

ARBITRARY RULE

*Slavery, Tyranny, and the
Power of Life and Death*

MARY NYQUIST



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ARBITRARY RULE

TO THE MEMORY OF MARIAN NORRGARD NYQUIST,
MY MOTHER,
AND
TO THE STUDENTS AT THE UNIVERSITY
OF TORONTO,
FROM WHOM I CONTINUE TO LEARN

CITATIONS

REFERENCES. Bibliographical information appears when a source is first referenced in an endnote, after which only the last name of the author(s) and an abridged title will be provided. For primary sources that I cite or refer to frequently, locators or page numbers appear parenthetically in the body of the text; relevant abbreviations or codes can be found in the first endnote reference to the edition being used. Owing to this study's length, a bibliography has not been included. Readers can use the index to locate a given author or source, the first reference to which will lead to bibliographical data.

CLASSICAL SOURCES AND TRANSLATIONS. Although I have used standard translations into English, where it has seemed important to cite the original language, I have done so sparingly in parentheses. When employing Greek and Latin terms in the introduction and chapter 1, I have followed modern scholarly conventions for transliteration or reproduction (e.g., *despotēs* or *ius*). But when these terms appear with reference to early modern texts, I use later adaptations (e.g., *despot* or *jus*).

Sources originally in Latin are cited from modern scholarly editions. Titles of sources originally in languages other than English first appear in the form in which they were published (e.g., Montaigne's *Des cannibales*). Thereafter, they are given as they appear in the edition I am using (e.g., *Of the caniballes*, but *Iephtes* for Buchanan's Latin drama). In the case of primary sources published in (or translated into) early modern English, I have retained original punctuation, spelling, italicization, and capitalization, with the exception of *i* and *v*, which I have silently changed to *u* and *j*, respectively, as well as other typographical practices that are now commonly modernized (e.g., &). Italicized words or phrases within citations from early modern texts appear in the original unless explicitly said to be mine.

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INTRODUCTION

Arbitrary Rule began many years ago when I started wondering why figurative, political slavery is written about so readily, with such intensity, rhetorical ingenuity, and, occasionally, theoretical rigor, in the English revolution of the mid-seventeenth century and again in the American and French revolutions. Why do radical Western European pamphleteers and theorists represent their opposition to the existing monarchical regime (or, in the case of England's thirteen mainland American colonies, their hostility to England) as a form of slavery? What, if anything, does this political slavery have to do with Euro-colonial enslavement and transportation of Africans across the Atlantic to the New World? By the late eighteenth century, antislavery discourse often speaks the language of opposition to political slavery. Does such double encoding occur in earlier periods? If not, when and by what means does political slavery become interconnected with objections to slavery as an institution? These questions led to others about Greek and Roman use of "slavery" as a figure for political oppression, and to asking how early modern humanists appropriated political "slavery" in addition to the barbarism with which it was often associated. Scholarship on classical and early modern political philosophy did not address the queries I had about political slavery's imbrications with personal slavery or its discursive conventions. *Arbitrary Rule* arose to meet this need, however imperfectly.

In exploring these issues, I have adopted a term Kurt A. Raaflaub introduces with reference to Athenian democracy, *antityrannicism*.¹ Greek, and later Roman, antityranny ideology represents the tyrant's subjects as figuratively enslaved—enslavement that seeks to dishonor and disenfranchise citizens who are meant to be "free." Such figurative, political slavery can be either internally or externally imposed and has numerous significations,

only some of which are relevant to a given utterance or passage. But whatever its mode, political slavery needs to be differentiated from the chattel slavery against which it asserts its claims. The benefits of elucidating their entangled interrelations will, I hope, emerge in this study, but certainly include challenging the notion that early modern resistance literature expresses inchoate antislavery sentiments. Integral to the antityranny ideology that articulates the threat tyranny poses to the democratic *polis*, political slavery has its own unique logic and codes, none of which arise from concern for those who are actually enslaved. At the same time, despite its apparent autonomy as a discursive formation, political servitude is not inherently independent of chattel slavery or indifferent to its legitimacy. Nor in classical Athens and Rome are political freedom and servitude within the state independent of imperial expansion. Writing of Athenian imperialism's interrelations with its democratic formations, Raaflaub states, "Internal freedom, realized by the rule of the demos in the *polis*, proved an indispensable prerequisite for the *polis*'s external freedom based on imperial rule—which, in turn, guaranteed the continuity and stability of democratic freedom."²

Clarity about interrelations between political and chattel slavery is difficult to come by partly because in a postabolition era, antityrannicism's vituperation against tyranny for threatening to reduce "free" citizens to political "slaves" is often mistaken for a denunciation of slavery itself. Revalorization of the ancient Greco-Roman polarity between freedom and slavery is frequently the result, all the more insidious for being inexplicit or perhaps subconscious. A not atypical desire to associate, if not equate, repudiation of political slavery with an enlightened rejection of slavery appears in Geoffrey Robertson's "Introduction" to his edition of *The Levellers*, where he traces the Universal Declaration of Human Rights to its humble origins in the Putney Debates that took place in 1647, during England's Civil Wars. Anyone who has been moved by the outpouring of creative, revolutionary ideas by marginalized women and men whose voices are almost never heard will share Robertson's desire to impart the experience. Far too often, the American, French, and Haitian revolutions are discussed without acknowledging the influence of the earlier revolution of the mid-seventeenth century. Besides raising awareness of how deeply engaging much of this literature still is, though, Robertson has a narrower, nationalist agenda, revealed when he claims that central democratic principles are derived "not from the slave-owning societies of Athens and Rome" but rather "from buff-coated and blood-stained English soldiers and tradesmen."³ Robertson is scornful of the importance Quentin Skinner and others give Roman republicanism, insisting that radicals such as John Cooke—central figure of *The Tyrannicide*

Brief, Robertson's gripping study of the trial of Charles I and its aftermath—derive their ideals and their fiery commitment to radical political change from their own Protestant, English communities and the Christian Bible.

Colorfully, if obliquely, contrasting the slave-owning societies of classical antiquity with slave-free seventeenth-century England, Robertson associates a native English aversion to slavery with an equally indigenous robust love of democratic freedom, expressed in the tracts published in *The Levelers* as a rejection of the political "slavery" attendant on tyranny. The larger historical context in which buff-coated English commoners assert their beliefs is thereby misrepresented. True, at the time of the revolution, England was not directly dependent on slave labor as were Athens and Rome. Despite an unsuccessful bid to reintroduce it in 1547, slavery was not legally permissible in early modern England. Alongside other Western European nations, however, England undertook numerous overseas ventures, steadily expanded its capitalist instruments and colonial holdings, and developed transatlantic plantation societies that were, unquestionably, slave societies. Situated in this ever-expanding transnational context, early modernism's interest in political freedom and slavery—interconnected with the humanist revival of classical Greco-Roman literature—significantly contributes to the lengthy, often only indirectly acknowledged process, beginning in the fifteenth and extending into the nineteenth century, by means of which expropriation of Amerindigenous lands and transatlantic slavery became institutionalized.

"Freedom" (and its Roman stepdaughter "Liberty") so saturates hegemonic Euro-American ideologies that it is difficult to grasp that its emergence as a political ideal is contingent on numerous historical particulars, including the institution of chattel slavery. This, though, is what Orlando Patterson challenges readers to do in his monumental *Freedom in the Making of Western Culture*.⁴ Patterson's stress on Western Christianity's appropriation of ancient Greek and Roman constructions of "freedom" and "slavery," foreign to the Hebrew Bible, is a welcome reminder of the layered, discursive complexity of these terms. Patterson, however, tends to be more interested in personal, spiritual, and what he calls sovereign (power over others) freedom than in political freedom, the primary focus of *Arbitrary Rule*. More important, in the absence of the projected second volume, Patterson's study, which ends with the medieval period, leaves the impression that from ancient Greece onward, Western culture is *in the making*. Yet without early modern Portuguese and Spanish expansion, whereby Western Europe comes gradually to displace rival geopolitical centers of power, there would be no triumphal, globally imperial "West," no

transatlantic slavery, no apparently seamless continuity between classical antiquity and the liberal, representative governments of today. No reemergence of "freedom" as an ideal.⁵

Many have commented on the prodigious gulf separating the idealistic language in which tenets relating to liberty—often attached to individual, Western European nation-states—are expressed and the brutally dehumanizing practices of transatlantic colonialism and slavery. In his study of European responses to the Haitian revolution, for example, Michel-Rolph Trouillot drily remarks, "[T]he more European merchants and mercenaries bought and conquered other men and women, the more European philosophers wrote and talked about Man."⁶ Yet the earlier stages of this racialized doublethink, which occur primarily in sixteenth- and seventeenth-century England, France, and the Netherlands, have not been explored. To apprehend these earlier stages at all requires not only a genealogical analysis of "slavery" as a figure for political oppression but also an understanding of its numerous affective and cognitive registers in early modern Christendom. Political slavery is in fact a significantly underanalyzed yet foundational feature of modern rights-based and liberal discourses. Its interrelations with transatlantic slavery are very complex, and can be analyzed only when political slavery itself is freshly examined.

Of course, figurative slavery—ethical, psychological, or spiritual as well as political—appears in countless cultural and historical contexts. However, "slavery" as a figure for distinctively *political* oppression poses interpretative challenges that have rarely been critically examined. Why should exclusion from political participation or the perception that arbitrary decision making has oppressive consequences be represented as slavery? And why does political slavery so frequently get paired with tyranny? This pairing will not seem curious to anyone familiar with Anglo-American antislavery literature and iconography, since the tyrannous slaveholder who cruelly abuses those under his power is an omnipresent figure. But such a figure—the slaveholder who tyrannizes his slaves—is largely alien to earlier, pre-abolitionist traditions indebted to ancient Greece and Rome. On the part of Western Europeans, concerted opposition to slave trading and slaveholding as social institutions begins only in the mid-eighteenth century, and then in terms that are often imbued with racist, nationalist interests. Until its transposition to the private sphere in the late seventeenth and early eighteenth centuries, tyranny is conceptualized almost exclusively with reference to political governance.⁷

A pejorative construct that emerges in archaic Greece, political tyranny is of concern to the freeborn male citizens who collectively constitute the

polis and the laws by which they are to be governed. Employed by the tyrant's political enemies, often by his aristocratic rivals, *tyranny* is a term of abuse. It charges a ruler with obtaining power unconstitutionally or with ruling in defiance of laws and customs over citizens who are thereby metaphorically enslaved by his behavior. The stress on answerability implicit in antityrannicism is one measure of the vast difference between political and chattel slavery, the latter of which does not provide viable legal protections against mistreatment or misrule. Torture of slaves, for example, was considered acceptable, and though the killing of slaves was formally outlawed, criminal prosecution of slaveholders was not feasible. While perhaps subject to disapproval, a Greco-Roman slaveholder who abused his slaves (the legal head of household is male, as is ancient and early modern political philosophy's paradigmatic citizen) did so with impunity as master of his household.⁸ When mentioned at all, such abuse of power is an individual ethical problem that may affect the well-being of the community but does not conceivably warrant structural, political change.⁹

As a polyvalent metaphor, political enslavement is effective on several grounds.¹⁰ First and foremost, in the very act of rhetorically gesturing toward its possibility, political "slavery" constitutes a community of "free" citizens whose direct participation in self-rule ensures they will not brook subjection. In denouncing tyranny's lawlessness, those who are threatened with "slavery" do not call attention to the vulnerable, legally unprotected condition of chattel slaves. Rather, they polemically signal the values cherished in and by means of the political arena—in Athens, where it originates, *isonomia*, the equality associated with law's rule, together, later, with *eleutheria*, freedom.¹¹ This ideological aim is met in later periods, too, when "slavery" highlights desirable features of nonmonarchical, representative, or more egalitarian, democratic government—constitutional possibilities that polemical literature may hope to call into existence—by a process of negative self-definition.

Political "slavery" may levy any number of other charges. It may, for example, suggest that subjects of allied or subjugated states are being unfairly taxed or otherwise economically burdened. Or, with more overt analogical intent, that citizens are being treated as if they were the ruler or government's property, without any more claim to their belongings or wealth than those who are legally enslaved as chattels. As will be seen, the concept of "property" in the self, arguably the cornerstone of liberalism, arises in connection with the annihilation of property rights entailed by chattel slavery. Owing in part to widespread familiarity with polemics relating to the American War of Independence—revivified by the Tea Party—this usage is

most widely recognized today. But the larger, historical-materialist context for this recognition is the centrality of private property in Euro-American liberal traditions. Indirectly tied to an opposition between voluntary and involuntary servitude that capitalism renders increasingly problematical, the notion of political consent continues precariously to support ideologies of free labor, self-proprietorship, and the right to individual property.

Preoccupation with property or economic (in)dependence, however, undervalues political slavery's discursive plasticity, to say nothing of its polemical power. Antityrannicism's rhetorical productivity is easier to recognize if, for the moment, we ignore important differences between ancient Greek or Roman and early modern political slavery. Language evoking political slavery can protest perceived political disenfranchisement of any kind. The metaphor of citizens-as-chattels may challenge a tyrannous ruler's proprietary claims to the fruits of citizens' labor, not only physical or commercial but also reproductive labor, as, for example, when he sends sons off to needless wars or sexually exploits wives and daughters. It may register the tyrant's reliance on force, a sure sign that he fails to distinguish free from slave but also that he has abandoned rational, public discussion and the value of *isēgoria*, equality of speech. It may indicate that a tyrannous ruler poses a threat to citizens' very lives, in which case he egregiously treats citizens as dehumanized slaves or animals that can be disposed of at will. At its most potent, vituperation against political slavery protests a generalized assault on the citizenry's dignity or the humiliating loss of honor entailed in the reduction of status from "free" to "slave." An affront or demeaning threat to collective, free status is not an incidental by-product of antityranny discourse. It is integral to its conceptual operations and rhetorical efficacy.

Figurative, political slavery occludes features of chattel slavery that do not support its case, exaggerating carefully selected points of comparison at the expense of major socially and legally sanctioned differences. More specifically, it trivializes two features of chattel slavery that create the conditions necessary for maintaining the legal fiction that an enslaved human being can be property: first, the traumatic dislocation of those to be enslaved from homeland, kin, and cultural communities, known since Patterson as "social death," and, second, the dehumanizing dishonor entailed by the ongoing instability of social identity, indefinitely perpetuated when the forming of new familial bonds is legally prohibited or undermined by the ever-present possibility of further sale or death.¹² Obscuring the immense material, experiential, and legal differences between their own political condition and those who are legally enslaved, Athenian, Roman, and, later,

early modern and Enlightenment European rhetorical appeals to political slavery highlight the injustice of treating freeborn citizens *as if* they were, or were about to become, enslaved. Since to be enslaved is to be regarded as without honor and legal personhood, mention of such a figurative condition or hypothetical occurrence is expected to arouse indignation. At the very least, it sharpens perception of the threat that tyranny poses to the free political community's privileges and dignity.¹³

Honor also plays an unsung part in the ideological complex I call war slavery doctrine, exploration of which is crucial to a less blinkered view of interrelations between Euro-colonialism and political theory. This doctrine, formulated by Roman jurists, locates slavery's origins in warfare, specifically in the captor's decision to save—that is, enslave—rather than kill the vanquished. Although formally distinct, war slavery doctrine is often conflated with the power of life and death held by the slave master, a power to which it is in any case usually related. The prevalence of this juridical complex in early modern political theory calls into question the progressive, historical narrative Michel Foucault tells in *Society Must Be Defended* when he contrasts the sovereign's absolute power of life and death with the multiple mechanisms and technologies of biopower that later extend over human lives *en masse* so as either to coerce life from the living or permit death to occur. "The right of sovereignty," Foucault sums up in a chiasmic antithesis, "was the right to take life or let live. And then this new right is established: the right to make live and to let die."¹⁴ Because Foucault and, later, Giorgio Agamben show little interest in either Euro-colonialism or institutional slavery, they ignore early modern political theorists' frequent reliance on war slavery doctrine and on the individual slaveholder's power of life and death, the latter of which is often set against that assigned the father over his children. Jean Bodin, an early modern theorist of absolutism, for example, along with later writers, including Agamben, regards paternal power over children as the prototype for sovereignty's state of exception.

Far more pervasive than has been recognized, this ideological complex (or ideologeme) relating to war slavery helps to account for, among other things, the misleading importance ancient and early modern apologists give to warfare as a means of acquiring slaves. In Roman jurisprudence, *uitae necisque potestas* (the right or power of life and death—hereafter *power*, the more common early modern usage) is used only with reference to the individual slave master's power. Belonging to the category of those who are under another's authority (*alieni iuris*), slaves are under an unregulated, discretionary power that is captured in the awe-inspiring phrase "the power of life and death." When making this point in his *Institutes*, Gaius grounds