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“The Relics of Slavery”

Interracial Sex and Manumission in the American South

JESSICA MILLWARD

As an undergraduate student in Professor Peggy Pascoe's course on women's history in spring 1994 at the University of Utah, I learned the foundational lesson that women are the architects of their own history and that we, as historians, have a responsibility to push the boundaries of what is acceptable and what is natural. As one of the only women faculty members in the Department of History, Dr. Pascoe embodied her message to her students that women should excel not only in the making of history but in the telling of that history as well. Therefore, this essay honors the contributions Dr. Pascoe has made as a colleague and mentor as it explores *What Comes Naturally: Miscegenation Law and the Making of Race in America*.¹

In *What Comes Naturally* Pascoe continues her rigorous commitment to exposing the complex interaction between gendered assumptions about private space and the manifestations of power in the public domain. Pascoe effectively demonstrates that laws governing interracial relationships served as mechanisms to determine and uphold notions of “difference.”² Indeed, her discussion of the laws governing sexual relationships between white men and black women in the slave South underscores this point. White men could legally marry white women and at the same time force their sexual desires upon enslaved women. While the laws of slaveholding supported violations by slave owners against enslaved women, legislation also erased evidence of bondwomen's intimate relationships with enslaved men. As human property, enslaved women and men were legally “incapable of civil marriage.”³ As these examples and Pascoe's research suggest, definitions of marriage and family were inherently inequitable during much of the history of the United States. Moreover, trumpeting the end of antimiscegenation legislation during the twentieth century without acknowledging the complicated legacy of race and sex during the nineteenth century tells a partial history. One cannot celebrate the triumph of *Loving v. Virginia* without understanding the complicated and at times trau-

matic history of interracial relationships in the American South. Taking a cue from Pascoe, this paper focuses on the relationship between interracial sex and slave manumissions in the American South. Specifically, this article focuses on manumission from the perspectives of slaveholders and of the women whom they held in bondage. I argue that laws governing manumission not only upheld pejorative notions of difference but also underscored the complex nature of choice and compliance within the Southern slave system.

Enslaved women in the American South lived in constant fear of sexual exploitation by both white and black men. Bondpeople recounted the violence inflicted upon enslaved women in printed biographies and oral interviews. Frederick Douglass depicted the violent whipping of his aunt Hester.⁴ Harriet Jacobs detailed the psychological violence she endured from her owner, who often whispered his “indelicate” desires in her ear.⁵ Texas slave Rose Williams was confused at learning she had been paired with fellow bondman Rufus in order to make “portly children” for her owner.⁶ Williams did not understand that “marriage” for enslaved people often meant breeding more bondpeople for the ruling class, regardless of the feelings of the partners for each other.⁷ Williams strongly objected to the sexual terrain of her marriage. When Rufus first attempted to bed her, she stabbed him with the fire poker.⁸ This scene of sexual aggression and defiant resistance was replayed more than once during the course of Rose’s arranged marriage to Rufus. Historian Nell Painter views these types of physical and psychological sexualized violence as contributing to the “soul murder” of African Americans.⁹ Likewise, scholars of African American studies such as Deborah Walker King argue that sexual violence during slavery acted as one of the key imprints in the African American “culture of pain.”¹⁰

Admittedly, the relationships between white men and enslaved women were complicated. Some scholars of free and manumitted populations argue that at some level slaveholding men felt affection for the bondwomen with whom they had sexual relationships.¹¹ These affective bonds are evidenced in the occasional manumissions of enslaved women and the children fathered by slaveholders. Given the complexities of sexual relationships in which it was impossible for a woman to withhold consent, and human emotions being as fraught as they are, it is not surprising that dialogues about enslaved women’s sexuality and their experiences with white men, in particular, remain contentious. Was an enslaved woman a mistress, a concubine, a forced breeder, or an unwilling victim of the slaveholder?¹² This essay goes back and forth among all these definitions. However, there is no ambiguity about the fact that enslaved women’s reproductive capacities were critical to sustaining the U.S. slave system.¹³

Early laws of colonial America reveal planter dependence on the natural reproduction of the enslaved population. In 1662 the Virginia state legislature determined that racial chattel slavery would be a permanent, inheritable condition by asserting that the status of the child follows that of the mother. If the mother was enslaved, so too would be the children, regardless of the status of the children's father.¹⁴ This law ensured that children of free black men and enslaved women also faced a lifetime of enslavement and that children descended from white men could not lay claim to their fathers' free or Christian status. The laws of this era privileged white male authority: whereas the 1662 law upheld the power of a slaveholder to engage in relations with enslaved women, a 1664 law of Maryland criminalized relationships between white women and black men.¹⁵ A white woman who married a black man was declared a "slave" for the duration of the life of her spouse. Any children born to these women became slaves. As these early laws of slavery reveal, interracial relationships often held legal consequences for those who were not part of the power structure.¹⁶

Laws specifying slavery as a permanent, inheritable condition represented one end of a spectrum of statutes governing the status of bondpeople of African ancestry. At the other end of this spectrum were laws stipulating conditions under which enslaved individuals could gain their freedom through manumission. Manumission laws initially developed so that slaveholders could free children they fathered with bondwomen. As wage labor began to replace slave labor, planters used manumission as a means of relieving themselves of the costs of maintaining a permanent enslaved labor force.¹⁷ Despite the prevalence of manumission, laws favored the right of the planter class to free selected slaves, underscoring that manumission was a "gift" rather than a right.¹⁸

From an owner's perspective freeing an enslaved woman meant calculating the loss of labor not only of the woman herself but of her offspring. Therefore, in 1809 the Maryland legislature ruled that if the status of a woman's unborn child was not decided at the time when the manumission document for the mother arrived at court, "then the state and condition of such issue shall be that of a slave."¹⁹ Fixing the status of the child ensured that slaveholders could reward enslaved women with freedom and still maintain the growth of their enslaved workforce.²⁰

When slaveholders developed feelings of affection for enslaved women, the emotional and psychological cost of holding their enslaved partners as property occasionally won out over their fiscal need for human laborers. In New Orleans manumission and the *plaçage* system developed hand in hand. Through the *plaçage* system an owner could "place" an enslaved mistress in a residence that he provided for her.²¹ Through manumission he could make

her a free woman. The *plaçage* system and the facility of manumission within Spanish and French colonial laws produced a large free black class prior to and after the Louisiana Purchase of 1803. Some Louisiana planters appear to have delighted in attending social functions with their black mistresses while their white wives pretended to be oblivious. Others participated in buying and selling bondwomen in the “fancy girl” trade, where slaveholders purchased women for their sexual gratification.²²

Clearly, some white slaveholding men did develop feelings of affection for bondwomen. But were the feelings mutual? Consider the case of William Reynolds, a white man in Annapolis, Maryland, and his enslaved wife, Elizabeth. Reynolds purchased bondwoman Elizabeth and her two children in 1780.²³ During the fourteen years in which Reynolds owned Elizabeth, they “intermarried” and had two children.²⁴ The 1804 manumission deed clearly details Reynolds’s intent to free his wife, their two children, and Elizabeth’s other two children, as well. That Reynolds assumed parental responsibility for all four of Elizabeth’s children seems clear. Did Reynolds and Elizabeth develop a relationship of mutual interest before he bought her, or did it develop over time? Whatever the answer, the fact that he was a free white man and she his property for fourteen years reminds us of the inequitable relationships forged between enslaved persons and those who owned them.

Not every slaveholder openly acknowledged having an enslaved mistress or fathering enslaved children. Thomas Jefferson never publicly admitted to having a sexual relationship with his bondwoman Sally Hemings. However, not only were critics of the time aware of the union, but they publicly chastised Jefferson for his relationship with “Dusky Sally.”²⁵

Jefferson also found it difficult to reconcile his role as a slaveholder with his role as the father of enslaved children. Annette Gordon-Reed suggests that Jefferson was conflicted about manumitting his enslaved children because of his persistent paternalistic belief that Africans and African Americans were not suited for freedom.²⁶ While Jefferson never manumitted Sally Hemings, he did free their three sons upon his death. Perhaps Sally Hemings negotiated for the freedom of their children at the expense of her own manumission. In its many and varied forms the complicated and painful legacy of interracial sex between black women and the white men who owned them and fathered their children remains an ever-present reminder of the “tortured legacy of slavery and race in America.”²⁷

As the example of Sally Hemings and her children suggests, manumission as a result of sexual relationships proves just as complicated from the vantage point of enslaved women. How and when they chose to use their sexual relationship with their owners to gain better treatment, material goods, or their

freedom is often silenced in legal documents, shrouded in secrecy due to prevailing social customs, or buried deep in family histories. Because the power of slaveholders underlay the range of sexual relationships, the actions of enslaved women were often marked by what Kathy Brown describes as “choices in a context warped and circumscribed by slavery.”²⁸

Assuming that all manumitted women profited from their sexual relationships negates how law and power continued to intrude upon their lives even after they were free. Consider the case of Anna, the slave of a Mr. Burroughs. Freed upon her owner’s death in 1815, she received a list of material goods, including a young bay mare, four barrels of Indian corn, one iron pot, a spinning wheel, a cow, and a sow.²⁹ Most important, Anna was given “the advantages of her son as a laborer.”³⁰ It would be easy to deduce that Anna possessed this degree of wealth because of her relationship with Mr. Burroughs. Though the legal docket does not reveal their relationship, the response of Burroughs’s white heirs seems telling: in 1817 they petitioned the local court to rescind Anna’s freedom as well as her wealth on the grounds that she was above the age of forty-five, the legal age of manumission. Their plea was successful: Anna returned to a life of bondage.³¹

One can only imagine the trauma of being forced back into slavery. Equally heartbreaking: bondwomen were often manumitted without their children. For mothers manumission laws provided a narrow gate to freedom for themselves and an even narrower gate for their children. Manumissions were granted on an individual basis and never jeopardized the balance of power, which positioned the laws of the slaveholding South as an omnipresent force in the lives of African Americans. After all, manumission laws were slaveholders’ laws, and any space left for a slave to gain freedom through them was a loophole, not an open door. However, the ability to negotiate one’s manumission and that of one’s kin became a very important vehicle of resistance for enslaved women.³² Women who made a bid for manumission had to consider how best to secure freedom for the family. Some shrewd and deliberate enslaved women maximized their relationships with those who owned them in order to provide a better future for themselves or their children.

Despite the hegemonic function of the law and the inequalities it created, some bondwomen circumvented the threat of sexual violence in their lives by marrying men who they hoped would be less physically threatening. Harriet Jacobs of North Carolina formed a liaison with a white man in order to stave off the sexual aggression of her owner. Manumitted Annapolis bondwoman Harriet Calder married William Calder, a white man, and had three children by him. When Harriet and the children were freed, they moved into William Calder’s home and lived together as a family.³³ Perhaps Harriet Calder learned

about the importance of exercising her limited power to choose her own husband by following the example of her mother, Charity Folks. Bondswoman Charity Folks married Thomas, an enslaved man owned by a local Annapolis merchant. As early as 1791 the couple “took the name Fowkes” and considered themselves married for the duration of their lives.³⁴ Charity and Thomas lived in what was referred to as an “abroad marriage,” whereby they had separate owners and lived at times in separate residences.³⁵ This type of marital structure was quite common in slavery. Enslavement did not separate them, and neither did freedom. Thomas was freed in 1794 and Charity in 1797.³⁶ By 1810 they and three children lived under the same roof and within walking distance of their daughter Harriet Calder and her family.³⁷ Certainly, these examples represent successful stories of marriage during enslavement. But husbands and wives were often sold away from one another as well.³⁸

The number of enslaved women who used sexual relationships with their owners to achieve their own manumission or that of their children remains hard to determine. Slaveholders manumitted bondswomen in greater numbers than bondsmen, and women represented a larger portion of the free black population.³⁹ Yet sexual relationships that fostered manumission represented only one avenue for enslaved women to secure their freedom. There existed other avenues, as well. Some enslaved women negotiated with their owners to be hired out to work for someone else and used a portion of their earnings to buy themselves out of bondage. Other women were purchased and then freed by free black family members. Still others relied on the relationships they built with the family they served to count in their favor. Enslaved women often received manumission for their “dutiful service and faithful behavior.”⁴⁰ Thus, manumission laws allowed for a range of psychological, emotional, and economic outcomes for women in slavery. Freedom represented a victory against slavery, but emancipation did not erase the violently gendered history of human bondage.

The proliferation of forced and consensual conjugal relationships between white men and black women during slavery continued after Reconstruction. In spite of this reality interracial sex between black men and white women continued to be a social taboo. The rise of lynchings in the South during the late nineteenth century highlights these contradictions. Relationships between white women and black men were particularly dangerous to the maintenance of white supremacy. Thus, Southerners attempted to maintain their power by citing the alleged rape of white women by black men as justification for lynching.

Antimiscegenation laws flourished in the wake of segregation and served

as the blueprint for defining national marriage rights, thereby bolstering the process of social othering.⁴¹

The long-held tradition that marriage was a right to be enjoyed only if it fit within notions of racial appropriateness was challenged during the Civil Rights era. Lawyers in the 1967 case *Loving v. Virginia* noted that antimiscegenation laws were “relics of slavery” whose time had passed. The Court agreed and struck down laws banning injunctions against interracial marriages.

The complicated legacy of interracial sex in slavery reveals that the “law” legislates but does not dictate the range of human behaviors. Pascoe warns us not to underestimate the “political economy of marriage, the hegemonic power of the racial state, and the shape-shifting power of racism to emerge in new and different forms to meet new conditions.”⁴² To illustrate this point, Peggy Pascoe concludes *What Comes Naturally* by arguing that barriers against interracial marriage have been replaced with injunctions on same-sex marriage. The right to choose one’s partner and legally marry underlies notions of inclusion and exclusion within the American social fabric. Definitions of “marriage” have been historically stitched between the extremes of de jure and de facto power relationships. Weaving together this complex tapestry bound by law and love is (and should be) a matter of choice.

NOTES

1. Peggy Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (New York: Oxford University Press, 2009).

2. Pascoe, *What Comes Naturally*, esp. part 1, 1–77.

3. “Opinion of Daniel Dulany,” in Helen Cattarall, *Judicial Cases Concerning American Slavery and the Negro* (Washington, DC: The Carnegie Institute of Washington DC, 1936), 4: 47.

4. Frederick Douglass, *The Narrative of the Life of Frederick Douglass: An American Slave*, ed. David W. Blight (Boston: Bedford/St. Martin’s, 2003), 45–46.

5. Harriet Jacobs, *Incidents in the Life of a Slave Girl*, ed. Jennifer Fleischner (Boston: Bedford/St. Martin’s, 2010), 52–55.

6. For a detailed discussion of Rose Williams’s experience, see Deborah Gray White, *Ar’n’t I a Woman? Female Slaves in the Plantation South* (New York: W. W. Norton, 1985), 102–3.

7. See Daina Ramey Berry’s detailed discussion of this debate: *Swing the Sickle for the Harvest Is Ripe: Gender and Slavery in Antebellum Georgia* (Urbana: University of Illinois Press, 2007), 77–84.

8. Berry, *Swing the Sickle*, 77–84.

9. Nell Irvin Painter, “Soul Murder and Slavery: Toward a Fully Loaded Cost Ac-

counting,” in *U.S. History as Women’s History*, ed. Linda Kerber (Chapel Hill: University of North Carolina Press, 1995), 125–46.

10. Deborah Walker King, *African Americans and the Culture of Pain* (Charlottesville: University of Virginia Press, 2008).

11. For an overview of this field see Wilma King, *The Essence of Liberty: Free Black Women during the Slave Era* (Columbia: University of Missouri Press, 2006).

12. Berry, *Swing the Sickle*, 77–84.

13. Jennifer L. Morgan, *Laboring Women: Gender and Reproduction in the Making of New World Slavery* (Philadelphia: University of Pennsylvania Press, 2004).

14. “1662 Law of Virginia,” in *A Documentary History of Slavery in North America*, ed. Willie Lee Rose (Athens: University of Georgia Press, 1999), 16.

15. William Kilty, *Index to the Laws of Maryland*, vol. 192 (Annapolis: Jeremiah Hughes Printing, 1800), 1026.

16. Pascoe, *What Comes Naturally*, 22. Pascoe writes, “By using marriage to delineate race, lawmakers wrapped race in and around the gender differences that stood at the heart of nineteenth century marriage, which, in turn, stood at the heart of the American South.”

17. T. Stephen Whitman, *The Price of Freedom: Slavery and Manumission in Baltimore and Early National Maryland* (New York: Routledge, 1997).

18. Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge: Harvard University Press, 1982), 209–39.

19. “1809 Law of Maryland,” in Kilty, *Index to the Laws of Maryland*, 192: 1026.

20. Whitman, *Price of Freedom*, 122.

21. Kimberly S. Hanger, *Bounded Lives, Bounded Places: Free Black Society in Colonial New Orleans, 1769–1803* (Durham: Duke University Press, 1997).

22. W. King, *Essence of Liberty*, 45.

23. William Reynolds to Elizabeth, 1804, Anne Arundel County Manumission Records, 1785–1808, Maryland State Archives, Annapolis.

24. William Reynolds to Elizabeth, 1804.

25. Joshua Rothman, “James Callender and Social Knowledge of Interracial Sex in Antebellum Virginia,” in *Sally Hemings and Thomas Jefferson*, ed. Jan Ellen Lewis and Peter S. Onuf (Charlottesville: University of Virginia Press, 1999), 87–113.

26. Annette Gordon-Reed, *The Hemingses of Monticello: An American Family* (New York: W. W. Norton and Company, 2008).

27. Gordon-Reed, *Hemingses of Monticello*, 17.

28. Kathleen M. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia* (Raleigh: University of North Carolina Press, 1996), 237.

29. Cattarall, *Judicial Cases*, 192: 1026.

30. Cattarall, *Judicial Cases*, 192: 1026.

31. Cattarall, *Judicial Cases*, 192: 1026.
32. Jessica Millward, *Charity's Folk: Enslaved Families, Freedom, and Memory in Pre-Civil War Maryland*, Race in the Atlantic World 1700–1900 series (Athens: University of Georgia Press, forthcoming).
33. Mary Ridout Deed, 1807, Anne Arundel County Court Manumission Records, 1807–1816, Maryland State Archives. See William Caulderhead, “Slavery in Maryland in the Age of Revolution, 1775–1790,” *Maryland Historical Magazine* (Fall 2003): 303–94.
34. John Ridout Deed, 1791, Anne Arundel County Court Manumission Records, 1797–1807, Maryland State Archives.
35. For discussion of “abroad marriages” see Brenda E. Stevenson, *Life in Black and White: Family and Community in the Slave South* (New York: Oxford University Press, 1996), 204–15.
36. Millward, *Charity's Folk*; Joan C. Scurlock, “Bishop Family of Annapolis,” unpublished family history, African American Episcopal Historical Collection, Virginia Theological Seminary Archives, Alexandria.
37. 1810 Federal Census, Washington, DC; Janice Hayes Williams, “Our Local Legacy Tours/African American Heritage Tours,” interview with the author, Nov. 1, 2009, Annapolis, MD.
38. Stevenson, *Life in Black and White*, 166–205.
39. Loren Schwening, “The Fragile Nature of Freedom: Free Women of Color in the U.S. South,” in *Beyond Bondage: Free Women of Color in the Americas*, ed. David Barry Gaspar and Darlene Clark Hine (Urbana: University of Illinois Press, 2004), 107.
40. Mary Ridout Deed, 1807.
41. Pascoe, *What Comes Naturally*, 310; Zine Magubane, “Which Bodies Matter? Feminism, Post-structuralism, Race, and the Curious Theoretical Odyssey of the Hot-tentot Venus,” *Gender and Society* 15, no. 6 (2001): 816–34.
42. Pascoe, *What Come Naturally*, 310.