

The Slave Silvestre's Disputed Sale: Corporal Punishment, Mental Health, Sexuality, and 'Vices' in Recife, 1869-1879

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In the provincial capital of Recife, Manoel de Alves Vianna, the buyer of the slave Silvestre, went to court to rescind the sale because he alleged that the bondsman had long suffered from mental illness and practiced the "*vício de sodomia*" (vice of sodomy). The trial opened before a Municipal Judge in 1870, but the case was only concluded in 1879 in Recife's regional Appeals Court (Tribunal de Relação).¹ The slave Silvestre's original owner was a widow, Dona Anna de Santa Ursula. The title "Dona" suggests a respectable woman of means, but the reasons she desired to sell Silvestre go unnoted. It is quite possible that she sought to rid herself of an irksome slave whose shaky mental health had become evident. Rather than sell the slave herself in the coarse, manly world of the slave market (where it was common to inspect a slave's private parts), Dona Anna sold Silvestre to a slave dealer by the name of Flavio Ferreira Catão on December 15, 1869. The legal suit began only after the slave dealer resold Silvestre to Manoel Alves Vianna, however the legal proceedings would ultimately lead back to Dona Anna.

Silvestre's case sheds light on everyday business in an urban Brazilian slave market and the circumstances that could have repercussions for the legality of such transactions. While court transcripts focus on disputes between wealthy masters, they also record the words and actions of those of humble and middling status. Silvestre's case can serve as micro-historical evidence and allow us to

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examine how traditional and more modern concepts of mental health, commerce, punishment, gender, and sexuality commingled in what was then Brazil's third largest urban center.² More specifically, it illustrates to what extent abolitionist critiques of slavery and a broader reappraisal of corporal punishment as a disciplining technique were exerting their influence over medical and legal circles in Recife at that time. Silvestre's case also illuminates the restricted roles played by slaves in these transactions, a subject that has received renewed attention in recent work on slave markets in the U.S. Slaves were protagonists in and sometimes victims of the consummation of their own sale.³ Finally, Silvestre's case and other sources permit an analysis of how vice was defined and how this shaped the master's and the abolitionist's attitudes, the slave dealer's image and the slave's identity and price.

Slavery and Punishment in Imperial Brazil

Before actually dealing with Silvestre's disputed sale, one must situate it within the broader context of slavery and its role in Brazilian culture. Brazilian masters long depended on the African slave trade to sustain their work force, but when the state began enforcing laws abolishing the international trade in 1850, the slave population shrank. Almost one in three Brazilian inhabitants was enslaved in 1850, but by 1872, this ratio fell to less than one in seven. This trend was more pronounced in the Northeast where the sugar economy had deteriorated since 1822, when Brazil became independent of Portugal. The African trade's demise drove up slave prices and northeastern planters and merchants supplied a growing number of slaves to the Southeast's booming coffee plantations. In 1864, Pernambuco's slave population stood at an estimated 260,000, but fell to 106,236 by 1874 and to 72,709, by 1884. Internal slave traffic peaked between 1873 and 1881, just as Silvestre's case was slowly making its way through the courts.⁴ Brazil's history of human bondage only finally came to an end in 1871 with the legislation in Parliament of the Free Womb Law, which stipulated that children born to slave mothers would henceforth be freed.

By the 1870s, slave buyers on Pernambucan plantations and Recife's streets found themselves confronting a tight market. They fell back more and more on the free labor which became more profuse and mobile during the Great Drought (1877-79) that devastated the Northeast's interior. The region's reduced slave population gave political leaders more room to maneuver on the issue of bondage with the result that some Pernambucan politicians embraced abolition. Recife was home to Joaquim Nabuco, Brazil's most famous abolitionist author, orator, and politician, who was first elected an Imperial Deputy for Pernambuco in 1878. He followed in the footsteps of his father, Joaquim Nabuco de Araújo,

a Liberal Party senator who had been highly instrumental in the enactment of the 1871 Free Womb Law. The younger Nabuco wrote an inspired abolitionist treatise as a student at Recife's Law School and in 1883 published *O abolitionismo* (abolitionism), a major literary work that galvanized support for abolition.⁵ Although by the 1870s Pernambuco Province and its capital were in the throes of economic recession and already considered by some to be an imperial backwater plagued by poverty and drought, many Pernambucans took pride in their leaders' progressive stance on abolition.

By the 1870s, abolitionism as an ideology and a political movement was on the verge of becoming fashionable among the educated elite, most of whom had at one time or another bought, sold, inherited, or rented slaves. These were giddy yet tense times for the mostly light-skinned educated elite because even as many of them embraced abolitionism, they feared the anarchy that could result from the transition from slave to wage labor. They were worried that former slaves and their progeny would not be successfully integrated as free, equal, and productive citizens after abolition. An 1887 editorial echoed a common assertion: "Born a slave, in this sad condition, one is immersed in *vices* and the misfortunes that accompany it: drunkenness, ingratitude, ignorance, precocious corruption. Such bad seed cannot help but produce evil fruits."⁶ While reformers agreed on the evils of slavery, few professed faith in the potential of ex-slaves to be future citizens. Abolitionists often argued that slavery engendered "vices" that corrupted and emasculated slave and master alike. As Joaquim Nabuco wrote, "...nor is there a social agent which has the same deep and wide-ranging psychological effect as slavery when it becomes an integral part of the family. This influence can be characterized by observing that slavery enveloped our entire populated space from Amazonas to Rio Grande do Sul in an environment destructive to all the *manly*, generous, and progressive qualities of our species. It created a crude, money-grubbing, selfish, and backward national vision and for centuries it cast in this pattern the three heterogeneous races which today constitute the Brazilian nationality. In other words, it made the air itself servile..."⁷ While Nabuco argued that an effeminate servility infused Brazil's very air, former masters exhibited no ill effects from breathing it. However, for most educated Brazilians the brands of ownership and scars from cruel punishment exhibited on many an ex-slave's body rendered them unsuitable for the responsibilities and privileges of citizenship.

As elsewhere, cruel punishment was a major theme in Brazilian criticisms of slavery. Physicians and others began to depict physical castigation as not only uncivilized and unhealthy, but as running counter to the overarching goal of developing a productive and disciplined labor force. Reformers advocated replacing punishment with the healthier alternative of moral persuasion alongside

rehabilitative labor, education, and exercise. Many Brazilian reformers looked to the penitentiary project with its emphasis on rehabilitative work and surveillance as a modern institutional response to long years of legalized torture, mutilations, flagellation, and public executions.⁸

Reforms in post-Independence Brazil were inspired by the harsh criticism of physical punishment related to slavery. In the 1830s urban authorities dismantled public whipping posts and pillories and instead flogged slaves within prison walls far from the gaze of critical foreign observers. But secluded floggings still created a conflict of interest between masters and state authorities. In 1861, the Minister of Justice ordered judges to proceed with caution when prescribing flogging as a punishment for slaves. He wrote, "As physicians claim... each time the number of lashes exceeds two hundred [in succession], this is always followed by disastrous results." Masters sometimes resisted the attempts of authorities to prosecute valuable slaves even when they killed free white overseers. Courts were permitted by law to sentence slaves to be flogged for committing crimes, including murder, but slaves were also sentenced to execution or prison terms, punishments that deprived owners of their property without compensation.⁹

For some, prison seemed to be a reward for criminal slaves because it allowed them to indulge in two of their favorite vices. As Senator Paulo de Souza put it, "Will the slave who lives bowed under the weight of his labors by any chance have a horror of being incarcerated in a prison where he can abandon himself to laziness and drunkenness, the favorite passions of a slave."¹⁰ Despite the senator's objections, more than 260 convict slaves served prison sentences in the agricultural penal colony on Fernando de Noronha Island in 1881. They co-existed there with more than 1,200 free civilian and military convicts from across Brazil in an institution co-administered by the War Minister and Pernambuco's Governor. In 1865, new regulations for the penal colony banned flogging, a reform that benefited scores of slave convicts, many of whom had murdered their masters or overseers.¹¹ The new regulations were established despite a law enacted in 1835 in the wake of a slave and free Black uprising in Salvador, Bahia, that required the execution of slaves convicted of killing their masters or members of their owners' families. Nevertheless, Emperor Pedro II commuted most capital sentences to life sentences of hard labor in chains (but fetters were rarely used in practice). This is in opposition to Phillip J. Schwarz's observations regarding penal justice in Virginia in the 1800s, where most of the capital sentences for slave homicide convicts were commuted to sale out of state. While Fernando de Noronha similarly served as a site of penal exile for slave convicts, the Brazilian State did not resell them but forced them to work on the local state farm. The need to recoup the cost of owner compensation prompted Virginia's judiciary to sell many slave convicts out of state rather than execute

them. Despite this financial disincentive, far more slaves were executed by court order in Virginia than in Brazil.¹²

The changing attitude of Brazilian authorities toward cruel punishments was evident in other areas as well. In 1873, a law was legislated in Parliament banning the flogging of army enlisted men with sword flats, instead establishing corrective companies where undisciplined troops would perform work routines and exercises under stricter surveillance. Subsequently in 1886, when four slave convicts in the Paraíba do Sul Valley died after being flogged 300 successive blows each, Joaquim Nabuco fanned abolitionist flames in a series of newspaper articles on the tragedy. Brazil's then pro-slavery Parliament quickly passed (on October 16, 1886) an amelioration law banning the flogging of slaves by state authorities. From then on until the collapse of the Empire in 1889, the only remaining state officials who had the right to flog their wards – mainly brown or black sailors—were naval officers.¹³

While the 1886 law did not prohibit masters from beating their slaves, the formers' excessive abuses did come under scrutiny. In 1878, a prosecutor in the small town of Barra Mansa near Rio de Janeiro brought a master to trial for brutally flogging his slave, however he was ultimately acquitted by the courts. Similarly in 1884, a prosecutor in Recife tried a master for sexual violence against a twelve-year-old slave girl whom he had purchased, but the courts exonerated him on appeal.¹⁴ While violence against slaves remained a mostly unchallenged privilege of ownership, the laws circumscribing flogging indicate slowly changing attitudes regarding discipline, penology, and health. By the 1870s, critiques of flogging had been widely disseminated, even though officials did not consistently observe the proscriptions against it.

Slaves, the Slave Market, and Slave Dealers

Before 1850, *ladino* and Brazilian-born slave sales had been a fairly specialized business. As Mary Karasch highlights in her classic history of urban slavery, “[although] the word *ladino* usually defined an assimilated African in Rio, businesses that dealt in *ladinos* apparently also sold Brazilian-born slaves.” Buyers harbored suspicions that those who were *ladinos* or Brazilian-born were “used” slaves, especially the older ones, because they suspected that their owners sought to rid themselves of incorrigible, vice-ridden, or unhealthy property. Lília Schwarcz affirms this regarding older slaves in São Paulo: “Newspaper notices for runaway slaves above the age of forty often specified their ‘moral defects’ such as ‘given to the vice of drunkenness’ or to ‘cursing and bravado’ [*palavradas*].”¹⁵ If slavery engendered vices, then the longer one lived under

it, the more easily discernible they apparently became. A market preference for *escravos novos* or newly imported, mostly youthful African-born slaves made selling previously owned slaves a risky but nonetheless widespread practice before the demise of the international trade. As a European traveler warned, some dishonest dealers disguised *ladino* slaves as African-born (which may have included agonizing scarification typical of African ethnicities) to ease their sale.¹⁶ Masters usually sold trusted slaves to family members or friends and those who bought older slaves outside kith and kin networks knew that there was a necessity for caution. By the 1870s, however, the slave population had aged and changed in composition; the 1872 census for Pernambuco records a total population of only 3,084 African-born slaves. Reselling older Brazilian-born slaves to distant internal markets was common and while buyers could no longer act according to traditional market prejudices, these still influenced property value.¹⁷

Silvestre's December 15, 1869 bill of sale and other records describe him as dark brown ("*pardo*" and at other points "*cabra*"), forty years old and a native of Paraíba province. His skills are listed as "domestic" but he is sometimes described as a "cook." Silvestre's age and birthplace placed him in the suspect category of older "used" slave merchandise, but his skills made him desirable. Indeed, a consumer seeking a slave with domestic skills was more likely to find one among the Brazilian-born even before 1850. However, as Marcus J. M. de Carvalho points out, by the 1840s some wealthy Recife's began to prefer to employ free white women for domestic work because they came to believe that they were less likely to corrupt the family and infect it with illness.¹⁸

The market prejudice against resold slaves was not without foundation. The cultural and linguistic knowledge possessed by Brazilian-born and *ladino* slaves made it easier for them to run away and they were in a better position to exploit the weaknesses of the oppressive slave system. In addition, selling off intractable slaves was highly recommended. An 1839 manual for planters opined, "Our advice to every humane and reasonable master who encounters incorrigible slaves is as follows: after they have repeatedly suffered the maximum punishment and have not changed their ways, he should sell them without regard to financial loss, because the sale itself will serve to intimidate the others [slaves]. They will know that the slaves who are sold away will fall into the hands of heartless and cruel masters."¹⁹ The stereotype that resold slaves were unruly had its counterpart in the perception that those who bought them were cruel masters who took pride in breaking their rebellious slaves' spirits. A similar phenomenon typified the slave market in New Orleans, where some specialized in buying willful chattel at bargain prices. Walter Johnson argues that these men sought not only to profit, but also to prove their superlative manhood by cowing intractable slaves into submission where other masters had failed. While many slaves feared resale to

“slave breakers,” there were also some who within the limited means at their disposal managed to engineer their sale to a new master who they felt would treat them better or even succeeded in buying their own freedom.²⁰

Across the Americas, slave owners tended to view men who specialized in slave dealing as dishonest traders who often passed off tainted goods on “honorable men.” At least when disputes arose, this was how many slaveholders represented their dealings with retailers. Walter Johnson poetically captures the image of the slave dealer in the minds of U.S. slave masters: “In the figure of the slave trader were condensed the anxieties of slaveholding society in the age of capitalist transformation: paternalism overthrown by commodification, honor corrupted by interest and dominance infected with disorder.” One must not, however, assume slave dealers in the U.S. South and Brazil to conform to an identical or ahistorical stereotype. This stems from the fact that slaveholding was much more widespread among Brazil’s population (including the free population of color) and thus it permeated commercial and familial relationships more thoroughly than in the U.S. South. The artificial dichotomy posited by Edward Baptist between the “vile” slave dealer and the “honorable” Southern planter and slaveholder is complicated even further by the fact that many dealers were or became planters and vice versa.²¹

Despite these caveats, it may be argued that together with other evidence, Silvestre’s case reveals that in 1870s Brazil negative stereotypes of slave dealers were applicable.²² Marcus J. M. de Carvalho shows that in Recife before 1850 many slaves sold by disreputable dealers were stolen property. The slave dealer’s image was further linked to the criminal underworld after 1831 when the trade was declared illegal (although tolerated in practice). Carvalho also notes that during the turbulent struggles between Conservatives and Liberals in Pernambuco in the 1840s, it became fashionable for adversaries to insult one another in the partisan press using such epithets as “slave trafficker” and “slave thief.”²³ Slave dealers were also given a negative image in literature. For example, in *Posthumous Memoirs of Brás Cubas*, his 1883 satirical critique of Rio’s high society, Machado de Assis depicts the slave dealer Cotrim as miserly and brutal.²⁴ As feelings against slavery grew, the slave dealer became more and more an object of derision.

Vices

After buying Silvestre from Dona Anna de Santa Ursula, the slave dealer Flavio Ferreira Catão resold him five months later for 1:650\$000 mil reis, thus earning a 10% profit. If Flavio had already discovered that Silvestre was ill or vice-ridden, he drove a hard bargain because his price reflects a fair to high mar-

ket value.²⁵ Marcelino Alves da Silva, Flavio's "associate or agent," handled the details of Silvestre's sale. The plaintiff's lawyer would later suggest that Flavio and Marcelino made their living principally from slave trading, but there were many merchants who sold slaves in addition to other types of commerce.²⁶ As businessmen, slave dealers wanted to sell their goods for top prices and strove to depict their slaves as robust, youthful, healthy, and free of vice. An 1878 newspaper ad declared: "For sale: an excellent slave, 22 years old, Brazilian-born, *without vices*, very faithful and good—a cook, a butler... He can do all housework with care and he is the best fieldworker (*trabalhador de roça*) that one could desire—humble and obedient with a good figure."²⁷ Dealers appealed to the imaginations of potential buyers by portraying their slaves as not only being free of vice, but also the possessors of ideal servile traits, versatile abilities and strong, attractive, healthy bodies.

When it became known or suspected that a slave practiced a vice, it affected his or her price and could render him or her suspect in the eyes of buyers, police, and bounty hunters. As noted above, some runaway notices specified that missing slaves were also victims of vice. An 1877 notice in a Recife newspaper offered a 100\$000 mil reis reward for the return of "Joaquim, age 40, more or less; tall and of strong body, no beard, shiny teeth; his toes do not rest well because of calluses under his nails and between his toes, walks awkwardly, has many scars from syphilis sores on his body, recalcitrant [*muito registra*], *he drinks a lot of cane brandy [aguardente] but not until he falls down*, he is Brazilian-born [*crioulo*], he fled in December of 1876, he has various swellings or scars, some extensive, from whippings and he was bought from Sr. Antonio José Vieira de Souza."²⁸ A tendency to overindulge in alcohol, albeit with enough restraint to prevent prostration, along with Joaquim's physical traits, gait, and scars all form a composite identifying picture of him in an era before low-cost photography was widespread.

The notice's nonchalant portrayal of Joaquim's scars and painfully callused feet indicates that many masters still had no qualms about publicizing the fact that their slaves had been sadistically flogged, overworked, and given inadequate medical care. It is likely that the owner believed that a description of these scars would not call the master's morality into question, but rather Joaquim's vice-ridden nature. Kenneth S. Greenberg noted that American abolitionists perceived scars from flogging as signs of slavery's cruelty, but southern masters viewed them as marks of a slave's incorrigibility. In addition, it is likely that the indications of syphilis on Joaquim's body confirmed popular stereotypes of African slaves by implying that liquor was not his only vice. As stated in Gilberto Freyre's famous aphorism, "Brazil was syphilized before it was civilized." Syphilis was tragically common to all classes, but masters hypocritically considered the slaves'

vices to justify their bondage. Whereas abolitionists argued that slavery was the cause of vice, both camps assumed that slaves were susceptible to vices.²⁹ The notice includes the name of the slave's former owner, a detail likely to help bounty hunters and police track down a fugitive who might return to visit friends or family living on a former plantation or in an urban location. It also unintentionally points out the inability of both owner and former owner to break Joaquim's recalcitrant spirit despite their brutal efforts to do so.

While runaway notices often revealed a slave's vices in order to maximize the chances of his recovery, slave dealers were more reticent about these shortcomings when attempting to make a sale. However, dealers could be held liable if they knowingly misled a buyer about a slave's health, vices, or skills. The changing conditions of Recife's slave market in the 1870s must have made it more difficult for slave dealers to earn a livelihood; perhaps it was these new conditions that led Flavio and Marcelino to adopt riskier business tactics.

If "vices" or the lack thereof formed an integral part of a slave's public identity, what exactly were they? While the sources cited above provide an outline, Portugal's 1603 *Ordenações* (Phillipine Code) codifies their significance. The *Ordenações* Book 4, Title 17, Article 2 is a set of laws that determined in which circumstances the sale of a slave or a beast could be rescinded due to vice. If a seller affirmed to the buyer that a slave was not a drunkard, thief or gambler while knowing full well he or she was, these were sufficient grounds for invalidating the sale. The "vice of running away" (*vício de fugitivo*) could be invoked to render a sale invalid even if the seller had not specifically claimed the absence of this vice at the time of purchase. Article 2 stated that running away was the only *vício de animo* (vice of the will, soul, spirit, or mind) that could be invoked to render a slave's sale invalid, however there was no law in Book 4, Title 17 that specified mental illness as grounds for rescission.³⁰

The *Ordenações* distinguished between *vícios de animo* of slaves and beasts, "Even though a slave sale cannot be rejected for any vice or fault of *animo*, beasts can be rejected for such vices or faults of *animo* such as, if without cause and without any bad treatment, they become spooked and rear up on hind legs and rebel."³¹ Even inanimate objects could possess *vícios*. One jurist gave the example of a house that possessed *vícios redibitórios* (defects legitimating a sale's rescission) if the buyer found that the building was haunted by ghosts or plagued by bad neighbors. Surely some of the *Ordenações*' dispositions seemed antiquated by the 1870s, but as Silvestre's case shows, a law dating back to 1603 still regulated slave sales in 1870s Brazil. While the *Ordenações* did not admit *vícios de animo* (excepting a penchant for running away) as grounds for revoking the sale of a slave, it did protect buyers from purchasing slaves who suffered from physical illness. If a plaintiff could prove that a seller concealed a slave's

illness that caused incapacity or death soon after the buyer took possession, the sale could be rescinded. In Silvestre's case, the plaintiff invoked this law, but his illness was mental, a *vício de animo*, something the *Ordenações* seemed to preclude. One might associate the crimes of murder and attempted suicide with vice or mental illness, but the *Ordenações* classified them as threats to a buyer's property that might be forfeited to the state or to a slave's own hands. Like running away, the law required sellers to reveal that a slave had attempted suicide or faced trial for a capital crime in order to stress risks to the slave's life, not his vices.³²

In Brazil, vice was a flexible term. It could mean bad habits, addiction, or physical deformity. In the Northeast, it was slang for "geofragia" or being unhealthily addicted to eating soil, which was not uncommon among Brazil's malnourished slave population.³³ The *Ordenações* did not catalogue all vices, but in combination with the other sources quoted above, it is possible to draft a partial list: gambling, sloth, running away, sodomy (and lasciviousness in general), dipsomania, ingratitude, cursing, and bravado.

The Suit

When Manoel de Alves Viana sued the slave dealer Flavio Ferreira Catão, the plaintiff declared that he resided in Recife where he directed a primary and secondary school of which he was also the owner. Manoel later claimed that he had purchased Silvestre on May 3, 1870 to work in his school, a fact that made his allegations about Silvestre's vice particularly relevant, while rendering his allegations against Flavio more severe. It is probable that Manoel ran a boarding school for boys, as was common in that era. Many planters and merchants in Pernambuco and nearby provinces sent their sons to study in Recife, where some dreamed of their boys ultimately entering Recife's Law School, one of two national law faculties that served as the primary gateways to political careers.³⁴

Even assuming that Manoel's establishment was a day school, he still had to concern himself with his institution's reputation. This concern grew after 1850, when physicians expressed alarm that institutions that catered exclusively to male students, even boarding schools for the scions of the elite, were hotbeds of moral degradation. An alarmed Bahian medical theoretician was not alone in his 1898 assertion that "*androphilismo*" (same sex intercourse) was common to institutions and occupations that isolated men and adolescent boys from contact with women. It stated that "religious communities, ocean-going vessels, the Navy, the Army, boarding schools, and seminaries were in truth perfect habitats for the type of forbidden love we study."³⁵ This view was reinforced in popular literature.

Raul de Ávila Pompéia's 1888 novel, *O Ateneu*, recounted the author's memories of his days in an elite Rio boarding school, where some older boys protected younger classmates from bullying with the expectation that they would become their effeminized, passive sex partners. The boarding school's patriarchal director prided himself on abolishing corporal punishment of students and believed that further modern reforms were needed to improve discipline, learning, and physical development. Still, the lack of physical castigation had not eliminated same sex desire. In a rather similar vein, Adolfo Caminha's 1895 *Bom Crioulo* depicted a relationship between an older and stronger ex-slave sailor and a blond adolescent cabin boy. Caminha's trenchant critique of the floggings meted out to sailors clearly associated torture, slavery, and gender segregation with the "vice" of same sex desire.³⁶

Gender stereotypes of the day depicted the male sex drive as relentless. Physicians often asserted that if men were denied access to regular sexual congress with women, they would direct their insatiable lust towards other men or boys. They argued that men who did not have regular sex with women could suffer physical and emotional consequences and asserted that same sex intercourse and masturbation were vices that endangered male health, especially if practiced in excess. Ideally, men would find regular sexual release within the bonds of marriage or, less preferably, by means of female prostitutes. Gender stereotypes created the expectation that it was the responsibility of "men of family" to protect their women, their dependents, and themselves from the sexual aggressions of other males. If this protection was violated, it constituted a widely recognized insult to the honorable manhood of the head of the household. Defendants often employed the "defense of honor" plea to justify a murder committed in order to restore an offended man's reputation and public morality.³⁷ These ideal stereotypes of manly behavior and sexuality were widely shared. However, those who transgressed these very norms were attributed with special powers, at least in certain quarters. This could take the form of the religious sanctity of priestly celibates, the swaggering virility of cynical womanizers, or an unrepentant preference for sexual and romantic fulfillment of active, virile partners in same sex relationships with effeminized, passive partners.

Opposing notions of manhood were also brought to light by the divergent versions of the "truth" presented by the slave dealer and the schoolmaster. In his opening arguments, the schoolmaster's lawyer asserts that Manoel had bought Silvestre in "good faith" from Marcelino without a "detailed inspection or a medical exam." Here the defense pointed out the rather far-fetched naivete demonstrated by Manoel in his role as slave market buyer, but also emphasized the important legal point that the buyer had no knowledge of Silvestre's alleged illness or vice before the sale was concluded. The schoolmaster's lawyer's open-

ing statement also distanced the plaintiff and the slave dealer's agent from one another in terms of morality and social class by playing on common stereotypes of slave dealers as dishonorable hucksters who practiced deception in order to make illicit profits. He claimed that Marcelino demonstrated undue haste and pressured him into registering Silvestre's purchase with the authorities even before the latter produced a bill of sale. He accused Marcelino of plotting with Flavio to delay the delivery of the bill of sale, giving the false impression that this would preempt the buyer's rights to rescind the sale.³⁸ The plaintiff challenged the word and honor of the slave dealer and his agent, but the defense would later respond in kind.

The plaintiff's lawyer claimed that soon after his sale Silvestre began to use words and exhibit "behavior, actions, and gestures of true mental illness." Without specifying how he had learned it, the plaintiff also alleged that Silvestre "practiced the repugnant vice of sodomy." One wonders, given the fact that Manoel was a schoolmaster, how he had discovered that Silvestre practiced sodomy. The plaintiff's testimony does not clarify whether the same behaviors, actions, and gestures that revealed Silvestre to be insane also betrayed him to be a sodomite, although their juxtaposition does suggest a connection between these two states. In the late 1800s mental illness and same sex desire began to be more openly linked in medical circles, novels, and popular stereotypes.³⁹

The plaintiff's attorney closed by stating that Manoel had been deprived of the services of his new slave because of his mental illness and, even worse, he had had to foot the bill for Silvestre's treatment at a mental asylum in the nearby city of Olinda. Given these conditions, he demanded that the sale be revoked and that Manoel be reimbursed for the purchase price, the loss of Silvestre's services, sales taxes, medical expenses, and court costs. The defense only responded to the plaintiff's charges after Silvestre had had his first medical examination and contented itself for the time being with unsuccessfully subpoenaing Dona Anna de Santa Ursula as a witness.

The projected outcome of Silvestre's case hinged on the medical examinations that the Municipal Judge ordered from two physicians. The exams provide fascinating if fleeting glimpses of how medical knowledge came to bear on the case. The statement of the first court-appointed physician, Dr. Caetano Xavier Pereira de Brito, affirmed that Silvestre did indeed suffer from a mental illness. He noted that the patient had lucid moments, but suffered from recurrent states of dementia. Dr. Brito succinctly describes "disconnected thoughts" [*disparatos*] expressed by Silvestre: "that he took the souls of his master and mistress out of the flames of hell," "that he had seen his mistress and the girl already prepared inside a small glass bottle," "that he wanted to be sold to the Frenchman who would manumit him" and "that his illness came from the bite of a two-headed

snake.” This last phrase is intriguing because it suggests that Silvestre was aware of his illness, at least by the time he was examined, but these remarks will be further analyzed below. Dr. Brito concluded that Silvestre’s illness was “general.” With no sense of irony, he stated that Silvestre was obsessed with matters of freedom (*negócios de liberdade*), but also stressed Silvestre’s preoccupation with religion. It was impossible to diagnose precisely when Silvestre’s mental illness began, he noted, but his evaluation of Silvestre’s health strongly indicated that it was relatively recent. As to the sodomy allegation, Dr. Brito declared he had nothing to report because the patient had not allowed himself to be examined.⁴⁰

After the first medical report, the defense responded in writing to the plaintiff’s charges. First, the defense lawyer noted that the agent Marcelino had allowed Manoel to try out Silvestre’s services for “many days” in order to “learn about his flaws, examine his state of health and inspect his services.” Marcelino claimed that the schoolmaster had declared that he was satisfied with Silvestre. This testimony was reported indirectly through the plaintiff’s lawyer, who claimed that Manoel had had ample time to determine by observation whether Silvestre was mentally ill or practiced vices.⁴¹

The defense lawyer seemed less sure-footed when he addressed the sodomy charges. He asserted initially that Silvestre’s vice had its origins in the immoderate beatings applied by his new master. According to this scenario, Silvestre had begun practicing sodomy only after his sale, thus the seller could not be blamed for having concealed it. But then the lawyer seemed to “hedge his bets” by arguing that even if Silvestre had practiced sodomy, this vice did not constitute legal grounds for rescinding his sale. He claimed that the *Ordenações* did not specify sodomy as a vice that could be used to revoke a sale, but as shown by Silvestre’s court case, it was commonly understood as such. Somewhat more puzzling then is the defense’s indirect testimony regarding the allegations that Silvestre practiced sodomy, according to which the schoolmaster had declared to Marcelino that “he did not care about the vice attributed to the slave because it is customarily attributed to many men with laundered ties (*gravatas lavadas*).” Here the defense lawyer stressed that the seller’s agent had made the buyer aware of the vice before the sale, invalidating the buyer’s right to rescind the sale on that basis. He then noted that Silvestre’s mental illness could remain latent and that he possessed a weak, imprudent spirit. He added that Silvestre’s “absolute ignorance” of his condition allowed “extravagant prejudices and a certain religious fanaticism” to take root.⁴²

The defense attorney noted that “the buyer after purchasing the slave reduced him with this bad treatment to a state of strength so different from the robustness he had exhibited before... from the date of his [Silvestre’s] purchase there was

sufficient time to perturb the normal state of any man's spirit, much less in the case of a slave, the buyer purchased [Silvestre] knowing and then beholding that he was of a weak, impressionable, and pusillanimous spirit!" It is difficult to know what the defense meant by "knowing" and "beholding," but the attorney seems vaguely to suggest that the buyer was aware of the slave's proclivity to vice. Here the defense played on the slave stereotype of weakness, ignorance, suggestibility, superstition, and a cowardly spirit. Adjectives like "pusillanimous" depicted the bondsman as a weak, effeminized subject who could be manipulated by his superiors. In conclusion, the defense lawyer stated that it was impossible to prove that the slave's mental condition was already unstable before the date of sale, but that the evidence showed that this illness only manifested itself after that date. He averred that the doctor who examined Silvestre had produced no evidence that Silvestre practiced sodomy and requested that the case be dismissed and that the plaintiff pay court costs.⁴³

When the second doctor appointed by the court first met with the judge and the litigants, the plaintiff's attorney requested that the individuals who worked in the mental asylum where Silvestre had been lodged be interviewed about his condition. The defense attorney declared that he could not agree to the request because he was not notified in advance and had he known the plaintiff desired to call witnesses, the defense would have produced additional witnesses of its own. Perhaps the plaintiff hoped to show through witnesses that Silvestre had not undergone a recent beating when he arrived at the asylum, but this will never be known, as the judge sided with the defense.⁴⁴

Dr. Carolino Francisco de Lima Santos provided a brisk written response to the court's queries. He stated that Silvestre was suffering from continual mental illness, at least since he had begun observing the patient. His diagnosis was that Silvestre suffered from a form of "monomania" in which delirium alternated with strong paroxysms of fury which were especially virulent when someone contradicted the patient (a particularly interesting symptom for a slave). He noted that the patient was prone to aimless wandering and tortuous delirium. Dr. Carolino ended his statement by revealing that he had known the slave Silvestre when he was still in the hands of the slave dealer Flavio and at that time had concluded that the bondsmen was already suffering from incipient "monomania." He argued, therefore, that Silvestre's "mental illness had already existed long before the date of his sale."⁴⁵

Dr. Carolino's statement included the only reference made to a medical text, the French physician Augustin Grisolles's *Traité de pathologie interne* (1865), a two-volume encyclopedia of diseases and their pathologies. For Grisolles, "*Rigoureusement parlant, on ne devrait donner le nom de monomanes qu'aux individus qui ne délirent que sur un seul objet; cependant beaucoup d'auteurs*

ont coutume de confondre sous cette denomination tous les fous qui ont une idée désraisonnable prédominante: aussi la monomanie constitue-t-elle pour eux la forme la plus commune de l'aliénation mentale, tandis que le délire partiel est généralement regardé comme excessivement rare.» The irrational fixed idea that characterized monomania could take many forms. Grisolle mentions “*monomanie ambitieuse*” (when one believes he is Napoleon or another important figure), nymphomania, and melancholy. An obsession with religion could also characterize monomania. “*Fréquemment les maladies dont nous parlons sont toutentés par idées religieuses (monomanie religieuse): ils ont des remords pour leur vie passée, quelquepure d'ailleurs qu'elleait été; ils se voient damnés; quelques-uns se croient au pouvoir du diable (demonomanie).*”⁴⁶ Dr. Carolino notes that Silvestre had long had an obsession with religion and this may have prompted his diagnosis of «monomania,» which covered a wide range of mental illnesses.

While Dr. Carolino's diagnosis of Silvestre's mental illness appeared straightforward, he observes that the patient exhibited no “indication, vestige, or symptom” that could be attributed to “any nefarious sensual sin.” Unfortunately, the physician did not specify upon which evidence he bases this conclusion. When court-appointed doctors or midwives examined young women to determine the veracity of their claims to virginity, they examined the hymen, but many also believed that flaccid breasts and buttocks also indicated that a young woman had been previously “devirginized.” It is unclear whether Brazilian physicians in the 1870s conducted similar “scientific observations” based on physical attributes in order to assess whether a male indulged in sodomite “activity.” The physicians were requested by the court not only to ascertain whether Silvestre had had same-sex intercourse, but to determine if possible with what frequency. No mention is made as to whether Silvestre played the active or passive role in his alleged same-sex couplings, categories commonly elucidated in Brazilian court martial trials of the period involving sodomy. However, assuming that Silvestre played the active role, there would be no way of distinguishing him from a man who had had sex with women. If this assumption is true, then the exam would have only made sense if they suspected Silvestre was the passive partner in same-sex intercourse. One might presume that a physical exam of Silvestre's genitals and anus would have been *de rigueur*, but exactly what would constitute definitive medical proof that sodomy had been practiced remains hazy. Men possessed no hymens to examine. One can speculate that physical evidence might have included venereal sores or abrasions in the anal area. A Brazilian physician examining boys from the navy's apprentice school in the 1890s cited such sores as scandalous proof of widespread “pederasty” in that institution.⁴⁷

Since the two medical witnesses disagreed in their conclusions regarding when Silvestre had become mentally ill, the judge called upon a third “tie-breaking” physician, Dr. Erminio Cesar Coutinho. Dr. Coutinho’s statement is not in the court transcript, but the judge summarizes the third doctor’s report in his decision.⁴⁸ [Indeed, several references by attorneys and judges indicate page numbers and documents not found in the extant transcript.]

After the medical testimony, the plaintiff’s lawyer reiterated claims he had made earlier and responded to the defense. The plaintiff insisted that he had trusted in the word of the agent Marcelino who had verbally guaranteed to him that Silvestre did not suffer from any illness or vices—a clear breach of the *Ordenações*. The plaintiff’s lawyer flatly denied that his client had ever stated that he did not care about the vices attributed to Silvestre and reasserted that Marcelino, in conspiracy with the slave dealer Flavio, had acted in “bad faith” by delaying the delivery of the bill of sale. He insisted that the medical testimony showed that Silvestre had suffered from mental illness and practiced sodomy before the date of purchase. However, he did not try to explain the contradictions in the physician’s statements as to when Silvestre’s illness began, nor did he address the lack of medical evidence to back up the allegation of vice. Instead, the attorney turned the slave dealer’s own expertise against him by arguing that the defendant made his living by selling slaves and therefore could not have overlooked the fact that Silvestre suffered from these “defects.” The plaintiff’s lawyer then discredited a key argument for the defense when he denied that Manoel had flogged or mistreated Silvestre in any way. Therefore, brutality could not have caused the slave’s mental illness or vice. On the contrary, he concluded by exhibiting documents that showed that the plaintiff had conscientiously placed Silvestre in the care of doctors in Olinda’s mental asylum after his illness had become “unbearable.”⁴⁹

The exact nature of Silvestre’s religious fanaticism and obsession with freedom is not clear, but in light of Dr. Carolino’s testimony, it may be enlightening to return to Dr. Brito’s record of his “disconnected remarks.” Silvestre’s references to the “flames of hell” indicate that his religious worldview was profoundly influenced by Christianity. However, his mention of the “bite of a two-headed snake” and seeing “his mistress and the girl... in a small glass bottle” may have been inspired by Afro-Spiritist ritual and spells. *Pais do santo* or male Afro-Spiritist religious leaders were sometimes effeminate men perhaps because spirit possession was strongly associated with women in Central Africa, but the evidence in Silvestre’s case is much too thin to support an assertion that he dabbled in Afro-Spiritism, much less that he was a *pai do santo*. It is interesting too that Silvestre remarked on his desire to be sold to another buyer, the “Frenchman,” whom he believed would have set him free. It is not clear whether this was

a delusion, but Silvestre's words indicate how slaves sized up their potential buyers. On the one hand, if there was such a Frenchman, Silvestre's sale to the schoolmaster demonstrates the strict limitations on a slave's ability to influence a purchase. On the other hand, as the defense emphasized, Silvestre had worked for Manoel for "many days" before his purchase and his new master had been satisfied enough to buy the slave. If Silvestre had suffered from mental illness before his sale and was conscious of this illness, it seems possible that he may have made an effort to conceal his symptoms. Of course, Silvestre may have feared punishment on the part of the slave dealer if his behavior or services had dissuaded Manoel from closing the deal. It is also feasible that the defense's accusations were true and that abuse at the hand of Manoel drove Silvestre to lunacy. One can only speculate regarding the origins of Silvestre's illness and whether he wished to be sold to Manoel or not, but while on loan, he had played a vital, though clearly circumscribed, role in his own sale.⁵⁰

After the plaintiff's lawyer restated his arguments, the defense attorney simply rested his case and on Aug. 17, 1871, the Municipal Judge rendered his decision. He noted that Drs. Brito and Coutinho had determined that they could not specify when Silvestre's mental illness had begun on the basis of court documents, observation and testimony. He added that Dr. Coutinho, like Dr. Carolino, had examined the slave when he was still in the slave dealer's possession, but the former contradicted the latter by stating that the slave then enjoyed a "good state of health." The judge then cited the specific law invoked by the plaintiff from the *Ordenações*: "Any person who buys a slave who suffers from an illness can rescind the sale [*engeitar*] but he must prove that the slave already suffered from the said illness while still in the possession of the seller." The judge suggested that even Dr. Carolino's testimony supported the defense's case because he admitted that it was possible to become mentally ill from one day to the next and that he had verified an "incipient monomania" before Silvestre's sale, but not insanity. The judge affirmed more strongly that none of the physicians had found any proof that Silvestre practiced sodomy beyond "vague references and speculations by witnesses, which do not constitute direct proof." The municipal judge declared the plaintiff's case unfounded and ordered him to pay court costs, at which point the plaintiff immediately appealed.⁵¹

The Appeals Court judges reviewed the same evidence as the municipal judge, but they favored the plaintiff and declared Silvestre's sale null and void. The judges ordered the slave dealer to pay court costs and to reimburse the plaintiff the price of the slave as well as all other expenses and interest involved to the sale. The succinct decision does not state why the judges reversed the former decision, but they noted that based on their reading of the case, "the same slave was diagnosed to be insane (*louco*) by medical witnesses." A later legal action

taken by the slave dealer against Dona Anna de Santa Ursula, however, claimed that both Silvestre's "mental illness and other vices [i.e., sodomy] annulled the sale,"⁵² even though the Appeals Court did not mention vice in their decision.

The defense appealed, but soon floundered. According to the law, an appeal had to be made five days after the Appeals Court decision rendered on June 17, 1872. Flavio's lawyer, however, only filed his petition on July 1, 1872. Due to this technicality, the Appeals Court refused on Sept. 21, 1872 to recognize the appeal petition. The defense accused the judges of being too rigid in their application of the law and appealed to the *Suprema Tribunal de Justiça* (the Empire's Supreme Court) in Rio. Nevertheless, on Aug. 16, 1873, Brazil's highest court refused to rule on the case because it fell under the jurisdiction of the Appeals Court in Recife. In its unheard petition, the defense criticized the Appeals Court's decision because it did not address when the mental illness began, whereas they claimed it had started after the sale. Interestingly, the petition asserted more forcefully than previously, though in awkward phrasing, that the "only cause of Silvestre's mental illness resulted from his new master's recent and immoderate beatings of his slave. In fact we will prove that the unanimous vote of all the examining physicians was that this slave had never practiced the vice of sodomy as the plaintiff claimed only in principle as the cause of his mental disturbance verified only recently in his [Manoel's] possession, but exclusively because of beatings inflicted by his new owner himself."⁵³ Here, a slave dealer – or at least his lawyer – seem to directly associate flogging with both mental illness and sodomy.

The slave dealer's appeals caused the case to drag on, but the plaintiff filed twice in an attempt to force the defendant to pay. Manoel asked the court to order Flavio to pay immediately and if he failed to do so, demanded that the court seize the defendant's property to pay the debt. However, Flavio deferred payment as the defense continued to pursue legal redress. By 1874, Flavio had exhausted his appeals. The final one sought to invalidate the Appeals Court's decision on the basis of stipulations included in the 1871 Free Womb Law, which had been passed about one month after the Municipal judge handed down his decision regarding Silvestre's case. The defense appealed to the High Court in Rio, but it once again refused to rule on the case.

Upon receiving news of this final decision, Flavio's attorney presented the court with an "eviction action," constituting a partial or total loss suffered by a buyer in consequence of a judicial claim made by the true owner or possessor, against Dona Anna de Santa Ursula. The defense decided that the schoolmaster's arguments might now be used against Dona Anna to rescind the original sale. Flavio's lawyer complained that Dona Anna had failed to appear in court to support the defense even though she had been summoned and that Flavio had

paid all the expenses entailed by the case. The case went dormant for years, but the Appeals Court heard arguments from the lawyers representing Flavio and Dona Anna in 1877. On February 5, 1879, the Appeals Court declared Flavio's eviction action groundless. The judges stressed that Flavio had previously argued that Silvestre had not been mentally ill before his sale to Manoel and also noted that he had had Silvestre in his possession for five months before reselling the slave to the schoolmaster. One can only speculate whether a wily Dona Anna had managed to beat a slave dealer at his own game in the masculine world of the slave market. The court ordered Flavio to pay the schoolmaster the whopping sum of 6:358\$000 mil reis, which included court costs and reimbursement for Silvestre's price, medical fees, interest, and taxes, a sum which was nearly four times the price originally set for the slave's sale. Records do not reveal Silvestre's fate after he reverted to Flavio's ownership; he is last mentioned in a court document dating from Oct. 31, 1872 as residing in an Olinda asylum.⁵⁴

Conclusions

As Katia M. de Queirós Mattoso observed in her classic *To Be a Slave in Brazil*: "The price [of a slave] depended on competition, distance from point of departure to point of sale, speculation, and economic conditions, as well as on the age, sex, health, and skills of the slave."⁵⁵ As Silvestre's case shows, vices or the lack thereof should be added to the list of major factors determining a slave's price. Vice also continued to affect the way ex-slaves were valued after they achieved their freedom. Slavocrats and many abolitionists strongly associated slaves and their descendants with vice rather than with virtue and this stereotype undercut their claims to be fully respected as free citizens before and after abolition.⁵⁶ After all, the male-centered Latin root of "virtue," *vir* or man, linked the privileges of citizenship with masculinity and the qualities deemed essential to exercise such privileges prudently.

Silvestre's case also illustrates that physicians, lawyers, and even slave dealers began linking physical castigation with unhygienic practices that could plausibly be indicated as the "only" cause of a man's mental illness and vice. It is intriguing that this causal logic became a central focus of the slave dealer's appeal, indicating his belief that it would have the power to sway authorities. Manuals offering advice to slave owners had long preached moderation in punishment and masters knew that flogging could damage their property and lead to extra medical costs.⁵⁷ Still, the idea that flogging was an indispensable motivating and disciplinary factor in the case of slaves and certain free workers remained firmly entrenched.

Flavio's agent Marcelino suggested that the schoolmaster Manoel had heard the rumors that Silvestre practiced sodomy before he had purchased him and was unperturbed by this knowledge. It seems improbable that a schoolmaster would knowingly purchase a slave rumored to practice sodomy for employment in his school, a social environment increasingly associated by physicians and novelists with dangerous same-sex liaisons. Although the potential scandal could have been disastrous for business, it is also possible that the plaintiff had fabricated the story of Silvestre's vice in the boarding school context in order to turn the judges against the slave dealer. The intimation that many wealthy, refined, well dressed, clean-tie-wearing and, one might surmise, slave-owning men had sex with other men is intriguing whether it originated with Marcelino or with Manoel. What was the point of discussing a slave's sexuality in the same breath with that of wealthy gentlemen? Was this an attempt by a less educated slave dealer's agent to impugn the schoolmaster's virtue and by extension, others of his class, to suggest ironically that many of them too were captives of this vice? Was it a dismissal of rumor mongering or was it a statement by a self-confident member of the educated master class who viewed the sexual domination of slave property (male or female) as part and parcel of virile mastery? It is open to speculation how deeply charged the statement was with any of these implications, but at the very least, the statement pointed to the hypocrisy of attributing this "vice" to male or female slaves who were regularly subjected to their owners' sexual violence. It seems likely that the main point of Marcelino's indirect testimony was to disqualify the buyer's right to revoke the sale based on an allegedly undisclosed vice. This differed from the defense's later contention that Silvestre had never practiced sodomy before he was sold and if he had, had only begun to do so under his new master's brutal tutelage. Scholars have long noted that, unlike advocates of slavery in the antebellum U.S. South, Brazilians had not formulated any intellectual and moral defense of human bondage. Perhaps Silvestre's case discloses the ambivalence of educated Brazilians towards slavery by the 1870s. In his defense, Flavio linked flogging with mental illness and sexual "vice" not in order to disparage the slaveholding, monarchical social order (as was done by certain Brazilian novelists, abolitionists, and physicians of the era), but in order to defend a slave dealer's interests.

NOTES

1. Apellido Manuel Alves Vianna, Tribunal de Relação, Instituto Archealógico, Histórico, e Geográfico Pernambucano (IAHGP), Recife, 1877, caixa II, Pasta 2, p. 7. To simplify references to the trial transcript, I will refer to it as IAHGP. I would like to thank Marcus

- J. M. de Carvalho, the members of the IAHGP and the many professors and students working towards organizing the fascinating Appellate Court cases housed in the IAHGP for inviting me to participate in the project that led me to discover this case: Projeto de Catalogação e Organização do Acervo do Tribunal de Relação de Pernambuco, no século XIX (hereafter, PCOTRP). I also would like to thank the IAHGP for honoring me as a *sócio correspondente* of one of Brazil's most venerable historical institutions, which facilitated my research. I would also like to thank Marcus, Dinah Ramey Berry, Linda Lewin, James N. Green, Mary Karasch, and an anonymous reviewer for their comments on earlier drafts, but the credit for any errors herein is wholly mine. The research was made possible by a CIES Fulbright Fellowship and a Michigan State University IRGP Grant.
2. In the hundreds of Appeals Court cases from the 1820s through the 1840s catalogued by PCOTRP so far in the IAHGP, I found no other cases comparable to the dispute over Silvestre's sale. Carlo Ginzburg, see e.g., *The Cheese and the Worms: The Cosmos of a Sixteenth Century Miller*, trans. By John and Anne Tedeschi (Baltimore: Johns Hopkins University Press, 1980); Ronaldo Vainfas, *Os protagonistas anônimos da história* (Campus, 2002).
 3. An exception is Marcus J. M. de Carvalho's excellent history of slavery in Recife, *Liberdade: rotinas e rupturas do escravismo no Recife, 1822-1855* (Recife: Editora Universidade de UFPE, 1998), Chapter 13; Mary C. Karasch notes that the lack of studies regarding the Brazilian slave market is largely due to limited sources, but she does give a vivid depiction of Rio's slave market in *Slave Life in Rio de Janeiro 1808-1850*, (Princeton University Press, 1987), Chapter 2; Sidney Chalhoub, *Visões da liberdade: uma história das últimas décadas da escravidão na Corte* (São Paulo: Cia. das Letras, 1990). For excellent recent studies on the U.S. see, e.g., Walter Johnson, *Soul by Soul: Life Inside the Antebellum Slave Market* (Cambridge, Mass.: Harvard University Press, 1999); Dinah Ramey Berry, "'We'm Fus' Rate Bargain:' Value, Labor, and Price in a Georgia Slave Community," in *The Chattle Principle: Internal Slave Trades in the Americas*, ed. Walter Johnson, (New Haven, Yale Univ. Press, forthcoming); Edward E. Baptist, "'Cuffy,' 'Fancy Maids,' and 'One-Eyed Men': Rape, Commodification, and the Domestic Slave Trade in the United States," *The American Historical Review* 106:5 (Dec. 2001):1619-50.
 4. Robert Conrad, *The Destruction of Brazilian Slavery, 1850-1888* (Berkeley: University of California Press, 1972), p. 285; Robert Slenes, "The Demography and Economics of Brazilian Slavery" (Ph.D. diss., Stanford University, 1976).
 5. Joaquim Nabuco, *Abolitionism: The Brazilian Antislavery Struggle*, translated and edited by Robert Conrad (Urbana: University of Illinois Press, 1977 [1883]); André Rebouças, *Agricultura nacional: Estudos econômicos* (Recife: Ed. Massangana, 1988 [1883]). On the demise of Brazil's international slave trade and abolition see, e.g., Robert Conrad, *The Destruction of Brazilian Slavery*; Leslie Bethell, *The Abolition of the Brazilian Slave Trade: Britain, Brazil, and the Slave Trade Question* (Cambridge University Press, 1970); Sidney Chalhoub, *Visões da liberdade: uma história das últimas décadas da escravidão na Corte* (São Paulo: Cia. das Letras, 1990); Jeffrey D. Needell, "The Abolition of the

- Brazilian Slave Trade in 1850: Historiography, Slave Agency, and Statesmanship,” *Journal of Latin American Studies* 33 (2001): 681-711.
6. *Provincia de São Paulo* Aug. 15, 1887. Cited in Schwarcz, *Retrato em negro e branco*, p. 225.
 7. Nabuco, *Abolitionism* 103. Also see his assertions on how slavery corrupted clergymen and patriotism and stymied economic growth. *Ibid.*, pp. 108, 111, 122 and 132-33.
 8. Patricia Ann Aufderheide, “Order and Violence: Social Deviance and Social Control in Brazil, 1780-1840,” Ph.D. diss., Univ. of Minnesota, 1976; Peter M. Beattie, “Conscription Versus Penal Servitude: Army Reform’s Influence on the Brazilian State’s Management of Social Control, 1870-1930,” *Journal of Social History* 32:4 (1999):847-78.
 9. *Collecção das decisões do Governo de 1861* p. 289. Cited and translated in Conrad, *Children of God’s Fire*, p. 314; Bryan Daniel McCann, “The Whip and the Watch: Overseers in the Paraíba Valley, Brazil,” *Slavery and Abolition* 18:2 (Aug. 1997):36-37; Sidney Chalhoub, *Visões de liberdade*; Thomas Holloway, *Policing Rio de Janeiro: Repression and Resistance in a 19th Century City* (Stanford University Press, 1993); On the increasing sentencing of convict slaves to hard labor, see Leila Mezan Algranti, *O feitor ausente: Estudos sobre a escravidão urbana no Rio de Janeiro—1808-1822* (Rio: Vozes, 1988), pp. 193-198; and Aufderheide, “Order and Violence.”
 10. Originally cited in José Honório Rodrigues et al, eds., *O parlamento e a evolução nacional* (Brasília: Senado Federal, 1972), v. 2, pp. 345-346, translated by Aufderheide, “Order and Violence,” pp. 308-309.
 11. *Capitão Antonio Gracindo de Gusmão Lobo*, “Relação nominal de escravos sentenciados,” *Arquivo Público do Estado de Pernambuco*, FN-21, Oct. 27, 1881, no page numbers.
 12. In his diaries, Pedro II noted repeatedly that he did not support the death penalty even though it was legal. In 1890, when the Brazilian Republic outlawed capital punishment, Pedro noted that he had *de facto* ended capital punishment in Brazil by commuting all capital sentences for the previous thirty years. See, Vianna, Hélio, ed. “Diário de 1862,” *Anuário do Museu Imperial* 17 (1956):19, 76; Diary entries for May 31, 1890 and June 15, 1890 in the Arquivo Histórico do Museu Imperial, Coleção Pedro d’Orléans e Bragança, Catalogo B, Maço 35, Doc. 1,057. I wish to thank Roderick J. Barman for generously sharing these sources on Pedro II’s opinions of the death penalty. Alexandre K. Brown, “A Black Mark on Our Legislation,” p.101-103; Also, José Antônio Soares de Souza, “Os escravos e a pena de morte,” *Revista do Instituto Histórico e Geográfico Brasileiro* 313 (1976):5-19; For a notorious case in which Pedro II refused to pardon a master, a freeman, and two slaves convicted of murdering a family, see Nancy Priscilla Naro, “Fact, Fantasy, or Folklore? A Novel Case of Retribution in 19th Century Brazil,” *Luso-Brazilian Review* 53:1 (1996):59-80; Phillip J. Schwarz, *Slave Laws in Virginia* (Athens: University of Georgia Press, 1996), Chapters 3 and 4.
 13. On punishment in the military, see Peter M. Beattie, *The Tribute of Blood: Army, Honor, Race, and Nation in Brazil 1864-1945* (Durham: Duke University Press, 2001), Chap. 6; Álvaro Pereira de Nascimento, *A Resaca da marujada: recrutamento e disciplina na marinha de Guerra 1880-1910* (Rio: Arquivo Nacional, Rio de Janeiro, 2001).
 14. Joaquim Borges Rodrigues, *Processo Borges. Atentado político contra a lavoura em*

- Barra Mansa* (Rio: Typ. Universal de E. & H. Laemmert, 1879); Excerpts are cited and translated in Conrad, *Children*, pp. 305-314; *20 Direito* (Rio) 35 (1884), 103-118, quoted and translated in Conrad, *Children*, 273-281; Thomas Holloway, "'A Healthy Terror': Police Repression of Capoeiras in 19th Century Rio de Janeiro," *Hispanic American Historical Review* 69:4 (Nov. 1989):637-674. This rape may have been inspired by the fallacious belief that intercourse with a prepubescent girl could cure syphilis. Gilberto Freyre, *The Masters and the Slaves*, translated by Samuel Putnam (New York: Alfred A. Knopf, 1956), p. 325.
15. Karasch, *Slave Life*, p. 31; Lília Moritz Schwarcz, *Retrato em preto e branco: Jornais, escravos, e cidadãos em São Paulo no final do século XIX* (São Paulo: Companhia das Letras, 1987), pp. 141, 224-7; Carvalho, *Liberdade*, p. 277.
 16. F. Friedrich von Weech, *Braseliens gegenwärtiger Zustand und Colonialsystem*, (Hamburg: 1828), 105-107. Cited in Karasch, *Slave Life*, p. 42.
 17. Data found in Conrad, *The Destruction of Brazilian Slavery*, p. 287.
 18. IAHPG, p. 43; Marcus J. M. de Carvalho, "Pátria, Liberdade e Espaço Doméstico na Primeira Metade do Século XIX," *Revista do Instituto Histórico e Geográfico Brasileiro*, n. 414, (2002):119-132; Stuart Schwartz, *Sugar Plantations in the Formation of Brazilian Society: Bahia, 1550-1835* (Cambridge University Press, 1985), p. 152.
 19. Karasch, *Slave Life*, pp. 31-47; Citation from C. A. Taunay, *Manual do agricultor brasileiro* (Rio de Janeiro: Typ. De J. Villeneuve, 1839), pp. 12-13. Citation translated in Robert Edgar Conrad, *Children of God's Fire: A Documentary History of Black Slavery in Brazil* (Princeton University Press, 1983), p. 299.
 20. Johnson, *Soul by Soul*, p. 105-107; Eugene D. Genovese, *Roll Jordan Roll: The World the Slaves Made* (New York: Vintage Books, 1976 [1972]), pp. 625, 632-35; Schwarz, *Slave Laws in Virginia*, 94; Karasch, *Slave Life*, pp. 356-8; Carvalho, *Liberdade*, pp. 271-310.
 21. Johnson, *Soul by Soul*, pp. 24-5; Frederic Bancroft, *Slave Trading in the Old South* (New York: Unger, 1959); Michael Tadman, *Speculators and Slaves: Master, Traders, and Slaves in the Old South* (Madison: Univ. of Wisconsin Press, 1989); Karasch notes similar views of Brazil's slave traders, *Slave Life*, Chapter 2; see also Stein, *Vassouras*, pp. 71-3.
 22. On the widespread nature of slaveholding in Brazil see, e.g., Schwartz, *Sugar Plantations*, pp. 456-8; Bert J. Barickman, *A Bahian Counterpoint: Sugar, Tobacco, Casava, and Slavery in the Recôncavo, 1780-1860* (Stanford University Press, 1998); Idem., "Reading the 1835 Parish Censuses from Bahia: Citizenship, Kinship, Slavery, and Household in Early 19th Century Brazil," *The Americas* 59:3 (Jan. 2003):287-324; in "'Cuffy,'" Baptist notes how perceptions regarding slave dealers changed over time.
 23. Carvalho, *Liberdade*, pp. 299-309.
 24. [Joaquim Maria] Machado de Assis, *Posthumous Memoirs of Brás Cubas* (University of Oxford Press, 1997).
 25. A price table for adult male Bahian slaves in the 1870s shows that the lowest price was 40,000 mil reis, the maximum 2,500,000 and the average 1,230,000. Mattoso, *To Be a Slave in Brazil 1550-1888* (New Brunswick: Rutgers University Press, 1986), pp. 78, 80.

26. Karasch, *Slave Life*, Chap. 2; Stein, *Vassouras*, pp. 73-4; Johnson, *Soul by Soul*, pp. 53-5.
27. *Provincia de São Paulo* 19 Fev 1878. Cited in Lilia Schwarcz, *Retrato em preto e branco*, p. 136. My emphasis added.
28. *A Provincia*, Recife, Feb. 8, 1877, p. 4. My emphasis added.
29. Kenneth S. Greenberg, *Slavery and Honor* (Princeton University Press, 1996), p. 15; Freyre, *The Masters and the Slaves*, pp. 70-1.
30. *Código Philippino ou Ordenações e Leis do Reino de Portugal Recopiladas por mandado D'El Rey E. Philippe I*, 5 vols., ed. Candido Mendes de Almeida, (Rio: Typ. Do Institutio Philomathico, 1870), Book 4, Title 17, Article 2, p. 798.
31. *Ordenações*, Book 4, Title 17, Article 8, p. 799.
32. *Ordenações*, Book 4, Title 17, Articles 1, 3, 5, 10 and n. 5, pp. 798-9.
33. *Novo Michaelis dicionário ilustrado Português-Inglês*, 2 vols., 36 ed., (São Paulo: Melhoramentos, 1984), II:1301.
34. AHGP, p. 6-7, 9; Andrew Kirkendall, *Classmates: Male Student Culture and the Making of a Political Class in 19th Century Brazil* (Lincoln: Univ. of Nebraska Press, 2002).
35. Domingos Firmino Pinheiro, *O androphilismo* (Bahia: Imprensa Economica, 1898); Other medical theses made analogous assertions: Herculano Augusto Lassance Cunha, *Dissertação sobre a prostituição em particular na cidade do Rio de Janeiro* (Rio: Tipografia Imparcial de F. Paula Brito, 1845); Francisco Ferraz de Macedo, *Da prostituição em geral* (Rio: Acadêmica, 1872); Francisco Manuel Soares de Sousa, *Generalidades médicas acerca do recrutamento*, (Rio: Tipografia do Brasil, 1845); Miguel Antônio Heredia Sá, *Algumas reflexões sobre a cópula, onanismo, e prostituição* (Rio: Tipografia Universal de Laemmert, 1845); pp. 115-21, 167; José Ricardo Pires de Almeida, *Homossexualismo (a libertinagem no Rio de Janeiro)* (Rio: Laemmert, 1906), pp. 75-6, 85; Luiz Mott, *Escravidão, homossexualidade, e demonologia* (São Paulo: Icone, 1988). This differs from physicians' earlier claims that boarding schools were ideal places to raise healthy and moral boys. Costa, *Ordem médicaI*, pp. 179-81.
36. Raul Pompeia, *O Atneu* (Osasco: Novo Século, 2002, [1888]), esp. pp. 21, 47, 103; *Bom Crioulo* is Caminha's only novel translated into English; see Adolfo Caminha, *The Black Man and the Cabin Boy*, E. A. Lacey, (San Francisco: The Gay Sunshine Press, 1982), *passim*; Peter M. Beattie, "Adolfo Ferreira Caminha: Navy Officer, Ardent Republican and Naturalist Novelist," pp. 89-106, in *The Human Tradition in Modern Brazil*, Ed. Peter M. Beattie (Wilmington: SR Books, 2004); On Machado de Assis and the issue of slavery, Sydney Chalhoub, *Machado de Assis: historiador* (São Paulo: Cia. das Letras, 2003); On masochism and same-sex intercourse, see Freyre, *The Masters and the Slaves*, pp. 119-22, 329-36.
37. See, e.g., Peter M. Beattie, "Conflicting Penile Codes: Modern Masculinity and Sodomy in the Brazilian Military 1860-1916," pp. 65-85, in *Sex and Sexuality in Latin America*, Donna Guy and Daniel Balderston (eds.) (New York Univ. Press, 1997).
38. IAHPG, p. 8; according to Mary Karasch, a buyer enjoyed a customary fifteen-day warranty when purchasing a newly arrived African-born slave in Rio de Janeiro unless a costlier agreement had been hammered out between the parties. Karasch, *Slave Life*, p. 43; For *ladino* slaves, the *Ordenações* gave a buyer six months to rescind the sale of a slave with an unrevealed pre-existing physical illness and one year for a slave with

- a similar vice. Obviously, conventions governing slave sales in regard to this warranty period had been adjusted since 1603. *Ordenações*, Book 4, Title 17, Article 2, p. 798.
39. Beattie, "Conflicting Penile Codes."
 40. This observation conformed to Grisolle's description of "*monomanie religieuse*." Grisolle, *Traité de pathologie interne*, 2:685; IAHGP, pp. 10-1.
 41. IAHGP, p. 15.
 42. IAHGP, pp. 15-6.
 43. IAHGP, pp. 15-7.
 44. IAHGP, p. 21.
 45. IAHGP, p. 25.
 46. Augustin Grisolle's *Traité de pathologie interne* (Paris: V. Masson et Fils, 1865) 2:684-686.
 47. On virginity, see Martha de Abreu Esteves, *Meninas perdidas: os populares e o cotidiano do amor no Rio de Janeiro* (Rio: Paz e Terra, 1989); Sueann Caulfield, *In Defense of Honor: Sexual Morality, Modernity, and Nation in Early 20th Century Brazil* (Durham: Duke University Press, 2000). In *Beyond Carnival: Male Homosexuality in 20th Century Brazil* (The University of Chicago Press, 1999), pp. 116-21, James N. Green notes that by the 1930s Brazilian physicians had preconceived ideas about the physical traits of men who had sex with men; Pires de Almeida, *O homosexualismo*, p. 85; IAHGP, pp. 24-5.
 48. IAHGP, p. 24.
 49. IAHGP, pp. 10-1.
 50. IAHGP, p 15; James Sweet shows that effeminate men in Africa and Portuguese America were often linked to Afro-Spiritist religious practices and spirit possession during the colonial period in *Recreating Africa: Culture, Kinship, and Religion in the African-Portuguese World, 1441-1770* (Chapel Hill: University of North Carolina Press, 2003), esp. Chap. 6; on same-sex practices and culture in West and Central Africa, see Stephen O. Murray and Will Roscoe, eds. *Boy-Wives and Female Husbands: Studies in African Homosexualities* (New York: Palgrave, 1998); Freyre, *The Master and the Slaves*, pp. 120-2.
 51. This appears to be a case where the judge paraphrased the law since it does not follow the language of the *Ordenações*. IAHGP, p. 26-7.
 52. IAHGP, pp. 2, 28.
 53. IAHGP, p. 29.
 54. IAHGP, pp. 56-8.
 55. Mattoso, *To Be a Slave in Brazil*, p. 63.
 56. This stereotype is strong even among revisionists like Florestan Fernandes, *The Negro in Brazilian Society*, Trans. by Jacqueline D. Siles, A. Brunel and Arthur Rothwell, (New York: Columbia University Press, 1969), esp. pp. 84-5.
 57. See, e.g., Robert Edgar Conrad's *Children of God's Fire*, Chapter 7.