56</sup> The slave owner, Ali bin Veli, further declares that in case he should die from an illness, he will free Yusuf through *muḳayyed tedbīr*, i.e. the conditional manumission mode after the owner's death. By arranging for two different options, the owner thus guarantees freedom for his slave even in the case that he, the owner, should die before the end of the agreed-upon period. Had Ali bin Veli died before the lapse of three years, Yusuf would have become part of his inheritable estate. The additional declaration of *muḳayyed tedbīr* (a linguistic variant of *tedbīr-i muḳayyed*) ensures that the slave will be emancipated either way.

The document explicitly states that the *mūkātab* contract has not been dissolved, but that additional, alternative arrangements have been made. If the contractually agreed *kitābet* emancipation cannot occur, *tedbīr* will happen instead. In this case, too, we may speculate that the owner wanted to prevent his slave from becoming part of the inheritable estate and so from not gaining his freedom. Even if the motives for this strong desire to ensure emancipation for one's slave(s) probably were religious rather than humane, the precautions and processes show the one-sided nature of relationships and dependencies. They always disadvantage the slave.

The double guarantee undertaken by the slave owners in these cases illustrates to what degree slaves were dependent on their owners' goodwill. We can also conclude that under simple contract-based arrangements for manumission, unless an owner had taken appropriate precautions, his slave(s) ran the real risk of passing into the ownership of his heirs. In those cases, the slaves' fate was once again determined by the legal structures of the system.

## 5 Conclusion

This examination of manumission papers has once again shown that in early modern Istanbul not only men and women, but also Muslims and non-Muslims could own slaves. The slave owners are mentioned in the manumission papers by name, place of residence and, where applicable, profession; no attempt is made to differentiate between them by linguistic means. This stands in marked contrast to the slaves, who are described by numerous different terms. Those involved in the act of manumission are named: in addition to the slave owners and the slaves these might include legal representatives and a variety of witnesses. The order in which these persons are mentioned can be read as an indicator of the slave's subordinate position: the slave is named after everybody else. So the individual whose manumission is the subject of the document; who is therefore the central person and the one who attains their freedom and as such, according to the document, the same status as

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<sup>56</sup> Galata Mahkemesi 7 Numaralı Sicil, 176 [55–2] (H. 985–986 / M. 1577–1578).

other freeborn persons, appears last of all. But it is not only structural characteristics: these asymmetrical dependencies between the slave and their owner and the system as a whole, are being reinforced by the use of particular terminologies and expressions.

Manumission itself as a direct speech act emphasizes the owner's superior position, without whose willingness and performance the act of emancipation would not have been possible. The owner manumits the slave and releases them from being in his possession and from the bonds of slavery; as such he dominates the action. The choice of words, the element of direct speech and other grammatical peculiarities such as the possessive suffix can be read as signifying the slave's relationship of asymmetrical dependency with their owner.

The multitude of entangled terms shows, firstly, how complex and elaborate the structures of slavery were in the Ottoman Empire. The labels for freed slaves primarily provide information about sex, the mode of manumission and the freed person's relationship to their former owner. The different semantic fields (some of which have been borrowed from Arabic while others have been modified) demonstrate that slavery was an institution that had evolved and diversified over a long period of time. The fact that there were so many differently connoted terms for slaves, manumission and freed people (but not for slave owners) underscores how highly developed slavery was, and how deeply rooted not only within the judicial system, but also in wider society. This is evidenced by the presence of these terms far beyond legal texts: they occur in chronicles, travelogues, and other genres.

The large number of terms also shows the presence of different degrees of dependency. If we take a slave's potential scope of action as a basis for determining the degree of their dependency, an enslaved person who achieved emancipation through a contract had more options and say than one manumitted by their owner in a charitable act. If the condition was payment of an agreed sum, the slave could take action and work towards their manumission. So in theory, bilateral manumission indicates a lesser degree of dependency of slave on owner than does unilateral manumission, because the act of manumission was not solely based on the action of the owner. But in fact a slave's scope of action (and, as such, their dependency) was determined by a variety of factors, such as their relationship to their owner, the latter's social position and so forth, which manifested differently in each case. We might imagine a sliding scale of dependency where each slave occupies a slightly different point. (There are a number of different circumstances, some but not all of which the slave can influence; as a result, each slave can move along the scale – in both directions.)

We can identify not only different degrees, but also different layers of dependency. Slaves seem to have been in a number of different dependency relationships during their enslavement, which are listed individually in the documents. The manumission papers show that a slave first had to acknowledge their slave status in order to be freed from this dependency. They were, secondly, released from being in

their owner's possession and, thirdly, the documents state that they are now free like other freeborn persons. Dependency appears to happen in different layers simultaneously, each of which is then individually named and revoked upon emancipation. Thus, while the degrees of dependency for slaves could vary between less strong and strong, they could be in different layers of dependency at the same time, which were lifted one after the other when they were freed.

Again, in documenting manumissions various terms or semantic fields are being employed for the concept *free*. While *āzād* appears to describe a process, *hür* represents a state of being. The freed slave has to pass through the process of manumission in order to attain the state of a free or freeborn person. Even so dependency persists, both on the owner and on the wider system. Therefore, a slave never really attained the free status of a freeborn person.

A further aspect that is mentioned in manumission papers is the slave's religious denomination. While the majority of slaves owned by Muslims converted to Islam, those in the possession of non-Muslims retained their original faith. Conversion was mentioned in manumission papers, and it could contribute to accelerating emancipation. But as non-Muslims were not allowed to possess Muslim slaves, conversion was not an option to generate extra scope of action for their slaves. It is likely that converts enjoyed better opportunities for integration into society than non-converts. This probably also affected their dependency on their former owners.

To summarize: three characteristics have emerged from my examination of manumission papers in the Istanbul court records from the sixteenth and seventeenth centuries: in addition to structural and compositional aspects the linguistic dimension is of great importance. The terms and expressions employed in connection with manumission may be subsumed under the categories of terminology and semantic fields. From this terminology and these semantic fields we can infer the existence of different degrees and layers of dependency. While an enslaved person was only ever dependent to a certain degree at any given time, they always inhabited all layers of dependency because these covered different areas. In addition to these multiple dependencies of the enslaved, freed people were never wholly free even after manumission, because certain dependencies persisted even after enslavement had come to an end.

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Hans-Heinrich Nolte

# Terms for Dependent People in Rural Russia in Early Modern Records

## 1 From Macro to Micro: Back and Forth

Much of the historiography of Russia<sup>1</sup> in the early modern period is preoccupied with the history of power politics: the “collection of Russian lands” and the founding of the “centralised Russian state” with Moscow as its new capital. Comparisons to Western Europe, to the estates-based state (*Ständestaat*) and absolutism, and the rise of Russia to great power status in the European Concert despite being a country exporting raw-materials<sup>2</sup> were and are quite often on the minds of historians. In the Soviet Union, historiography was preoccupied with the question of how Russia fitted into the socio-economic concepts of Karl Marx, Friedrich Engels and Vladimir Lenin. After 1934, the old political and the new socio-economic schools combined to form Soviet Patriotism, which became Russian nationalism in reaction to Germany’s attack in 1941. Russian nationalism included the history of the other Soviet nations, as long the leading role of the “older brother” Russia was not questioned.<sup>3</sup> Whether the image of a “centralized” Muscovy is upheld or questioned remains a question of political decisions – to this day.<sup>4</sup>

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1 Manfred Hellman et al., eds., *Handbuch der Geschichte Russlands*, 5 vols. (Stuttgart: Hiersemann, 1976–2003); Hans-Heinrich Nolte, *Geschichte Russlands*, 3rd ed. (Stuttgart: Reclam, 2012); Collection of sources in German translation: Hans-Heinrich Nolte, Bernhard Schalhorn, and Bernd Bonwetsch, eds., *Quellen zur Geschichte Russlands* (Stuttgart: Reclam, 2014).

2 To cut the long discussion on unequal development very short – Hans-Heinrich Nolte, “Ungleich verbundene Entwicklung: Russland und der Westen seit dem 16. Jahrhundert,” in *Handbuch der Entwicklungsforschung*, ed. Karin Fischer, Gerhard Hauck, and Manuela Boatča (Wiesbaden: Springer, 2016): 333–36.

3 Erwin Oberländer, *Sowjetpatriotismus und Geschichte* (Cologne: Wissenschaft und Politik, 1976); Benjamin F. Schenk, *Aleksandr Nevskij* (Cologne: Böhlau, 2004); Hans-Heinrich Nolte, “Ot sovetskogo patriotizma k rossijskomu nacionalizmu, 1941–1942,” in *Germanija i Rossija v sud’be istorika: K 90-letiju Jakova Samojlovicha Drabkina*, ed. M. B. Korchagina and V. V. Ishhenko (Moscow: Sobranie, 2008): 171–82; Jens Binner, “Ein neues Bild des Stalinismus in Russland?” in *Nationen und Nationalismen in Geschichtsschreibung und Erinnerungskultur*, ed. Hans-Heinrich Nolte (Gleichen: Muster-Schmidt, 2020): 125–33.

4 Vladimir Putin claimed that “Russia is part of western European culture [. . .] but Russia has been founded as a super centralist state, this is in our genetic code, in the traditions, in the mentality of the people.” Vladimir Putin and Natalija Gevorkjan, *Ot pervogo lica. Razgovory s Vladimirom Putinom* (Moscow: Vagrius, 2000): 167. But pre-Petrine Russia was governed by consent: Hans-

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**Note:** Transliteration GOSSTANDARD.

In global history the place of Russia is debated: was it actor or object in the “rise of the West,” semi periphery or periphery of the global system,<sup>5</sup> “a peripheral Empire,”<sup>6</sup> a lonely nation and the heir to Byzantium<sup>7</sup> – or following in the traditions of the Eurasian steppe?<sup>8</sup> Was Russia at its best as a communist alternative and one of two superpowers? Can post-Petrine Russia be defined as the first “imperialistic” empire in the European Concert of Powers, a forerunner to Napoleon and the Hohenzollern?<sup>9</sup> The turn goes back to micro-history.

The number of dictionaries and encyclopedias alone offers convincing reasons for starting a new round of research in semantics.<sup>10</sup> The terms on feudalism in Russia have mostly been used for all kinds of topics, except in historiographies of everyday life<sup>11</sup> and of culture.<sup>12</sup> A fresh look at the sources is also necessary, because during the Soviet era, party intervention disallowed the opinions of outsiders on feudalism in Russia, as in the case of Mikhail Gefter.<sup>13</sup> Research outside of Russia, “from the other shore,” is only possible because Russian scholars, mostly in the Academy of Sciences, edited a remarkable amount of sources on our topic – in the

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Heinrich Nolte, “The Tsar Gave the Order and the Boiars Assented,” *The Medieval History Journal* 19, no. 2 (2016): 229–52. The abstract confuses my position with Vladimir Putin’s.

5 Immanuel Wallerstein, *The Modern World-System* (New York: Academic Press, 1974); Hans-Heinrich Nolte, “Zur Stellung Osteuropas im Internationalen System der Frühen Neuzeit: Außenhandel und Sozialgeschichte bei der Bestimmung der Regionen,” *Jahrbücher für Geschichte Osteuropas* 28 (1980): 161–97; English translation: Hans-Heinrich Nolte, “The Position of Eastern Europe in the International System in Early Modern Times,” *Review* 4, no. 1 (1982): 25–84.

6 Boris Kagarlickij, *Periferijnaja Imperija* (Moscow: Algoritm, 2009).

7 See the new editions: Nikolaj Berdjaev, *Russkaja ideja* (Sankt Peterburg: Azbuka-klassika, 2008); Archiepiskop Serafim (Sobolev), *Russkaja ideologija* (Sankt Peterburg: A. S. Suvorin, 1992); compare Hans-Heinrich Nolte, “On the Loneliness of Russia and the Russian idea,” *Coexistence* 32, no. 1 (1995): 39–48.

8 Lev Nikolaevich Gumilev, *Drevnjaja Rus’ i Velikaja step’*, 3rd ed. (Moscow: Mysl’, 1993).

9 Hans-Heinrich Nolte, *Kurze Geschichte der Imperien* (Vienna: Böhlau, 2017): 277–302.

10 Sergej G. Pushkarev, *Dictionary of Russian Historical Terms from the Eleventh Century to 1917* (New Haven, CT: Yale University Press, 1970); Hans-Joachim Torke, ed., *Lexikon der Geschichte Russlands: Von den Anfängen bis zur Oktoberrevolution* (Munich: Beck, 1985); V. A. Vladykina, O. F. Kozlov, N. N. Khimina, V. F. Jankovskaja, eds., *Gosudarstvennost’ Rossii. Slovar’-Spravochnik*, 5 vols. (Moscow: Nauka, 1999–2005): vol. 1–2; M. P. Mchelov, ed., *Rossijskaja Civilizacija* (Moscow: Respublika, 2001); Norbert Franz, ed., *Lexikon der russischen Kultur* (Darmstadt: Wissenschaftliche Buchgesellschaft, 2002); Karl-Friedrich Jäger, ed., *Enzyklopädie der Neuzeit*, 16 vols. (Stuttgart: Metzler, 2002–2015).

11 Carsten Goehrke, *Russischer Alltag*, 3 vols. (Zurich: Chronos, 2003–2005).

12 A. V. Arcikhovskij, ed., *Ocherki russkoj kul’tury*, vols. 1–2 (Moscow: Izdatel’stvo Moskovskogo universiteta, 1978–1979).

13 Carsten Goehrke, “Zum gegenwärtigen Stand der Feudalismusdiskussion in der Sowjetunion,” *Jahrbücher für Geschichte Osteuropas* 22 (1974): 214–47; Hans-Heinrich Nolte, “Late-Soviet Control of Historiography: the Case of Michael Gefter,” in *Scientific Freedom Under Attack*, ed. Ralf Roth and Asli Vatansever (Frankfurt am Main: Campus, 2020): 87–100.

tsarist, Soviet and the republican eras. I am grateful for this work, which constitutes the basis for my analysis.

## 2 Dependent People in the Russian Countryside

### 2.1 General Conditions for Agriculture and Trade in Eastern Europe

This text focuses on dependent people in rural areas. Of course towns, border populations, the bureaucracy and the social history of the royal dynasty (and other princely families) also are important for analyzing Russian history, but if one starts with a specific selection, agrarian history<sup>14</sup> suggests itself as fundamental for the period.<sup>15</sup>

Eurasia east of the river Bug may be divided into roughly four geographic zones: tundra, taiga, steppe and desert. In the west between taiga and steppe, there is a wedge-shaped piece of mixed woodland, with the wide end between St. Petersburg and Kiev, that grows ever narrower until it ends at the Urals behind Kazan; its boundaries are determined by the amount of precipitation coming from the west, cold air from the north and heat from the south.<sup>16</sup> The climate affected the soil, albeit over long periods of time. There is fertile topsoil in favorable parts of the wedge, and chernozem soil in the steppe region.<sup>17</sup>

The strip of chernozem soil in the north of the steppe has the best, and the wedge-shaped area of mixed woodland still fine conditions for peasants in the broad socio-economic meaning of the term.<sup>18</sup> But for centuries it was a battleground between nomad and peasant societies. Until the beginning of the sixteenth century, Russian and Finno-Ugrian peasants, most of them Christians, settled the wedge to

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**14** Boris D. Grekow, *Die Bauern in der Rus von den ältesten Zeiten bis zum 17. Jahrhundert*, trans. Herbert Truhart and Kyra von Bergstraesser, 2 vols. (Berlin: Akademie, 1959); A. L. Shapiro, ed., *Agrarnaja istorija Severo-Zapada Rossii*, 2 vols. (Leningrad: Nauka, 1978).

**15** Some sources and literature on Russian peasants in English: Robert E. F. Smith, ed., *The Enserfment of the Russian Peasantry* (Cambridge: Cambridge University Press, 1968); Robert E. F. Smith, *Peasant farming in Muscovy* (Cambridge: Cambridge University Press, 1977); David Moon, *The Russian Peasantry 1600–1930: The World the Peasants Created* (London: Longman, 1999); Elise Kimerling Wirtschafter, *Russia's Age of Serfdom: 1649–1861* (Malden, MA: Blackwell, 2008).

**16** Sketch of the climate zones in Nolte, *Geschichte Russlands*: 19.

**17** I. P. Gerasimov, ed., *Fiziko-geograficheskij Atlas Mira* (Moscow: Akademija Nauk SSSR i glavnoe upravlenie Geodezii i Kartografii, 1964): 192–249, maps on temperature, frost, soils, precipitation etc. on page 202–20.

**18** Eric R. Wolf, *Peasant Wars of the Twentieth Century* (New York: Harper & Co., 1969; Norman: University of Oklahoma Press, 1999): xxii: “populations that are existentially involved in cultivation and make autonomous decisions regarding the process of cultivation.”

the north and west of the Oka. The Kazan region was the center of the Turkic-speaking and majority Muslim, Tatar, peasant-based society. After the Mongol conquest it became a khanate and continued to be a stronghold of the “Golden horde,” the western part of Mongol Empire and the empires of the Dzshingissid dynasty which were based on a nomad economy, control of peasants and interregional trade.<sup>19</sup> The taiga is difficult for agriculture, and tundra and steppe offer good conditions only for nomads, who are capable of making a living on relatively barren grounds.

For centuries, trade had been one of the cornerstones of people and states in the region. Since no silver or gold was mined until the eighteenth century, precious metals had to be imported – from Mesopotamia, from Germany or via the Netherlands from Latin America.<sup>20</sup> Prices for *kholop* serfs below are given in rubles, but fluctuated widely. In early Muscovy a ruble was fixed at 206 g, in 1704 at 25–26 g of silver.<sup>21</sup> Since Russian exports mostly consisted of products by peasants or hunters (or of slaves), these also formed the main basis for the use of money in domestic and foreign trades,<sup>22</sup> since only silver money was trusted, while paper money had no and copper money only little credit.<sup>23</sup> Also the tributes paid to the Mongol Empire and later the ransoming of Russian captives in Kaffa had to be carried out in silver.<sup>24</sup>

## 2.2 Terms for Dependent People in the Kievan Rus

The Kievan Rus had its center in the fine soils and relatively mild climate of what today is Ukraine. Although foreign trade had played a decisive part in the founding

<sup>19</sup> Introductory Nolte, *Kurze Geschichte der Imperien*: 121–36.

<sup>20</sup> Ian Blanchard, *Russia's 'Age of Silver'* (London: Routledge, 1989); Dariusz Adamczyk, “Friesen, Wikinger, Araber,” in *Ostsee 700 – 2000: Gesellschaft – Wirtschaft – Kultur*, ed. Andrea Komlosy, Hans-Heinrich Nolte, and Imbi Sooman (Vienna: Promedia, 2008): 32–48.; Artur Attman, *The Russian and Polish Markets in International Trade* (Göteborg: Elanders, 1973): 103–93; Jan de Vries, “Connecting Europe and Asia: A Quantitative Analysis 1497–1795,” in *Global Connections and Monetary History 1470–1800*, ed. Dennis O. Flynn, Arturo Giráldez, and Richard von Glahn (Aldershot: Edward Elgar, 2003): 35–106.

<sup>21</sup> Iwan Georgewitsch Spasskij, *Das Russische Münzsystem* (Leningrad: Aurora, 1957; Berlin: transpress, 1983). Compare A. S. Mel'nikova, *Russkie monety ot Ivana Groznogo do Petra Pervogo* (Moscow: Financy i Statistika, 1989).

<sup>22</sup> For the process see now Dariusz Adamczyk, *Monetarisierungsmomente, Kommerzialisierungszonen oder fiskalische Währungslandschaften? Edelmetalle, Silberverteilungsnetzwerke und Gesellschaften in Ostmitteleuropa 800–1200* (Wiesbaden: Harassowitz, 2020).

<sup>23</sup> Richard Hellie, *The Economy and Material Culture of Russia* (Chicago: Chicago University Press, 1999).

<sup>24</sup> De facto a constitutional tax in Muscovy. I used the following edition of the basic law code, *Sobornoe Ulozhenie 1649 Goda. Tekst. Kommentarii*, ed. A. G. Man'kov (Leningrad: Nauka, 1987). German translation: *Das Sobornoe Ulozhenie*, ed. Christian Meiske (Halle: Martin Luther Universität, 1984): chap. VIII.

of the state, Christianization, the decline of Byzantium, the rise of nomad power and the intensification of economic control over rural areas increased the importance of agriculture for the princes and the nobility – they lived less from trade and more from feudal rents. This was the economic context for the “feudal parceling” of Russia even before the Mongols conquered the country; the political one was a state owned by a dynasty which habitually divided the inheritance and competed between individual branches of the family. In the religious context, unity was preserved by the church.

The oldest codices of law in Russia were written in Novgorod Velikiy, a trade center near the Baltic Sea, which was governed by the church and the boyars, and which is referred to in the literature as a republic.<sup>25</sup> Here at the beginning of the twelfth century, citing older texts, especially of Grand Prince Jaroslav and his sons in the eleventh century, this lawbook was compiled. The texts are called *Ruskaia Pravda* – there are short and long redactions. For the edition used here thirteen manuscripts were compared.<sup>26</sup> The main content of the *Ruskaia Pravda* is the fixing of bloodwite (wergild, *virā*), but by the twelfth century many other topics had been added.<sup>27</sup>

Dependent people are called *roba*, *kholop* or *chelyadin* in the *Pravda*. *Roba* is a woman slave. Etymologically the word is derived from Indo-European \*rb, from which derive German *Arbeit* (work) and *Erbe* (inheritance), Bohemian *robotten*, and the word *rabotat'* in modern Russian. It is related to \*arb – orphaned, small.<sup>28</sup> A *roba* is a woman worker, *rab* is used for a male slave, but rarely. The usual term for male dependents is *kholop*, which most probably derives from a word meaning young man, in Ukrainian today *khlopec*.<sup>29</sup> The histories of the terms *rab* and *kholop* indicate, that (enforced or habitual) labor by young people was common in medieval times, and that young people generally were at risk of becoming dependent.<sup>30</sup> Also, as in the term “boyar’s children” for the lower nobility, age was used to define social status, and *young* quite often meant *low*. *Chelyadin* is the only word that includes both men and women. A *chelyad'* is the collective term for all those working in a master’s household. The single term for a servant is a *chelyadin*. The *chelyad'*

25 Introductory Nolte, *Kurze Geschichte der Imperien*: 51–53.

26 O. I. Chistjakov, ed., *Rossiiskoe Zakonodatel'stvo X–XX vekov v devjati tomakh*, 9 vols. (Moscow: Juridicheskaja literatura, 1984–1994): vol. 1; V. L. Janin, ed., *Russkaja Pravda. Vvedenie* (Moscow: Juridicheskaja literatura, 1984): 5–46, at 34, 45. The text of the *Prostrannaja redakcija*, 64–132 (V. L. Janin, ed., “Prostrannaja redakcija,” in *Zakonodatel'stvo Drevnej Rusi*, vol. 1, ed. V. L. Janin (Moscow: Juridicheskaja literatura, 1984): 189–298).

27 *Prostrannaja redakcija*, §§ 64–73.

28 Friedrich Kluge, s. v. “Arbeit,” “arm,” “Erbe,” in *Etymologisches Wörterbuch der deutschen Sprache*, twentieth ed. (Berlin: De Gruyter, 1967); Compare Andrea Komlosy, *Arbeit: Eine global-historische Perspektive* (Vienna: Promedia, 2014): 36–52.

29 Pushkarev, *Dictionary*.

30 Michael Zeuske, *Handbuch der Geschichte der Sklaverei*, 2 vols., 2nd ed. (Berlin: De Gruyter, 2019): 292–344.

has its own options, for instance it may decide to hide one of its number who has committed a crime, but the collective then has to pay the fine for him.

The justice system depended on the communities, but the princes extended their jurisdiction. In a case of murder, direct vengeance by family members was legal, but the Grand Princes provided the option to pay a fine instead. The bloodwite (*vira*) according to the *Russkaja Pravda*<sup>31</sup> was:

- for killing one of the prince’s leading men, 80 *grivna*<sup>32</sup>
- an ordinary man of the prince 40, *grivna*
- a merchant, an artisan or a wetnurse, 12 *grivna*
- for a man from the rank and file (of peasants), 5 *grivna*
- for a woman slave (*roba*), 6 *grivna*
- for a *kholop* 5, *grivna*

For killing a prince, no bloodwite was provided, which means that there always would be vengeance in this case. The difference in the *vira* between one of the prince’s men and a *kholop* was 16:1; that between a merchant, artisan or wetnurse and a *roba* 2:1; a *roba* is valued a little higher than a *kholop*. *Kholop* and peasant are assigned the same value. The *Russkaja Pravda* describes three kinds of full *kholops*<sup>33</sup> – 1) bought before witnesses, 2) married to a *roba* and 3) having accepted a job as *tiun* of a prince or boyar. A full *kholop* is “unfree,” he may not testify in court (except as *tiun* “if necessary”); he does not pay the fee for the prince’s judgement, but pays double the amount to the plaintiff.

The later texts in the version emphasize more defining property. According to an article that was added later,<sup>34</sup> *kholop* and *roba* no longer have a bloodwite; in case they are killed (without provocation), a fixed amount is to be paid to the plaintiff and a fee of twelve *grivna* to the prince. When a master has children with a *roba*, the mother and the children are to be set free when the master dies, but do not have any claims to his estate.<sup>35</sup> The last part of the *Pravda* is on *kholops*.<sup>36</sup> It repeats the definitions for becoming a full (*polnyj* or *obel’nyj*) *kholop*, with the obvious aim of limiting such transitions. Similarly, §111 notes what may not lead to it. The next articles describe fugitives and offer, albeit without much enthusiasm, the help of state officials in bringing them back. §116 forbids *kholops* to lend money, but §117 allows them to engage in trade in case their master agrees. §120 decrees

31 *Prostrannaja redakcija*, §§ 1–21. Since texts from different centuries have been combined into one text, there are some contradictions.

32 The Kiev-Grivna in the eleventh to thirteenth centuries was a chunk of silver of c. 260 g. Spasskij, *Das Russische Münzsystem*: 54.

33 *Prostrannaja redakcija*, §§ 63–71.

34 *Prostrannaja redakcija*, § 89.

35 *Prostrannaja redakcija*, § 98.

36 *Prostrannaja redakcija*, §§ 110–21.

that the family of a *kholog* accused of robbery shall not automatically come under suspicion, but only in case there is proof of their complicity.

### 2.3 Northern Russia after 1237

One of the results of the conquest of Russia by the Mongolian Empire in 1237 was that the southern strip of the mixed woodland wedge was returned to nomadic use and lost for agriculture. Peasants of the Rus' either emigrated westward, in the direction of Lithuania and Poland, or to the north of the river Oka. Later the Grand Princes of Moscow won the power struggle among the northern Russian princes and started gather together the "Russian lands." In the west, their territory was called Muscovy to distinguish it from the other "Russias" in Lithuania and in Poland.<sup>37</sup> At the beginning of the sixteenth century, Muscovy stretched from the Polish-Lithuanian border – quite often with Smolensk as border town – and the most eastern inlet of the Baltic Sea in the west, to the White Sea in the north, the borders of the Kazan Khanate – east of Nizhniy Novgorod – and to the upper reaches of the river Donets in the south. In the second half of the sixteenth century, Muscovy conquered the Volga valley towards the Caspian Sea and in the seventeenth century it expanded into Siberia and towards the Dnepr. Russian settlement in the new south started, but as before, the steppe mostly was used as pasture by Nogai Tatars, Kalmyks or Cossacks.

The agrarian system<sup>38</sup> of Muscovy proper was characterized by slash-and-burn agriculture. After clearing, the land could be used to cultivate buckwheat, rye, barley and oats. It was difficult to keep a cow or a horse alive through the long winter. The piece of arable land, could be used for a period of four or five years, after which new land had to be cleared; but it took about 25 years until the trees had grown high enough to render it advantageous to clear again. Peasants and settlements migrated in the wake of the land they cleared, and it made little sense to own a particular stretch of land. In order to obtain value from the peasants, a lord had to have claims against specific persons or their communities, which were autonomous organizations.

However, as population density increased, more land was being taken into constant use, and by the sixteenth century, permanent settlements and three-field crop rotation became common in Russia to the south of the upper Volga. Hay making

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<sup>37</sup> Maps can be found in *Westermanns Atlas zur Weltgeschichte*, vol. 2, ed. Hans-Erich Stier et al. (Braunschweig: Westermann, 1956): 71; Introduction Andreas Kappeler, *Kleine Geschichte der Ukraine* (Munich: Beck, 1994): 41–53.

<sup>38</sup> Introduction Hans-Heinrich Nolte, "Russische Bauern zwischen Waldeinsamkeit, Kommune und Kapitalismus," in *Unterdrückung und Emanzipation in der Weltgeschichte*, ed. Florian Grumbles and Anton Weise (Hannover: Jmb-Verlag, 2017): 127–51.

increased, which made it possible to feed more cattle through the winter and to manure part of the land. In the eighteenth century, some lords introduced four-field rotation systems or even – following the example of Holstein (which itself followed England) – “up and down husbandry” with five, six or more fields.<sup>39</sup> But three-field systems prevailed in central parts Russia till collectivization in the twentieth century, while in the peripheries shifting cultivation with slash-and-burn agriculture remained dominant.<sup>40</sup>

## 2.4 Survey of Social Groups in Rural Early Modern Russian

The fundamental social institution of the period was the fenced-in family-court or household, in which noblemen and peasants lived, *Hof* in German, in Russian called *dvor*. The term *chelyad'* was by then used only rarely, maybe indicating a loss of autonomy of the people living in a household. The *dvor* was headed by a man. An adult man – whether he was a prince or bishop, a peasant or a cottager – was the *khozjain* (master of the house) in his household. Since in this period it required a married couple to make a living as peasants,<sup>41</sup> he would marry. The internal division of labor and authority was not monopolized by the man, but the rule was that he decided outside the *dvor* and the wife inside.<sup>42</sup> Since in Russia the testator was free, women might inherit such a *dvor*, but they too would soon marry. Between 1635 and 1725, and even more between 1678 and 1721, the *dvor* also was a tax unit,<sup>43</sup> which made it profitable to have as many people living on a *dvor* as possible. A Russian household in the early modern period consisted of a collection of buildings whose size was determined by the building material (logs). The *dvor* was surrounded by a fence with a more or less beautiful gate. Husband and wife lived there with their children, unmarried relatives and possibly servants. There were three major types of agrarian settlements: (1) *derevnja* – a small village or hamlet; (2) *seló* – a village, often with the main house of a noble estate; and (3) *volost'* – the territory of a community (*mir*), this was often also where the church and the room (*izba*) of the *starosta* was. In the “black” *volosts* the members would elect the “eldest” (*starosta*) and the local judges for offenses that were tried within the village;

39 Michael Confino, *Systèmes Agraires et Progrès Agricole* (Paris: Mouton, 1969). Map in Hans-Heinrich Nolte, ed., *Der Aufstieg Rußlands zur europäischen Großmacht* (Stuttgart: Klett, 1981): 64.

40 Nolte, Schalhorn, and Bonwetsch, *Quellen zur Geschichte Russlands*: no. 3.1 description from 1790: mostly slash and burn with a four-year term, but Tatars around Kasan used a three-field system. Compare no. 3.3.

41 In the eighteenth century a couple was called quite often *tjaglo* – a yoke, invoking their capacity to carry certain work-loads together.

42 Although for an urban household compare Klaus Müller, ed., *Altrussisches Hausbuch* (Leipzig: Kiepenheuer, 1987).

43 Richard Hellie, *Slavery in Russia* (Chicago: Chicago University Press, 1982): 538.

in the *volosts* belonging to a prince or a *pomeshchik* the owner would appoint an officer for administration and local adjudication. The prosecution of murder and robbery were the monopoly of the government.<sup>44</sup> The peasants had to pay a land tax (*dan*), perform corvée labor for the noble owner (*barshchina*) and/or pay him rent (*obrok*).<sup>45</sup> The *volost'* had to collect taxes of all kinds and was liable for their payment (*krugovája poruka*); in the eighteenth century also supplying recruits.

Who was living on the land in what conditions in the sixteenth century?

From the state's point of view there were "black people" (*chernye*) paying full taxes, and "whitened people" (*belomestnyj* in Moscow) who paid less tax, since they gave *barshchina* or *obrok* to either a church institution or to a noble landowner. A village (*seló*) belonging to the Grand Prince may serve as a micro example (1543/4).<sup>46</sup> In this village there were three untaxed households (two priests who served two churches and one deacon), 75 taxed peasant households (*vytye*) plus 26 untaxed ones (*nevytye*). The taxable unit was named *sokhá* – that is a light plow. Officially, untaxed land had been cleared only recently. The ratio between arable and grazing land to be worked for the landowner (*barshchina*) and the fields the peasants could use for themselves was about 1:2, if hamlets were included, it was 1:3. Remote hamlets paid their dues in monetarized form (*obrok*), but in this village also those in the center had to contribute some smaller dues, for instance for "the goose, the cock, the eggs," in that form. Obligations in kind were changed to money.

There were two kinds of property rights of the nobility:<sup>47</sup> (1) *Votchina* – an inherited estate. Many were part of a family inheritance and were passed on when a branch of the family died out. It could be sold only if the family agreed. There were also *votchinas* belonging to individuals, which could be sold freely. In western Europe this would be called an allodium. (2) *Pomest'je* – an estate given by the Grand Prince or a church institution to a nobleman on the condition of service. The Western European equivalent would be a *feudum* (*fief*). This of course could not be sold – until the Russian allodification of *pomest'ja* during the reign of Anna.

For a peasant, there were two kinds of property rights within a *volost'*. He owned his household, his tools and his land (either by clearing or in the three-field rotation system). Politically, the *volost'* was made up of the *khozjain's*. As members of the *volost'*, peasants owned the forests, lakes and rivers communally. In this period there was no periodic redistribution of the arable land; the romantic concept of

<sup>44</sup> Nolte, Schalhorn, and Bonwetsch, *Quellen zur Geschichte Russlands*: no. 2.18.

<sup>45</sup> A list of the distribution in 1780 can be found in Nolte, Schalhorn, and Bonwetsch, eds., *Quellen zur Geschichte Russlands*: no. 3.2.

<sup>46</sup> Nolte, Schalhorn, and Bonwetsch, *Quellen zur Geschichte Russlands*: no. 2.1.

<sup>47</sup> Hans-Heinrich Nolte, "Eigentumsrechte im Moskauer Rußland," in *Rechts- und Verfassungsgeschichte in Mittelalter und Früher Neuzeit: Gedenkschrift Joachim Leuschner*, ed. Katharina Colberg et al. (Göttingen: Vandenhoeck & Ruprecht, 1983): 226–44.

“archaic socialism” in Russia is not confirmed by the sources.<sup>48</sup> The redistributive commune was instituted in the eighteenth century only<sup>49</sup> (for better control of the peasants and to keep the poor from running away).

There were different statuses for the agrarian population; starting at the top:

1. Nobility living on the land: princes (*knjaz*), high nobility (*boyar*) or low nobility (*deti boiarskie*).
2. Clergy (with their own justice system, as in the western church).
3. Officials of big landowners (*tiun'*, or even *kholop*)
4. *Starozhilec* – a peasant who has lived in one community for a long time
5. *Novoporjadchik* – a newly settled peasant. He accepted service with a landowner for a sum of money and might become *starozhilec*
6. *Polovnik* – “peasants who owned a half” of the soil needed for farming
7. *Bobyl* – cottager, landless peasant
8. *Kholop* – could fall into several different categories:
  - 8.1 *Starinnyj* (old) – inherited
  - 8.2 *Kuplennyj* – bought
  - 8.3 *Polnyj* – full or *dokladnyj* – by official act –
  - 8.4 *Kabalnyj* – *kabalá* was a written acknowledgement of debt. We may systematize three kinds of *kabalnyj kholop*:
    - 8.4.1 *zajèmnaja* – which was simply a certificate of debt
    - 8.4.2 *sluzhilaja* – agreement to serve for time instead of paying
    - 8.4.3 *polnaja, kholopskaja* – agreement to serve for life

In rural areas, *kabalnye* and *kholops* might live within the households of estate owners and work as servants performing domestic tasks (cleaning, cooking, sewing, heating etc.), but also clerical ones. They might live “behind the estate” (*zadvornye*) in their own houses and work estate land. They might even be put into autonomous positions with their own households, for instance in fights for land against other estate owners or *volost's*.

9. The ninth group of people living in rural areas were children, unmarried men and women living within the households of *khozjains*. Although most probably there were many individual differences within this group, we might find those who endured the worst living-conditions – sleeping in the ashes and not on top of the oven (as the tales about Cinderella indicate).

We have to keep in mind though that all these people of different statuses were Orthodox Christians. They were obliged to attend church on Sundays, go to confession and receive Holy Communion at least once a year. In moral and

<sup>48</sup> Carsten Goehrke, *Die Theorien über Entstehung und Entwicklung des mir* (Wiesbaden: Harrassowitz, 1964).

<sup>49</sup> Nolte, Schalhorn, and Bonwetsch, *Quellen zur Geschichte Russlands*: no. 3.67, 3.73.

intellectual matters, they were tried by the church, as well as in all cases of adultery, magic and sorcery. They enjoyed a Sunday rest that started on Saturday a 3.00 pm, and of course quite a number of feast days.<sup>50</sup> Orthodox parishes before Peter I were small, everybody knew everybody.

10. Outside of the church there was the tenth group of people living in rural areas:<sup>51</sup> This was the non-Orthodox nobility (from the fifteenth century onwards, this group included Muslim Tatars and animistic “elders” or Mordva and Cheremiss “bestmen”; from the sixteenth century onwards they were Latin Christians – soldiers from Scotland and Switzerland, artisans from Italy and Germany etc.; and from the eighteenth century onwards they were members of the Finnish-Swedish and Baltic German Protestant nobility), but also Muslim and Jewish, Catholic and Protestant prisoners of war and *Iasyry*. As a rule, these different religious communities had their own places of worship (mosques, temples etc.) and their own parish-like organizations.

Sometimes the lack of a right to relocate is seen as defining a slave. But in reality, only few people in the Russian countryside were free to leave. A *votchinnik* had to live on his *allod*, unless he inherited another. A *pomeshhik* had to live on his *po-mest'e*, unless he was given another. Both had to follow the call to arms and go to war at whatever frontier – they could go elsewhere, but not follow their own free will. A clergyman had to live at the post assigned to him by his bishop. In case his wife (Orthodox parish priests have to be married) died or went into a convent, he could also ask to join a monastery. The *starozhilec*, the settled peasant, was rather an exception. However, even his right to leave the land was limited to two weeks a year in 1497, and it was laid down that when leaving he had to give one ruble to the lord, or in his absence nail it to the gate of the farmstead. The *novoprojadchik* could have the same right, as soon as he had paid back the sum given him by the lord for establishment of his *dvor*. A *kholop* had no right to choose his place of living and laboring.

During the sixteenth century the nobility fought to limit the right of peasants to leave, and during some years migration was forbidden. Then there would be a search for those who changed their lords or went into the forest.<sup>52</sup> In the *Ulozhenie*

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<sup>50</sup> *Sobornoe Ulozhenie*, chap. X, §§ 25–26.

<sup>51</sup> For the religious aspect see, Hans-Heinrich Nolte, *Religiöse Toleranz in Rußland 1600–1725* (Göttingen: Muster-Schmidt, 1969); Nolte, “Verständnis und Bedeutung der religiösen Toleranz in Rußland,” *Jahrbücher für Geschichte Osteuropas* 17 (1969): 494–530. For ethnic aspects see, Andreas Kappeler, *Russlands erste Nationalitäten: Das Zarenreich und die Völker der Mittleren Wolga vom 16. bis 19. Jahrhundert* (Cologne: Böhlau, 1982); Kappeler, *Russland als Vielvölkerreich* (Munich: Beck, 1991); English version: Andreas Kappeler, *The Russian Empire: A Multi-ethnic History* (London: Routledge, 2001).

<sup>52</sup> Nolte, Schalhorn, and Bonwetsch, *Quellen zur Geschichte Russlands*: no. 2.24.

of 1649 the peasants lost the right to leave the land and were made *krepostnyj* – tied to the soil,<sup>53</sup> or rather to a certain village community. After the *starozhilcy* and *novoporjadchiki* had lost their right to leave, the differences between them and the *polovniki* and *bobyli* became less important and they were increasingly subsumed together in the status of *krest'jane*. Most peasant families over the centuries experienced a deterioration of their status from free (black) to dependent people (white). In the literature the social reason given for tying peasants to the soil is that the lower nobility wanted it, as warfare had developed into a full-time occupation, and those fighting could no longer work the fields to feed their families. But peasants might run away, and big landowners, especially the clergy, were able to offer better conditions to peasants than owners of small estates. But there was also an economic argument: as noted above, the move to agriculture in permanent settlements was more expensive and required more specialized labor. The practice of free movement went well with slash and burn, but not so much with three-field rotation systems. Last but not least, the costs of control in (comparatively) densely settled regions were less than in wooded ones. Incidentally, all persons, *kholops* included, were free to visit even far-off towns and markets. Legally, however, leaving their places of residence was difficult, if not impossible, for most of these groups.

But the enormous territory of Russia simply invited men and women to explore their possibilities in another place. Legally, only few people were allowed to change their places of residence, but in reality there was considerable, albeit illegal, movement. Running away (*begstvo*) was the only way by which a *kholop* could achieve some freedom, and more than a quarter ran away at some time or another.<sup>54</sup> Tying them to the soil increased *begstvo* by peasants. After the schism (*raskol*) of the seventeenth century, a new group was added: the Oldbelievers who fled religious persecution.<sup>55</sup> “Living on the run” was also quite common in the eighteenth century.<sup>56</sup> Running away was, indeed, part of the continuous expansion of Russia. After conquering the Volga khanates and building defense lines (*sechki*), in the seventeenth century, Russian, Mordva and Tatar peasants went south. Such groups – people fleeing for social or religious reasons – also formed the initial waves of Russian settlements.<sup>57</sup> Not a few of them lived on the other side of the *sechki*, and other

53 Nolte, Schalhorn, and Bonwetsch, *Quellen zur Geschichte Russlands*: no. 2.25.

54 Hellie, *Slavery*: 552.

55 Nolte, *Religiöse Toleranz*: 122–81. The government was not able to control this flight: Hans-Heinrich Nolte, “Die Reaktion auf die spätpetrinische Altgläubigenbedrückung,” *Kirche im Osten* 19 (1976): 11–28.

56 Andrey Gornotaev, “Living ‘on the run’ in Eighteenth Century Russia,” paper presented at the conference “Slavery, Captivity and Further Forms of Asymmetrical Dependencies in Early Modern Russia,” hosted by the Bonn Center for Dependency and Slavery Studies (BCDSS), September 26–27, 2019.

57 Hans-Heinrich Nolte, “Migrating in Tundra and Taiga: Russian Cossacks and Traders in Siberia and Alaska,” in *Bevölkerungen, Verbindungen, Grundrechte: Festschrift Jean-Paul Lehnert*, ed. Norbert Franz, Thomas Kolnberger, and Pit Péporté (Vienna: Mandelbaum, 2015): 165–75.

frontiers – Oldbelievers in Livonia, Poland, the lower Donets and Caucasia,<sup>58</sup> hunters and fishermen on the American west coast, possibly as far as Seattle.<sup>59</sup>

## 2.5 *Kholops* in the Fifteenth and Sixteenth Centuries

For research on Russian terms for dependent people and the problems of translation I use a contemporary dictionary<sup>60</sup> as well as Pushkarev's Dictionary of Russian Historical Terms.<sup>61</sup> I read editions of the sources, which lend themselves to this work because they have an index of terms. Mostly the texts used are church and state records; but since the nobility used monasteries as repositories, there are also some private documents. I will cite AFZCh<sup>62</sup> and ASEI<sup>63</sup> by the numbers of the documents. The typical word for dependent people in these volumes is *ljudi* – “Leute” in German, “people” in English. *Rab* is still being used, as is *kholop*, but there are more than 50 forms of *ljudi* (*ljudi polnye, monastyrskie, knjazhie, ljudi votchinnikov* = belonging to a monastery, a prince, an estate owner . . .) We cannot read all *ljudi* as *kholops*; there are also *volostnye* (members of a *volost*). The semantic field ranges from *sluzhilye ljudi v pomest'e* – low nobility<sup>64</sup> – to *polnye ljudi*,<sup>65</sup> who were full property and could be bequeathed, as they were by *knjaz* (prince) Andrej F. Golenin to his family in 1482.

<sup>58</sup> Nolte, *Religiöse Toleranz*: 141–42.

<sup>59</sup> Nikolai N. Bolkhovitinov, *Rossija otkryvaet Ameriku 1733–1799* (Moscow: Mezhdunarodnye ot-noshenija, 1991): 180–81. Report of the Russian Ambassador in Spain 1789, excerpt in Hans-Heinrich Nolte, ed., *Geschichte der USA*, part 1 (Schwalbach am Taunus: Wochenschau, 2006): 109–10. Bolkhovitinov argues, however, that the Spanish captain erred by 10 degrees in determining the location of these Russian settlements. Lydia Black, *Russians in Alaska* (Fairbanks: Alaska University Press, 2004): 79–99, at 95, does not mention Russian settlements that far south. In case they existed and were Oldbelievers, they would have tried to present an official appearance to the Spanish military, and then attempted to hide farther away.

<sup>60</sup> German translation in *Dictionarium Vindobense*: Gerhard Birkfellner, ed., *Teutscher, und Reussischer Dictionarium* (Berlin: Akademie, 1984). This is an edited MS from the late seventeenth century from the Trinitarian monastery in Vienna, Alsergrund, founded 1688 – “Ordo Sanctissimae Trinitatae Redemptionis Captivorum” – in Austria called Weißspanier. Members of the order travelled in Muslim countries and bought enslaved Christians. To negotiate with the owners, the monks needed to know the social status of the slave back home. Today, the monastery is owned by the Friars Minor Conventual.

<sup>61</sup> Pushkarev, *Dictionary*.

<sup>62</sup> Lev V. Cherepnin and Aleksandr A. Zimin, eds., *Akty feodal'nogo zemlevladienija i chozjajstva XIV – XVI vekov* [following AFZCh], part 1–2 (Moscow: Izdatel'stvo Akademii Nauk, 1951–1956). Part 1: Documents on land owned by the Metropolitan or Patriarch of Moscow in different parts of the country, dated between 1390 and 1602; part 2: 428 records of the Josifo-Volokolamsk Monastery, mid-fifteenth century to 1612, including secular documents kept in the monastery.

<sup>63</sup> Boris D. Grekov, ed., *Akty social'no-ekonomicheskoj istorii Severo-vostochnoj Rossii konca XIV: nachala XVI v.* [following ASEI], vol. 1–3 (Moscow: Izdatel'stvo Akademii Nauk SSSR, 1952–1964).

<sup>64</sup> Cherepnin and Zimin, AFZCh, part 2, no. 62.

<sup>65</sup> Cherepnin and Zimin, AFZCh, part 2, no. 15.

My example is the term *kholop*.<sup>66</sup> I translate it as “indentured servant.” The semantic field of the term is very broad; not differing very much from *ljudi* in this regard. Some of these – *kholops* for life – lived in conditions which may not have been very different from slaves in other societies,<sup>67</sup> while others were members of the lower nobility. In the selected two editions of church records between 1390 and 1612 the term *kholop* is used: To enumerate *kholopy i roby* with their families in last wills, for instance that of Vasilij Borisovich (Tuchka-Morozov) from 1497. Some are recorded with their occupations, such as stable master, falconer, cook, German cook, bootmaker, tailor, carpenter etc. Some are Tatars, of whom some also have their occupations listed. Especially noted are *stradniki*, which term the editor explains as *kholops* working in *barshchina*; we may conclude that the *kholops* for whom no occupation was given were peasants working on *obrok*. Vasilij willed a considerable economic organization, including the workers, to his sons: a noble estate.<sup>68</sup> As was customary in a will, Vasilij manumitted a considerable group of *moj kholopy i roby* – he “let them go into freedom.”<sup>69</sup> In another will, a *roba* who had provided sexual services to the lord is set free.<sup>70</sup> D. G. Pleshcheev, a member of the lower nobility, in 1558/9 freed in his will “my prisoners from Kazan and Germany, men and women and boys and girls” – not *kholops*, but prisoners of war.<sup>71</sup> In many wills *kholops* are listed as fugitives. They are mentioned by their names and the heirs are enjoined to search for them.<sup>72</sup> *Kholops* are named as autonomously laboring on farms – peasants in the socioeconomic meaning – of a princess and two princes.<sup>73</sup> It is accepted as an argument in court that *kholops* stole documents. This shows that some were employed in the administrations of estates in the tradition of the *tiun*.<sup>74</sup> A nobleman could be a *kholop*. Ivan Voronin gave himself up as *kholop* to princess Ofrosyna and received a *volost*. As *kholop* he was removed from the list of heirs to his family’s *votchina*. When the other branch of the family who owned the *votchina* died out during the plague, the children of Ivan wanted to inherit the

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66 *Dictionarium Vindobenense*: Leibeigener Diener/ LeybEygen/ Scklave; Pushkarev, *Dictionary*: A male slave. My translation to German: Knecht, Diener, dabei für polnyj kholop: leibeigener Knecht; to English for Muscovy: bondsman, indentured servant.

67 Hellie, *Slavery*; Introductory Hans-Heinrich Nolte, “Kholopen,” in Jäger, ed., *Enzyklopädie der Neuzeit*: vol. 1, 543–44.

68 Grekov, *ASEI*, vol. 1, no. 612; citation p. 523: *svoikh ljudej kholopov i rob*.

69 Grekov, *ASEI*, vol. 1, no. 612; citation p. 524: *tekh vsekh ljudej otpustil na slobody*. Similar Cherepnin and Zimin, *AFZCh*, vol. 2, no. 15, 172, Grekov, *ASEI*, vol. 1, no. 67, 67a.

70 Grekov, *ASEI*, vol. 1, no. 67a, in case I interpret *zhonka moja polnaja* adequately.

71 Cherepnin and Zimin, *AFZCh*, vol. 2, no. 274, citation 281.

72 Cherepnin and Zimin, *AFZCh*, vol. 2, no. 15.

73 Cherepnin and Zimin, *AFZCh*, vol. 3, no. 15, 1036.

74 Grekov, *ASEI*, vol. 3, no. 105, 521.

family *votchina*. At first they were rejected, but Ivan Vasilevich (in this record he used the title *tsar*) in 1474 granted them the privilege to buy the *votchina* back.<sup>75</sup>

As noted in the *Pravda*, a free man who marries a *roba* becomes a *kholop*, but a 1511 change to the law allows a *kholop* to marry a free woman who remains free. The children from this union were to be divided – boys to follow the father’s status, girls their mother’s.<sup>76</sup> In Novgorod Velikiy, *kholops* were not admitted to testify as witnesses, except in cases within their group.<sup>77</sup> It was a sin to kill a *kholop*, but Moscow granted as privilege to the Dvina lands that such cases should not come before the governor (*namestnik*).<sup>78</sup> Flight was an established custom.<sup>79</sup> Fugitives were sometimes hidden by other estate owners.<sup>80</sup>

### 2.5.1 The Lists of Djak Dmitrij Alab’ev

At the end of the sixteenth century, the central government in Moscow ordered a new registration of all *kholops* in the territory of Novgorod Velikiy, which had been annexed more than one hundred years earlier (1478). In 1597/1598, the Djak Dmitrij Aljab’ev from Novgorod took notes from all records which the owners of *kholops* presented, and also noted down the history of the *kholops*’ families up to his time. The handwritten books in which he collected the notes have not been preserved, but there are copies in other collections.<sup>81</sup> As a rule the texts<sup>82</sup> have been copied from older documents, some from the last decades of independent Novgorod. The Djak created a register of *kholops* in Novgorod Velikiy, and “*kholops*” is used in a couple of records. In all records though the term *v polnicu* is used. I translate this as “bought into full service,” which might correspond to *polnye ljudi*, but that term is only rarely used. In most cases it is noted that the *kholop* sold himself. Aljab’ev, the compiler of the list, does not give the reasons either why a person sold themselves and or their children, or why another bought them. He is only interested in “full” *kholopstvo*.

For almost all *kholops* in this register the names of their family members are given –of husbands, wives and children. In most cases we find “family trees,” as it

<sup>75</sup> Grekov, *ASEI*, vol. 1, no. 282.

<sup>76</sup> Grekov, *ASEI*, vol. 3, no. 242. This does seem to be an exception, see below Grekov, *ASEI*, vol. 3, no 410, 439.

<sup>77</sup> “Novgorodskaja Sudnaja Gramota,” in Chistjakov, ed., *Rossiiskoe zakonodatel'stvo*: vol. 1, 306.

<sup>78</sup> There were regional court systems (*guby*) where cases were heard – but only those brought before them. The main point here is that Moscow would not ask for fees in such cases.

<sup>79</sup> Cherepnin and Zimin, *AFZCh*, vol. 2, no. 15, 16.

<sup>80</sup> Grekov, *ASEI*, vol. 3, no. 357.

<sup>81</sup> For the history of the texts see N. A. Golubcov, “O novgorodskikh zapisnykh knigakh starym krepostjam na kholopov d’jaka D.i M. Aljab’eva 1597–98 gg.,” in Grekov, *ASEI*, vol. 3, no. 410–11.

<sup>82</sup> Grekov, *ASEI*, vol. 3, no. 392–462.

was the object of the questioning to prove or disprove that the *kholops* in 1598/1599 in Novgorod Velikiy were descendants of *kholops* who had entered into this status legally. People selling themselves and their families *v polnicu* did so initially with the formula “by their own will” (*po svoej vole*). After 1485<sup>83</sup> the formula is no longer used. Until the annexation by Moscow many bought and sold “without bailiff” (*bez pristava*); after 1478 most bought with a bailiff. Other purchases were considered legal when the person was bought from another citizen (this is only a minority of the cases).

Peasants living in rural areas sold themselves by giving the key to their farmstead to their new master. In the late fifteenth and early sixteenth centuries the records show an increase in buying (and selling) of peasants together with their farmsteads in some hamlets. Novgorod families, such as the Novotschonok or Muravev, increased not only the number of their *kholops* but also their influence over the soil in competition with the *obshchina*. The handing over the key to one’s own farmstead symbolized such selling and buying. A text from 1507<sup>84</sup> seems to indicate that the term “he gave his key” developed into a transaction formula and was used without the acquisition of property rights in a hamlet, while the term *v polnicu* was less used. If we correctly interpret these changes in formula and procedure, it means that after the annexation of Novgorod Velikiy by the Grand Prince of Moscow the persons bought and sold (mostly by themselves) lost social presence or standing. Taking the formula at face value, after the annexation it was no longer necessary for those who sold themselves and their families to testify that they did so of their own free will.

In almost all of these family trees we find considerable numbers of fugitives: flight was a common option for the *kholops* at least of the north-west of Russia. Even in case a master knew where his runaway *kholop* lived, he did not always decide to spend the means to get him back.<sup>85</sup> Most of these *kholops* cost about one ruble, only a few cost two.

We find cases of a free man going into *kholopstvo* in order to marry a *kholop* woman,<sup>86</sup> and of a woman becoming *roba* to marry a *kholop* man.<sup>87</sup> After 1460, we have the case of the wife of a tailor (*zhonka*) being sold together with her three daughters “of her free will,” but without her husband, for six rubles for the four of them.<sup>88</sup> In 1490 Ivan Fedorov syn Novokshonov bought the *zhonka* Orenka and her

<sup>83</sup> The last one being Grekov, *ASEI*, vol. 3, no. 416.

<sup>84</sup> Grekov, *ASEI*, vol. 3, no. 453.

<sup>85</sup> Which even was the case for big estate owners, see the excerpt from the list of fugitives of Trinity Monastery in Nolte, Schalhorn, and Bonwetsch, *Quellen zur Geschichte Russlands*: 62–63.

<sup>86</sup> Grekov, *ASEI*, vol. 3, no. 410.

<sup>87</sup> Grekov, *ASEI*, vol. 3, no. 439.

<sup>88</sup> Grekov, *ASEI*, vol. 3, no. 400. The exact date is not known.

daughter; again we are not told about the fate of her husband.<sup>89</sup> It is noted that both women are married, and marriage in the Orthodox Church in this period is indissoluble. Can we conclude that the women were indebted from their own business, and were able to sell their daughters (not their sons) into *kholopstvo* to make up for the debt? Further research is necessary.

Women might own *kholops*, usually by inheritance as noted above, but also by purchasing them.<sup>90</sup> Tatjana Gordeeva in 1510 sold her son, his wife and their son for four rubles, again to a member of the Novokshonov family.<sup>91</sup> While many buyers had third names like Novokshonov (family names), many sellers or those being bought only had two (Christian name and patronymic). A buyer 1499 is listed with his patronymic in both the modern (Nikiforovich) and the older form (Nikiforov syn).<sup>92</sup> Also a considerable number of the names of both sellers and buyers do not sound Slavic. In a couple of cases “cheremis” and “mordva” form part of the names. I assume that these and others belonged to the Finno-Ugric population of the region, which today lives in autonomous republics. Also in other regions (Ingria) some used their Finno-Ugric tongues until the twentieth century.<sup>93</sup>

### 2.5.2 Summing Up for the Fifteenth and Sixteenth Centuries

The word most frequently used for dependent people in north-western Russia in the fifteenth and sixteenth centuries was *ljudi*, and the semantic field stretched from low nobility to persons fully owned by someone. The semantic field of *kholop* in a comparable way extended from a nobleman serving a princess to an actual servant. The terms changed though in the late sixteenth century. The Djak Al’jabev put together a list of *kholops* in Novgorod Velikiy in 1598 to control the usage of that term. In all records the term *v polnicu* (bought) is used— in most cases the person had sold themselves – “into full service.” People selling themselves and their families into full service did so in the beginning with the formula “by their own will.” After the annexation by Moscow that formula fell out of use.

Women could own and buy *kholops*, and female members of the princely families might accept noblemen as *kholops*, but a husband could sell himself and his

<sup>89</sup> Grekov, *ASEI*, vol. 3, no. 422. The easiest solution would be, that the husbands not noted in no. 400 and 422 had died.

<sup>90</sup> Grekov, *ASEI*, vol. 3, no. 415.

<sup>91</sup> Grekov, *ASEI*, vol. 3, no. 459.

<sup>92</sup> Grekov, *ASEI*, vol. 3, no. 442.

<sup>93</sup> Later than main Russian settlement and Russification-processes since the eighteenth Century, but still show the diversity of ethnic groups the maps in S. I. Bruk and V. S. Apenchenko, eds., *Atlas narodov mira* (Moscow: Glavnoe Upravlenie Geodezii i kartografii, 1964): 14–15, 18–25; for a brief sketch see Nolte, *Geschichte Russlands*: 410. Compare Imbi Sooman, “Sprache, wofür stehst Du wirklich,” in Komlosy, Nolte, and Sooman, eds., *Ostsee*: 174–96.

family into *kholopstvo*. *Kholops* might have responsible and autonomous roles like promoting the interests of their lords in land or keeping records. They could own property – for instance money. At the end of the fifteenth and beginning of the sixteenth century the records show (for Novgorod Velikiy) an increase in buying (and selling) peasants complete with their farmsteads in some hamlets, which also gave the local lord influence in these hamlets. The formula used was “to give the keys” to the lords. To run away – *begstvo* – was common and is mentioned in many of the documents consulted.

## 2.6 *Kholops* in the Seventeenth and Eighteenth Centuries

The government, instigated by the church, promoted the limitation of *kholopstvo* and discouraged the charging of interest – in the words of the *Sudebnik* (law code) of 1555 (called *Stoglav*), “so that the peasants will stay and the villages will not fall empty.”<sup>94</sup> The aim of Alyab’ev’s work in Novgorod Velikiy 1589 fits in with that policy – registering also was an instrument to prevent free persons from falling into *kholopstvo* without control. But during the crisis of the *Smuta* the number of dependent persons increased, and during the seventeenth century *kholopstvo* was an important social status: the second most dependent group of people in Russia (only the *jasyry*, prisoners of war, were even more dependent).<sup>95</sup> From the middle of the sixteenth century onwards there existed a special *Kholopij Prikaz*<sup>96</sup> (a government department), where *kholops* had to be registered.<sup>97</sup> Their social and legal statuses could differ widely, from servants for a specified, limited time to *kholops* being born into dependency.<sup>98</sup> All legally free people of Russia, high and low nobility, servants (*sluzhilye ljudi*) of all ranks, merchants and artisans (*posackie ljudi*), as well as peasants and even *kholops* themselves, could own the labor of a *kholop*, whether for a specified number of years or an unlimited time. The duration of limited *kholopstvo* was measured in years.

<sup>94</sup> § 76 of the *Sudebnik* of 1555 required from all clerics and advised all lay people not to take interests from peasants (*chtoby za nimi christijane byli, i sela ikh ne byli ne pusty*). A. D. Gorskiy, “Stoglav,” in Chistjakov, ed., *Rossijskoe zakonodatel'stvo*: vol. 2, 242–500, citation 354.

<sup>95</sup> Hans-Heinrich Nolte, “Jasyry: Non-Orthodox Slaves in Pre-Petrine Russia,” in *Eurasian Slavery, Ransom and Abolition in World-History 1200–1860*, ed. Christoph Witzenrath (Farnham, Surrey: Ashgate, 2015): 247–64.

<sup>96</sup> There are different forms of writing this name.

<sup>97</sup> Vladykina et al., eds., *Gosudarstvennost' Rossii*: vol. 4, 384–85; Grigorij Kotoshikhin, *O Rossii v carstvovanie Alekseja Mihajlovicha*, ed. Aleksandr Barsukov (Sankt Peterburg: Imperatorskaja Arheograficheskaja Kommissija, 1906): 113.

<sup>98</sup> Kotoshikhin, *O Rossii v carstvovanie Alekseja Mihajlovicha*: 113: *dvorovye, kabalnye, danye, zapisnye*. And also debtors for a period, in which they were supposed to work of their debts, as *slugi*.

Richard Hellie in his fundamental research referred to *kholops* as “slaves.”<sup>99</sup> He used two registers dated 1597 and 1603 respectively, which together listed 5,575 *kholops*, of whom about two thirds had sold themselves, more than one tenth had become the property of their masters by gift or inheritance, one twentieth was born into *kholopstvo* and only 148 became *kholopy* by captivity. In the remaining cases, it was not possible to clearly establish their former status. In Hellie’s words, “most of Muscovy’s slaves were natives.” However, he did not use the special lists kept for prisoners of war.<sup>100</sup> The history of these ethnically, socially and in most cases religiously differing groups is yet to be researched.

From the cases handled in the *prikaz* during the seventeenth century and selected for publication by Iakovlev, only Orthodox people appear, although some names or definitions (like *murza*, *batrak* or *tatarka polona*) hint at non-Orthodox family backgrounds.<sup>101</sup> In cases analyzed by Paneiakh, we find “he was prisoner” given as the reason for giving oneself into *kholopstvo*, but obviously these were Russians who had been captive in Poland or the south.<sup>102</sup> The legal position was defined in §119 in chapter 20 of the *Ulozhenie* legal code.<sup>103</sup> The code begins by forbidding members of the lower nobility (*deti bojarskie* without *pomest’e*) to become *kholops* of *boyars*, but legalizes earlier such acts. Peasants or cottagers who run away and ask to be taken as *kholop* by other masters are to be sent back. The *Kholopij Prikaz* has to ensure that *kholops* freed by a will really are set free “even if children, brothers or officers do not let them go of their own free will.”<sup>104</sup>

There was no limit to the daily labor of *kholops*, except for those established by the Church with Sunday rest, daily prayers, Lent etc. *Kholops* were entitled to food and to marriage, but the lord could decide who they were to marry. As mentioned above, marriages were not dissoluble.<sup>105</sup> Children of mixed marriages were assigned to the lower status. In legal matters *kholops* counted as subjects, admitted to the oath and heard in the *Kholopij Prikaz*. They were able to successfully oppose being forced into *kholopstvo*.<sup>106</sup> The killing of a *kholop* was considered murder, but a difference was made: in case a *kholop* killed his master he was to be sentenced to

**99** Hellie, *Slavery*: 356–58. Cf. generally: 82–83.

**100** Vladykina et al., eds., *Gosudarstvennost’ Rossii*: vol. 4, 384.

**101** “Dokumenty: Tjazhby po kholop’im delam,” in *Kholopstvo i kholopy v Moskovskom gosudarstve XVII veka*, ed. A. Iakovlev (Moscow: Izdatel’stvo Akademii Nauk, 1943): 323–27, 401–14, 496–512. For the time before Aleksandr A. Zimin, *Kholopy na Rusi (s drenejshikh vremen do konca XV v.)* (Moscow: Nauka, 1973).

**102** V. M. Panejakh, *Kholopstvo v pervoj polovine XVII v.* (Leningrad: Nauka, 1984): 80–86, 124–25; Panejakh, *Kholopstvo v XVI-nachale XVII veka* (Moscow: Nauka, 1975).

**103** *Sobornoe Ulozhenie*, chap. XX, 103–17; commentaries 309–53.

**104** *Sobornoe Ulozhenie*, chap. XX, § 14.

**105** *Sobornoe Ulozhenie*, chap. XX, § 62.

**106** Iakovlev, *Kholopstvo*, 513–62; Hellie, *Slavery*: 540–53.

death “without mercy” – meaning he or she was to be tortured heavily.<sup>107</sup> A *kholop* had “honor” and was entitled to one ruble of compensation in case his honor was offended; a *kholop* woman to two rubles.

Children could be born into unlimited *kholopstvo*.<sup>108</sup> The work of an indentured man-servant was fixed at 5 rubles a year, children of such *kholops* added by their work to repaying the indebted sum (for children above 10 years fixed at 2 rubles a year).<sup>109</sup> In this way the repayment by labor of a fixed debt was regulated. Children could also be given into temporary *kholopstvo* by free parents.<sup>110</sup> As noted above, the etymology of the terms for dependency indicates that youth and labor had been traditionally connected. It was normal for children to work in early modern Europe,<sup>111</sup> and they learned their trades by working alongside their parents.<sup>112</sup> Giving (or even selling) children into service also was not uncommon: for instance in southern Germany children of poor parents, mostly from Austria, were usually procured through markets. The parents expected their children to bring back some cash when they returned.<sup>113</sup> But only in regions with bonded labor (in Germany, these were most regions to the east of the river Elbe)<sup>114</sup> was it possible to be born into bondage; this was also true for some of the *kholops*. Iakovlev found that prices for *kholops* in Novgorod between 1593 and 1609, from children to adults, varied between one and five rubles.<sup>115</sup> Hellie found that prices varied between four rubles for someone who had learned a clerical trade, and two for a beggar.<sup>116</sup> Comparing these prices with the sums they were entitled to receive in case their honor was offended, or the sum of two rubles a year prescribed for the labor of a youngster, it appears that the low price for *kholops* reflected the limitations there were for their uses.

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**107** *Sobornoe Ulozhenie*, chap. XXI, § 80. As this chapter shows, the Russian justice system (like the Western ones in this period) depended on torture, but obviously *kholops* were tortured sooner in higher degrees. For the history of torture in Russia see Evgenij Anisimov, *Dyba in knut* (Moscow: Novoe Literaturnoe obozrenie, 1999).

**108** Or even divided between two owners of one married couple Smith, *Enserfment*: no. 48; *Sobornoe Ulozhenie*, chap. XX, § 5 regulates, that children born before their parents became *kholops* are free, from which follows, that others are unfree. The commentary on page 312 notes, that this § is a transfer from the *Sudebnik* of 1550.

**109** *Sobornoe Ulozhenie*, chap. XX, § 40.

**110** *Sobornoe Ulozhenie*, chap. XX, § 45.

**111** Maria Papatthanasies, “Kinderarbeit,” in Jäger, ed., *Enzyklopädie der Neuzeit*: vol. 9, ll. 553–57.

**112** For children in Russia see B. N. Mironov, *Social'naja istorija Rossii (XVIII–nachalo XX v.)*, 2 vols. (Sankt Peterburg: Dmitrij Bulanin, 1999): vol. 1, 233.

**113** Roman Spiss, “Tiroler und Vorarlberger ‘Schwabenkinder’ in Württemberg, Baden und Bayern von der Frühen Neuzeit bis zum Ersten Weltkrieg,” in *Enzyklopädie Migration in Europa*, ed. Klaus J. Bade et al. (Paderborn: Schöningh & Fink, 2007): 1036–39.

**114** Comparative overview Christoph Schmidt, *Leibeigenschaft im Ostseeraum* (Cologne: Böhlau, 1997).

**115** Iakovlev, *Kholopstvo*: 60–65.

**116** Hellie, *Slavery*: 366.

In my opinion, the term “slaves” is misleading for research on *kholops*.<sup>117</sup> However, my suggestion to translate it as “indentured servants” does not quite fit the perhaps 15% (around 1600 persons) born into *kholopstvo*, although this percentage was decreasing. A historian of Russia, used to making terminological differences between research publications and those aimed at a wider public, may accept the use in a global history of slaveries,<sup>118</sup> but the difference should be noted.

The most obvious desideratum is research on the non-orthodox and non-Russian part of the servant population,<sup>119</sup> starting maybe with searching the archive for the lists of prisoners of different kinds.<sup>120</sup> This research requires historians trained in the history of Islam and especially the Tatar khanates and settlements between the rivers Wisla and Yenissey.<sup>121</sup>

## 2.7 Future Directions for the Russian Empire

When the tsardom was transformed into an empire, the status of *kholop* was abolished.<sup>122</sup> In 1704, the *Kholopij prikaz* was closed.<sup>123</sup> In 1713 it was decreed that both peasants and *kholops* had to pay the same amount of poll tax, and to supply recruits.<sup>124</sup> The status of *kholop* was abolished in 1723. Now all servants of the nobility within the towns<sup>125</sup> and on the estates had the status of peasants (*krest'jane*).<sup>126</sup> Between 1676 and 1762, the percentage of those with the status of *peasant* in the population of Russia increased from 80% to 91%, while the percentage of townspeople

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**117** For the immanent terminologies see Gleb Kazakov, “Semantics of Slavery in Early Modern Russia,” Paper presented at the workshop “Slavery, Captivity and Further Forms of Asymmetrical Dependencies in Early Modern Russia,” hosted by the Bonn Center for Dependency and Slavery Studies (BCDSS), September 26–27, 2019.

**118** Zeuske, *Handbuch*: 930.

**119** Advanced, I hope, by Hans-Heinrich Nolte, “POWs, Slaves and Kholops: Non-Orthodox and Non-Russian servants in Early-Modern Russia,” unpublished manuscript from 2020.

**120** Noted in Vladykina et al., eds., *Gosudarstvennost' Rossii*: vol. 4, 384.

**121** Map in Nolte, *Geschichte Russlands*: 415.

**122** Hellie, *Slavery*: 695 – 710.

**123** Vladykina et al., eds., *Gosudarstvennost' Rossii*: vol. 4, 384–85; Erik Amburger, *Geschichte der Behördenorganisation Russlands von Peter dem Grossen bis 1917* (Leiden: Brill, 1966): 3 (it was united with the *Vladimirskij prikaz*); 117 (in 1704: the *Prikaz cholopëgo suda* with the *sudnyj prikaz*).

**124** Repeated inter alia 1722: Nolte, Schalhorn, and Bonwetsch, *Quellen zur Geschichte Russlands*: 107–8.

**125** Friedrich Christian Weber, *The Present State of Russia*, 2 vols. (London: W. Taylor, 1722; London: Frank Cass 1968): vol. 1, 191–92: “The Country People, who are in the same Manner [as the noble families] hurried away from their own Habitations, and forced to settle at Petersbourg.”

**126** *Gorodskoe soslovie* in statistics does not count all inhabitants of towns, but those of the status “townspeople.” For their social stratification 1724 see Mironov, *Socialnaja istorija*: 116.

decreased.<sup>127</sup> That percentage corresponds, albeit roughly, to the percentage Hellie gives for *kholops* in pre-Petrine society.<sup>128</sup> The word *khlop* became part of a formula in correspondence<sup>129</sup> (similar to “your obedient servant” in English).

The economic interest of the masters in *kholops* was that, as long as taxes were paid by farmstead or per head, while individual *kholops* were untaxed, they had tax-free labor within their households. Looking at the end of *khlopstvo* from the point of view of the masters, they lost a privilege between 1704 and 1723. But since it had been legal to sell full *kholops*, many owners went on selling these “peasants” after 1723, creating one of the loopholes for selling peasants without land on markets. And in any case the sale of peasants still happened without official interventions in cases of bankruptcy of a noblemen.<sup>130</sup>

Officially, after 1723 all people living in rural areas (except the nobility and clergy) were peasants, and many town dwellers – servants of the nobility – also belonged to this status. New terms<sup>131</sup> became common for servants<sup>132</sup> living in someone else’s household (*dvor*). Quite often they were called *dvorovye*.<sup>133</sup> Also the practice of sentencing insolvent debtors to forced labor for creditors until the debt was repaid *za zhiv* (in real life) continued until 1834. Socially proximate persons were “workmen,” mostly captured runaway peasants who were controlled by the police and sometimes hired out to private enterprises. In 1799, they were included into the lowest category of townspeople (*meshchane*).

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**127** Mironov, *Social'naja Istorija*: 129–30: The absolute numbers of townspeople increased also, but not as fast as the population of the Empire.

**128** Mironov, *Social'naja Istorija* has no catchword *Khlopstvo* in the index for the two volumes.

**129** Elena I. Marasimova, *Vlast' i lichnost': Ocherki russkoj istorii XVIII veka* (Moscow: Nauka, 2008): 254–63.

**130** Compare Radishhev, excerpts in Nolte, Schalhorn, and Bonwetsch, *Quellen zur Geschichte Russlands*: 143–45.

**131** In the religious history of the empire we observe a centrally planned change of terms, see Hans-Heinrich Nolte, “‘Newly enlightened’: A Case of Intellectual Engineering,” *Canadian American Slavic Studies* 38, no. 1–2 (2004): 33–60. Whether comparable procedure for social history is found in the sources remains to be researched.

**132** Pavel G. Ryndzjanskij, *Gorodskoe grazhdanstvo doreformennoj Rossii (The status of town-citizens in pre-reform Russia)* (Moscow: Izdatel'stvo Akademii Nauk, 1958): 48–50.

**133** Examples for *dvorovye* not living in households of the nobility S. S. Ilizarova, ed., *Akademik G.F. Miller – pervyj issledovatel' Moskvj i moskovskoj provincii* (Moscow: Janus, 1996): 83: *napisannykh po revizii za kanceljarskimi sluzhiteljami dvorovykh ljudej* (“people living in households written to staff of the chancellery in the revision”) or 109: *Rospis' [ . . . ] za raznymi chinami pri domakh dvorovykh ljudej* (“list [ . . . ] of people living in households with different ranks”).

### 3 Some Conclusions

During the period in which the history of Russia was governed from Moscow, the terms for dependent people (*ljudi* of different kinds) were systematized. While in the fifteenth century there were many kinds of *ljudi* and *kholops*, ranging in social status from a *tiun* to an inherited man similar to a slave, in the sixteenth century the Moscow government organized a separate *Prikaz* for the *kholops*, and in the seventeenth century the usage of the term was standardized in the *Ulozhenie*. The government of Peter I ended the status of *kholops* in 1723 and made them peasants (*krest'jane*). From the history of the semantic fields we may conclude that it was characteristic for the Muscovy tsardom to use the quite differentiated term *kholop*, and characteristic for the Petersburg empire to use the very comprehensive and quite broad term *krest'janin*.

By losing the rights to change their lords (conclusively in 1649) and to appeal (1767), but perhaps most of all by being forced to supply recruits to the military (1722), all peasants were diminished in status, income and family life.<sup>134</sup> The nobility in Muscovy had two kinds of landed property: inherited allodia and fiefs that were bestowed, but they had to provide service from both. In the eighteenth century the nobility won its freedom from the obligation to serve and full possession of their estates. Allodia and fiefs were equated as property (*imenie*).

The empire secured the position of the nobility and increased the burden on the peasants – to man and finance army and navy, the administration and imperial building programs. Society was rearranged. Old differences were reduced and legal statuses were created that encompassed larger groups. The government also used, as previously mentioned, new terms for its social engineering. The long-term effects of these politics were polarizing. The transition to empire was a long process. To describe it in current geographic terms: it started with the conquest of Tatarstan in 1552 and the Eurasian trading center of Astrakhan in 1556, and was extended by the conquest of Siberia within the following century. It was seriously challenged by the Swedish occupation of the Baltic coast and the Polish occupation of Moscow 1610–1612. But empire-building gained new momentum with the Russian conquest of the eastern parts of Belorussia and Ukraine in 1667, and was completed by the conquest of Estonia and northern Latvia and the new title of “emperor” in 1721. Was there an alternative in the face of the military capacities of other members of the concert of powers (the Ottoman Empire up to 1683; Sweden up to 1709, Poland/Saxony up to 1706, Austria, later Prussia, then Napoleon . . .), similarly bent on expansion? Not to forget the Manchu, who advanced via the old Silk Road?<sup>135</sup>

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<sup>134</sup> Soldiers lost their positions in their villages, served for 25 years and did not earn enough to allow them to marry.

<sup>135</sup> Nolte, *Kurze Geschichte der Imperien*: 223–77.

The transition was accompanied by a constant systematization and degradation of dependent people. In numerous uprisings, even wars, which originated in the peripheries and were led mostly by Cossacks, the rebels attempted to end the power of nobility and bureaucracy. They were never able to conquer the center, but slowed down the extension of first Moscow's and then St. Petersburg's power.<sup>136</sup> And yet, despite of the defeats of the rebels in these wars from the periphery, some limits to imperial social engineering remained: the chance to run away was a normal option for servants of all standings, including peasants. Of course this option for dependent people must have influenced the behavior of their masters.

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<sup>136</sup> Hans-Heinrich Nolte, "Russkie 'krestjanskije vojny' kak vosstanija okrain," *Voprosy Istorii* 1994, no. 11: 31–38.

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