

Scenes of
Subjection

**TERROR, SLAVERY, AND SELF-MAKING
IN NINETEENTH-CENTURY AMERICA**

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Seduction and the Ruses of Power

In the very nature of things, he [the slave] is subject to despotism. Law as to him is only a compact between his rulers, and the questions which concern him are matters agitated between them.

—Justice D. L. Wardlaw, *Ex parte Boylston* (1845)

You never knew what it is to be a slave; to be entirely unprotected by law or custom; to have the laws reduce you to the condition of chattel, entirely subject to the will of another.

—Harriet A. Jacobs, *Incidents in the Life of a Slave Girl*,
Written by Herself (1861)

The relation between legal interpretation and the infliction of pain remains operative even in the most routine of legal acts.

—Robert Cover, "Violence and the Word" (1986)

I went to converse with Celia (defendant) at the request of several citizens. The object of my conversation was to ascertain whether she had any accomplices in the crime. This was eight or ten days after she had been put into the jail. I asked whether she thought she would be hung for what she had done. She said she thought she would be hung. I then had her to tell the whole matter. She said the old man (Newsome, the deceased) had been having sexual intercourse with her. That he had told her he was coming down to her cabin that night. She told him not to come and if he came she would hurt him. She then got a stick and put it in the corner. He came down that night. There was very little fire in the cabin that night. When she heard him coming she fixed the fire to make a little light. She said his face was towards her and he was standing talking to her when she struck him. He did not raise his hand when she went to strike the first blow but sunk down on a stool towards the floor. Threw his hands up as he sunk down. . . . The stick with which she struck was about as large as the upper part of a . . . chair, but not so long. . . . She said after she had killed him, the body laid a long time, she thought an hour. She did not know what to do with it. She said she would try to burn it.

—*State of Missouri v. Celia, a Slave* (1855)

In nineteenth-century common law, rape was defined as the forcible carnal knowledge of a female against her will and without her consent.¹ Yet the actual or attempted rape of an enslaved woman was an offense neither recognized nor punished by law. Not only was rape simply unimaginable because of purported black lasciviousness, but also its repression was essential to the displacement of white

culpability that characterized both the recognition of black humanity in slave law and the designation of the black subject as the originary locus of transgression and offense. The cases of *State of Missouri v. Celia, a Slave*² and *George v. State* averred that the enslaved were not subjects of common law, thus not protected against rape. In other words, slaves were placed solely under the regulation of statutory law (slave codes) and not covered by the common law, though the rape of slave women was not a statutory offense either. Therefore, the repression or effacement of rape can be explained only in part by the inapplicability of common law to the enslaved. Rather, the repression and the negation of this act of violence are central not only to the pained constitution of blackness but also to the figuration and the deployment of sexuality in the context of captivity. Moreover, the disavowal of rape most obviously involves issues of consent, agency, and will that are ensnared in a larger dilemma concerning the construction of person and the calculation of black humanity in slave law since this repression of violence constitutes female gender as the locus of both unredressed and negligible injury.³

The dual invocation of person and property made issues of consent, will, and agency complicated and ungainly. Yet the law strove to contain the tensions generated by this seemingly contradictory invocation of the enslaved as property and person, as absolutely subject to the will of another, and as actional subject by relying on the power of feelings or the mutual affection between master and slave and the strength of weakness or the ability of the dominated to influence, if not control, the dominant. The dual invocation of the slave as property and person was an effort to wed reciprocity and submission, intimacy and domination, and the legitimacy of violence and the necessity of protection. By the same token, the law's selective recognition of slave humanity nullified the captive's ability to give consent or act as agent and, at the same time, acknowledged the intentionality and agency of the slave but only as it assumed the form of criminality. The recognition and/or stipulation of agency as criminality served to identify personhood with punishment. Within the terms of the law, the enslaved was either a will-less object or a chastened agent.

If the definition of the crime of rape relies upon the capacity to give consent or exercise will, then how does one make legible the sexual violation of the enslaved when that which would constitute evidence of intentionality, and thus evidence of the crime—the state of consent or willingness of the assailed—opens up a Pandora's box in which the subject formation and object constitution of the enslaved female are no less ponderous than the crime itself or when the legal definition of the enslaved negates the very idea of "reasonable resistance"?⁴ We might also consider whether the wanton and indiscriminate uses of the captive body can be made sense of within the heteronormative framing of sexual violation as rape. If a crime can be said, in fact, to exist or is at all fathomable within the scope of any normative understanding of rape, perhaps it can only be apprehended or discerned precisely as it is entangled with the construction of person in slave law and the punitive stipulation of agency as abasement, servility, or criminality. Basically, I attempt to interrogate the legal definition of rape and the limits of the law by looking at issues of will and consent, the relationship between subjectivity and injury, and instances of sexual violence that fall outside the racist and heteronormative framing of rape—that is, the sexual exploitation of slave women cloaked as the legitimate use of property and the

castration and assault of slave men. I feel it is warranted to look at this range of violence as sexual violation because enslaved men were no less vulnerable to the wanton abuses of their owners, although the extent of their sexual exploitation will probably never be known, and because of the elusiveness or instability of gender in relation to the slave as property and the erotics of terror in the racist imaginary, which range from the terrible spectacle of Aunt Hester at the whipping post to the postbellum specter of lynching. In this chapter, I also try to make visible the "crimes" licensed and disavowed by the law by highlighting the state's crimes of omission and the categorization of negligible injury.

What Thomas Jefferson termed the boisterous passions of slavery, the "unremitting despotism" of slave owners, and the "degrading submissions" of the enslaved were curiously embraced, denied, inverted, and displaced in the law of slavery.⁵ The boisterous passions bespeak the dynamics of enjoyment in a context in which joy and domination and use and violence could not be separated. As well, this language of passion expresses the essential conflation of force and feeling. The confusion between consent and coercion, feeling and submission, intimacy and domination, and violence and reciprocity constitutes what I term the discourse of seduction in slave law.⁶ The discourse of seduction obfuscates the primacy and extremity of violence in master-slave relations and in the construction of the slave as both property and person. To paraphrase John Forrester, seduction is a meditation on liberty and slavery and will and subjection in the arena of sexuality.⁷ Seduction makes recourse to the idea of reciprocal and collusive relations and engenders a precipitating construction of black female sexuality in which rape is unimaginable. As the enslaved is legally unable to give consent or offer resistance, she is presumed to be always willing.⁸

If the legal existence of the crime of rape depends upon evaluating the *mens rea* and *actus rea* of the perpetrator and, more important, the consent or nonconsent of the victim, then how does one grapple with issues of consent and will when the negation or restricted recognition of these terms determines the meaning of enslavement?⁹ If the commonplace understanding of the "will" implies the power to control and determine our actions and identifies the expressive capacity of the self-possessed and intending subject, certainly this is far afield of the condition or terms of action available to the enslaved. Yet the notion of the will connotes more than simply the capacity to act and to do; rather, it distinguishes the autonomous agent from the enslaved, the encumbered, and the constrained. Furthermore, not only does the extremity of power and the absolute submission required of the slave render suspect or meaningless concepts of consent and will, but also the sheer lack of limitations regarding the violence "necessary" to the maintenance of slave relations—that is, black submission—unmoors the notion of "force." What limit must be exceeded in order that the violence directed at the black body be made legible in the law? In the case of slave women, the law's circumscribed recognition of consent and will occurred only in order to intensify and secure the subordination of the enslaved, repress the crime, and deny injury, for it asserted that the captive female was both will-less and always willing. Moreover, the utter negation of the captive's will required to secure absolute submission was identified as *willful* submission to the master in the topsy-turvy scenario of onerous passions. Within

this scenario, the constraints of sentiment were no less severe than those of violence. The purportedly binding passions of master-slave relations were predicated upon the inability of the enslaved to exercise her will in any ways other than serving the master, and in this respect, she existed only as an extension or embodiment of the owner's rights of property. To act outside the scope of willful submission was to defy the law. The surety of punishment awaited such transgressions.

The Violence of the Law

In *State of Missouri v. Celia, a Slave*, Celia was prosecuted for the murder of her owner, Robert Newsome. The first time Newsome raped Celia was on the day he purchased her. He only stopped four years later when she killed him. Celia was found guilty by the court and sentenced to death by hanging. Although her attorney argued that the laws of Missouri concerning crimes of ravishment embraced slave women as well as white women and that Celia was acting to defend herself, this argument was rejected by the court. *Missouri v. Celia* raises critical questions about sexuality, agency, and subjectivity. Perhaps this is why the case was never reported or published. Certainly the fact that this case was neglected for over 145 years because it was not cited in any legal index but abandoned in a file drawer at the Callaway County Courthouse is significant. Cases involving cruelty of a sexual nature were often not reported or were omitted from the report of cases.¹⁰ The few cases involving issues of rape and sexual violence that are available in legal indexes, not surprisingly, are civil cases concerned with the recovery of damages for the loss of slave property or criminal cases in which the enslaved and their "crimes," usually efforts to resist, defend, or flee from such violations, are on trial. For example, *Humphrey v. Utz*, a case in which a slave owner sued his overseer for the death of a slave brutally beaten by the overseer and subjected to a range of cruelties that included having his penis nailed to a bedpost, was also omitted from the state report of cases like *Missouri v. Celia*. Similarly, it illuminates the regularity of sexual violence directed at the enslaved and the obscene way in which these atrocities entered the legal record as suits for damage to property or criminal charges made against the enslaved.

As *Missouri v. Celia* demonstrated, the enslaved could neither give nor refuse consent, nor offer reasonable resistance, yet they were criminally responsible and liable. The slave was recognized as a reasoning subject who possessed intent and rationality solely in the context of criminal liability; ironically, the slave's will was acknowledged only as it was prohibited or punished. It was generally the slave's crimes that were on trial, not white offense and violation, which were enshrined as legitimate and thereby licensed, or, obviously, the violence of the law, which in the effort to shift the locus of culpability is conceptualized here in terms of the crimes of the state.¹¹ In positing the black as criminal, the state obfuscated its instrumental role in terror by projecting all culpability and wrongdoing onto the enslaved. The black body was simply the site on which the "crimes" of the dominant class and of the state were externalized in the form of a threat. The criminality imputed to blacks disavowed white violence as a necessary response to the threatening agency of

blackness. I employ the terms "white culpability" and "white offense" because the absolute submission mandated by law was not simply that of slave to her owner but the submission of the enslaved to all whites.¹²

The assignation of right and blame and privilege and punishment was a central element in the construction of racial difference and the absolute distinctions of status between free white persons and black captives. As the case of *State v. Tackett* made clear, "The relation between a white man and a slave differs from that which subsists between free persons." In this case, the Supreme Court of North Carolina reversed a lower court ruling that convicted a non-slave-owning white for the murder of a slave. (*State v. Tackett* also involved the sexual arrangements of slavery and the conjugal relations of the enslaved, although they were considered incidental to the case. Daniel, the murdered slave, had accused Tackett of "keeping his [Daniel's] wife," Lotty, and threatened to kill him if he did not leave Lotty alone.) The court held that common-law standards of provocation and mitigation were not applicable to the relation between a white man and a slave: "The homicide of a slave may be extenuated by acts, which would not produce a legal provocation if done by a white person."¹³ The extenuating circumstances included arrogance, insult, trespass, and troublesome deportment. Acts of homicide, battery, and mayhem were sanctioned if not deemed essential to proper relations of free white persons and black captives and the maintenance of black submission.¹⁴

White culpability was displaced as black criminality, and violence was legitimated as the ruling principle of the social relations of racial slavery, just as Newsome's constant violations were eclipsed by the criminal agency of Celia. *Missouri v. Celia* illustrates how difficult it is to uncover and articulate the sexual violation of enslaved women exactly because the crime surfaces obliquely and only as the captive confesses her guilt. Ultimately the motive for Celia's act was deemed inadmissible, and her voice was usurped and negated for her white inquisitors spoke for her during the trial. As neither slaves nor free blacks were allowed to testify against whites, the "crime" that precipitated the murder of Newsome was denied.

To assert that Celia was raped is to issue a provocation. It is a declaration intended to shift our attention to another locus of crime. It is to envision the unimaginable, excavate the repressed, and discern the illegible. It is to reveal sentiment and protection as the guise of violence in the legal construction of the captive person and, in particular, the slippage of desire and domination in the loosely constructed term "sexual intercourse." In the trial record, the "sexuality" of Celia was ensnared in the web of others' demands, and the trace of what I risk calling her "desire" was only discernible in the compliance and defiance of these competing claims.¹⁵ As the trial record stated, Newsome had been having "sexual intercourse" with Celia, he "forced her" on the day he purchased her, and, last, George, Celia's enslaved companion, "would have nothing to do with her if she did not *quit* the old man." "Coercion," "desire," "submission," and "complicity" are the circulating terms that come to characterize the sexuality of Celia, or the enslaved female, less than the way in which she is inhabited by sexuality and her body possessed.¹⁶ Simply put, Celia embodied the vested rights of others.

The abjection of the captive body exceeds that which can be conveyed by the designation of or difference between "slave" women and "free" women. In this

case, what is at issue is the difference between the deployment of sexuality in the contexts of white kinship—the proprietorial relation of the patriarch to his wife and children, the making of legitimate heirs, and the transmission of property—and black captivity—the reproduction of property, the relations of mastery and subjection, and the regularity of sexual violence—rather than the imputed “freedom” of white women or free black women. The engendering of race occurs within these different economies of constraint and by way of divergent methods of sexual control. Kinship and captivity designate radically different conditions of embodiment that reveal the determinacy of race in the deployment of sexuality and underline the particular mechanisms through which bodies are disciplined and regulated.

The (re)production of enslavement and the legal codification of racial subordination depended upon various methods of sexual control and domination: anti-miscegenation statutes, rape laws that made the rape of white women by black men a capital offense, the sanctioning of sexual violence against slave women by virtue of the law’s calculation of negligible injury, the negation of kinship, and the commercial vitiation of motherhood as a means for the reproduction and conveyance of property and black subordination.¹⁷ *Alfred v. State* illuminates the convergence of these varied techniques in maintaining the domination of the enslaved and cultivating the pained and burdened personhood of the enslaved. In *Alfred v. State*, Alfred, a slave, was indicted for the murder of his overseer, Coleman. A witness testified that Alfred admitted having killed the overseer: “The defendant wanted to introduce a witness on his behalf, a slave named Charlotte, who stated that she was the wife of the prisoner. . . . Prisoner’s counsel then proposed to prove, by Charlotte, that about nine or ten o’clock in the morning . . . Coleman ‘had forced her to submit to sexual intercourse with him’; and that she had communicated the fact to the prisoner before the killing.”¹⁸ Although the defense attempted to introduce Charlotte as a witness and thereby prove that Alfred’s action was motivated by the rape of his wife, the district attorney objected to Charlotte’s testimony. The court sustained the objection; the prisoner was convicted and sentenced to death by hanging.¹⁹

What is at issue here are the ways in which various mechanisms of sexual domination—the repression of rape, the negation of kinship, and the legal invalidation of slave marriage—act in concert. In this instance, sexuality is a central dimension of the power exercised over and against the slave population and entails everything from compulsory couplings to the right to manage life.²⁰ Charlotte’s testimony was rejected because her relation to Alfred had no legal status, and thus it could not provide an alibi or motive for Alfred’s action. The disallowance of the marital relation, in turn, rendered superfluous Charlotte’s sexual violation.²¹ In the rejection of Charlotte as witness, her status as wife and partner of Alfred was negated, her rape displaced as adultery and then dismissed, and the violence that precipitated the overseer’s murder repressed.

It is also significant that the rape of Charlotte is interpreted narrowly within the frame of “outrages of conjugal affections” and as adultery. The defense’s argument focused on the violation of Alfred’s rights as a “husband” rather than on the rape of Charlotte. Alfred’s counsel unsuccessfully argued that “the humanity of our law . . . regards with as much tenderness the excesses of outraged conjugal affections in the negro as in the white man. The servile condition . . . has not deprived

him of his social or moral instincts, and he is as much entitled to the protection of the laws, when acting under their influence, as if he were freed.” The discussion of a husband’s conjugal rights, even if that “husband” is a slave, supplants the rape of the “wife.”²² In all likelihood, the court denied Alfred the right to vindicate this outrage because the decedent was white. However, in cases of this nature involving other slaves, the court sometimes recognized the husband’s exclusive sexual rights in his wife and “the sudden fury excited by finding a man in the very act of shame with his wife.”²³ Ultimately, the motive for Alfred’s act was deemed irrelevant because of the need to maintain black subordination and the presumably negligible status of the injury.

Alfred v. State illuminates the legal mechanisms by which sexuality and subordination were yoked in securing the social relations of slavery. On the one hand, the management of slave sexuality indifferently translated the rape of slave women into adultery or sexual intercourse; on the other, it refused to recognize or grant any legitimacy to relations forged among the enslaved. The rape of black women existed as an unspoken but normative condition fully within the purview of everyday sexual practices, whether within the implied arrangements of the slave enclave or within the plantation household. This is evidenced in myriad ways, from the disregard for polite discourse and the evasion and indirection that euphemized rape as ravishment or sex as carnal knowledge to the utter omission and repression of the crime in slave statute and case law. In this case, the normativity of rape is to be derived from the violence of the law—the identity or coincidence of legitimate uses of slave property and what Hortense Spillers terms “high crimes against the flesh.” In this case, the normativity of sexual violence establishes an inextricable link between racial formation and sexual subjection.²⁴ As well, the virtual absence of prohibitions or limitations in the determination of socially tolerable and necessary violence sets the stage for the indiscriminate use of the body for pleasure, profit, and punishment.

The legal transposition of rape as sexual intercourse shrouds this condition of violent domination with the suggestion of complicity. Sexual intercourse, regardless of whether it is coerced or consensual, comes to describe the arrangements, however violent, between men and enslaved women. (Enslaved women were also raped by slave men. Women were not protected in these cases either.) What does sexuality designate when rape is a normative mode of its deployment? What set of effects does it produce? How can rape be differentiated from sexuality when “consent” is intelligible only as submission? How can we discern the crime when it is a legitimate use of property or when the black captive is made the originary locus of liability?²⁵ Does the regularity of violation transform it into an arrangement or a liaison from which the captive female can extract herself, if she chooses, as a lover’s request or adultery would seem to imply?²⁶ Can she use or wield sexuality as a weapon of the weak? Do four years and two children later imply submission, resignation, complicity, desire, or the extremity of constraint?²⁷

It is this slippage that Celia’s act brings to a standstill through the intervention of her will or what inadequately approximates desire. To speak of will or desire broaches a host of issues that revolve upon the terms, dimensions, and conditions of action. Moreover, the term “will” is an overextended approximation of the agency of the dispossessed subject/object of property or perhaps simply unrecognizable in a

context in which agency and intentionality are inseparable from the threat of punishment. It is possible to read this act as a liberation of the captive body, however transient this liberation, or as a decisive shift in embodiment, a movement from Newsome's Celia to Celia's body, though my intention is merely to underscore the act's complexity. The full dimensions of this act and the resignation, courage, or glimpse of possibility that might have fueled it defy comprehensive analysis since we have access to Celia's life only as it has been recorded by her interrogators and rendered as crime. The fateful negotiation of autonomy at the site of the expended and exploited body affirms both the impossibility of consent and the struggle to mitigate the brutal constraints of captivity through an entitlement denied the captive—"no," the prerogative of refusal. Ultimately, Celia was hanged for this refusal. This effort to reclaim the body and experience embodiment as full, inviolate, and pleasurable, not as an extension of another's will or right or as a condition of expenditure or defilement, led Celia to construct a boundary at the threshold of her cabin that would shield her from the tacit violence seen as "befitting" the relation of slave owner and enslaved female. As Leon Higginbotham remarks, the Missouri court in pronouncing Celia's guilt "held that the end of slavery is not merely 'the [economic] profit of the master' but also the joy of the master in the sexual conquest of the slave."²⁸ Thus, Celia's declaration of the limit was an emancipatory articulation of the desire for a different economy of enjoyment.

The Bonds of Affection

The effacement of rape in the context of enslavement concerns matters of necessary and tolerable violence, the full enjoyment of the slave as thing, and the form of captive embodiment. The eliding of rape must also be considered in relation to what is callously termed the recognition of slave humanity and the particular mechanisms of tyrannical power that converge on the black body. In this instance, tyranny is not a rhetorical inflation but a designation of the absoluteness of power. Gender, if at all appropriate in this scenario, must be understood as indissociable from violence, the vicious refiguration of rape as mutual and shared desire, the wanton exploitation of the captive body tacitly sanctioned as a legitimate use of property, the disavowal of injury, and the absolute possession of the body and its "issue." In short, black *and* female difference is registered by virtue of the extremity of power operating on captive bodies and licensed within the scope of the humane and the tolerable.²⁹

The violence commensurate with the exercise of property rights and essential to the making of perfect submission was dissembled in regard to sexual violation by black female "excesses"—immoderate and overabundant sexuality, bestial appetites and capacities that were most often likened to those of the orangutan, and an untiring readiness that was outstripped only by the black females' willingness.³⁰ Lasciviousness made unnecessary the protection of rape law, for insatiate black desire presupposed that all sexual intercourse was welcomed, if not pursued. The state's crimes of omission and proaction—the failure to extend protection and the sanctioning of violence in the name of rights of property—disappeared before the

spectacle of black concupiscence. The nonexistence of rape as a category of injury pointed not to the violence of the law but to the enslaved woman as a guilty accomplice and seducer. However, the omissions of law must be read symptomatically within an economy of bodies in which the full enjoyment of the slave as thing depended upon unbounded authority and the totalizing consumption of the body in its myriad capacities.³¹

The construction of black subjectivity as will-less, abject, insatiate, and pained and the instrumental deployment of sexuality in the reproduction of property, subordination, and racial difference usurped the category of rape. Sexuality formed the nexus in which black, female, and chattel were inextricably bound and acted to intensify the constraints of slave status by subjecting the body to another order of violations and whims.³² The despotic ravages of power made violence indistinguishable from the full enjoyment of the thing. The tensions generated by the law's dual invocation of property and person, or by "full enjoyment" and limited protection to life and limb, were masked by the phantasmal ensnaring agency of the lascivious black.³³ Rape disappeared through the intervention of seduction—the assertion of the slave woman's complicity and willful submission. Seduction was central to the very constitution and imagination of the antebellum South for it provided a way of masking the antagonistic fissures of the social by ascribing to the object of property an ensnaring and criminal agency that acted to dissimulate the barbarous forms of white enjoyment permitted within the law.

The discourse of seduction enabled those disgusted and enraged by the sexual arrangements of slavery, like Mary Boykin Chesnut, to target slave women as the agents of their husbands' downfall. The complicity of slave women displaced the act of sexual violence. According to Chesnut, decent white women were forced to live with husbands degraded by the lowliness of their enslaved "mistresses": "Under slavery, we lived surrounded by prostitutes, yet an abandoned woman is sent out of any decent house. Who thinks any worse of a Negro or mulatto woman for being a thing we can't name?"³⁴ The sexual exploitation of the enslaved female, incredulously, served as evidence of her collusion with the master class and as evidence of her power, the power both to render the master weak and, implicitly, to be the mistress of her own subjection. The slave woman not only suffered the responsibility for her sexual (ab)use but also was blameworthy because of her purported ability to render the powerful weak.

Even those like Fanny Kemble, who eloquently described the "simple horror and misery" that slave women regularly experienced, were able to callously exclaim, when confronted with the inescapable normativity of rape and the "string of detestable details" that comprised the life of enslaved women, after yet another woman, Sophy, shared her experience of violation: "Ah! but don't you know—did nobody ever teach any of you that it is a sin to live with men who are not your husbands?!"³⁵ Sophy, appropriately and vehemently, responded, "Oh, yes, missis, we know—we know all about dat well enough; but we do anything to get our poor flesh some rest from the whip; when he made me follow him into de bush, what use me tell him no? He have strength to make me."³⁶

The equivocations that surround issues of consensual sexual relations under domination, the eliding of sexual violence by the imputation of the slave woman's

ensnaring sexual agency or lack of virtue, and the presumption of consent as a consequence of the utter powerlessness of her "no" (the "no means yes" philosophy) are important constituents of the discourse of seduction. In a more expansive or generic sense, seduction denotes a theory of power that demands the absolute and "perfect" submission of the enslaved as the guiding principle of slave relations and yet seeks to mitigate the avowedly necessary brutality of slave relations through the shared affections of owner and captive. The doctrine of "perfect submission" reconciled violence and the claims of mutual benevolence between master and slave as necessary in maintaining the harmony of the institution. The presumed mutuality of feelings in maintaining domination enchanted the brutal and direct violence of master-slave relations. Bearing this in mind, the term "seduction" is employed here to designate this displacement and euphemization of violence, for seduction epitomizes the discursive alchemy that shrouds direct forms of violence under the "veil of enchanted relations"—that is, the reciprocal and mutual relations of master and slave.³⁷ This mining of the discourse of seduction attempts to illuminate the violence obscured by the veil through an interrogation of the language of power and feelings, specifically the manipulations of the weak and the kindheartedness and moral instruction of the powerful.

The benign representation of the paternal institution in slave law depicted the master-slave relationship as typified by the bonds of affection and thereby transformed relations of violence and domination into those of affinity. This benignity depended upon a construction of the enslaved black as one easily inclined to submission, a skilled maneuverer wielding weakness masterfully and a potentially threatening insubordinate who could only be disciplined through violence. If what is at stake in social fantasy is the construction of a nonantagonistic, organic, and complementary society, then the ability of the South to imagine slavery as a paternal and benign institution and master-slave relations as bound by feelings depended on the specter of the obsequious and threatening slave, for this Manichaean construction undergirded both the necessary violence and the bonds of affection set forth in slave law. As well, this fantasy enabled a vision of whiteness defined primarily by its complementary relation to blackness and by the desire to incorporate and regulate black excess.³⁸ Seduction thus provided a holistic vision of social order, not divided by antagonisms and precariously balancing barbarism and civilization, violence and protection, mutual benevolence and absolute submission, and brutality and sentiment. This harmonious vision of community was made possible by the exercise of violence, the bonds of affection, and the consonance of the weak and the powerful.

How does seduction uphold perfect submission and, at the same time, assert the alluring, if not endangering, agency of the dominated? It does so by forwarding the strength of weakness. As a theory of power, seduction contends that there is an ostensible equality between the dominant and the dominated. The dominated acquire power based upon the identification of force and feeling. As Jean Baudrillard writes, "Seduction play[s] triumphantly with weakness."³⁹ The artifice of weakness not only provides seduction with its power but also defines its essential character, for the enactment of weakness and the "impenetrable obscurity" of femininity and blackness harbor a conspiracy of power.⁴⁰ The dominated catalyze reversals of power, not by challenges presented to the system but by succumbing to the system's logic. Thus

power comes to be defined not by domination but by the manipulations of the dominated. The reversibility of power and the play of the dominated discredit the force of violence through the assertion of reciprocal and intimate relations. In this regard, the recognition of the agency of the dominated and the power of the weak secures the fetters of subjection, while proclaiming the power and influence of those shackled and tethered.

The proslavery ideologue George Fitzhugh, like Baudrillard, also celebrated the reversibility of power enacted through surrender. In *Cannibals All! or, Slaves without Masters*, Fitzhugh argued that the strength of weakness disrupts the hierarchy of power within the family, as well as the master-slave relationship. Appearances conspire to contrary purposes; thus the seemingly weak slave, like the infant or (white) woman, exercises capricious dominion: "The dependent exercise, because of their dependence, as much control over their superiors, in most things, as those superiors exercise over them. Thus and thus only, can conditions be equalized."⁴¹ Seduction appears to be a necessary labor, one required to extend and reproduce the claims of power, though advanced in the guise of the subaltern's control and disruptions: "The humble and obedient slave exercises more or less control over the most brutal and hard-hearted master. It is an invariable law of nature, that weakness and dependence are elements of strength, and generally sufficiently limit that universal despotism, observable throughout human and animal nature."⁴² If, as Fitzhugh insists, the greatest slave is the master of the household, and the enslaved rule by virtue of the "strength of weakness," then, in effect, the slave is made the master of her subjection.

As Fitzhugh envisioned, kindness and affection undergirded the relations of subordination and dependency. As a model of social order, the patriarchal family depended upon duty, status, and protection rather than consent, equality, and civil freedom. Subjection was not only naturalized but also consonant with the sentimental equality of reciprocity, inasmuch as the power of affection licensed the strength of weakness. Essentially, "the strength of weakness" prevailed due to the goodness of the father, "The armor of affection and benevolence." The generosity of the father enabled the victory claimed by the slave, the tyrannical child, and the brooding wife. The bonds of affection within the slaveholding family circle permitted the tyranny of weakness and supplanted the stranglehold of the ruling father. Ironically, the family circle remained intact as much because of the bonds of affection as because of the tyranny of the weak. Literally, the forces of affection bound the interests of the master and those of the slave in a delicate state of equilibrium, as one form of strength modified the other.⁴³ Thus we are to believe that the exercise of control by the weak softens universal despotism, subdues the power of the father by commanding his care, and guarantees the harmony of slave relations.

Seduction erects a family romance—in this case, the elaboration of a racial and sexual fantasy in which domination is transposed into the bonds of mutual affection, subjection idealized as the pathway to equality, and perfect subordination declared the means of ensuring great happiness and harmony. The patriarchal model of social order erected by Fitzhugh marries equality and despotism through an explicit critique of consent, possessive individualism, and contractual relations.⁴⁴ Feelings rather than contract are the necessary corrective to universal despotism; therefore,

duty and reciprocity rather than consent become the basis for equality. The despotic and sovereign power celebrated by Fitzhugh could only be abated by the “bonds of affection,” a phrase that resonates with the ambivalence attendant to the attachments and constraints that characterize the relation of owner and object.

If a conspiracy of power resides within seduction, then questions arise as to the exact nature of this conspiracy: Who seduces whom? Does the slave become entrapped in the enchanted web of the owner’s dominion, lured by promises of protection and care? Does the guile and subterfuge of the dependent mitigate the effects of power? Are the manipulations and transgressions of the dominated fated to reproduce the very order presumably challenged by such actions? Or do such enactments on the part of the owner and the enslaved, the feigned concessions of power and the stylized performance of naïveté, effect any shifts or disruptions of force or compulsively restage power and powerlessness?

Seduction reifies the idea of submission by proclaiming it the pathway to ostensible equality, protection, and social harmony. As expounded by proslavery ideologues like Fitzhugh or as a legal principle guiding master-slave relations, seduction professed that power and protection were acquired through surrender. To reiterate the tautology, the dominated exert influence over the dominant by virtue of their weakness, and therefore more formal protections against despotism or guarantors of equality are redundant, if not unnecessary. The insinuation that the dominated were mutually invested in their subjugation recast violence in the ambiguous guise of affection and declared hegemony rather than domination the ruling term of order.⁴⁵ The assertion that coercion *and* consent characterized the condition of enslavement can be seen in the implied and explicit promises of protection extended by the law.

The incessant reiteration of the necessity of submission—the slave must be subject to the master’s will in all things—upheld submission as the guiding principle of slave relations, if not the central element in the trinity of savagery, sentiment, and submission. Slave law ensured the rights of property and the absolute submission of the slave, while attending to limited forms of slave subjectivity. The law granted slave owners virtually absolute rights and militated against the abuses of such authority by granting limited protection to slaves against “callous and cold-blooded” murder, torture, and maiming, although procedural constraints, most notably the fact that a slave or free black could not act as witness against a white person, acted as safeguards against white liability and made these laws virtually impossible to enforce. In the effort to attend to the interests of master and slave, the law elaborated a theory of power in which the affection of slave owners and the influence of the enslaved compensated for its failures and omissions. It contended that affection and influence bridged the shortcomings of law concerning the protection of black life. The ethic of perfect submission recognized the unlimited dominion of the slave owner yet bounded this dominion by invoking the centrality of affections in regulating the asymmetries of power in the master-slave relation.⁴⁶ The dual existence of the slave as property and person and the interests and absolute dominion of the slave owner were to be maintained in precarious balance by forwarding the

The case of *State v. Mann*, although it doesn’t specifically involve issues of sexuality or rape, is important in considering the place of affection, violence, and surrender in the law. Mann was indicted for assault and battery upon Lydia, a slave of Elizabeth Jones whom he had hired for a year: “During the term, the slave had committed some small offence, for which the Defendant undertook to chastise her—that while in the act of so doing, the slave ran off, whereupon the Defendant called upon her to stop, which being refused, he shot and wounded her.”⁴⁷ The lower court convicted Mann, finding him guilty of “cruel and unwarrantable punishment, and disproportionate to the offense committed by the slave.” However, in an appeal to the North Carolina Supreme Court, the decision was reversed. While the liability of the hirer, Mann, to the owner for an injury presumably impairing the value of slave property was left to general rules of bailment, the charges of criminal battery were overturned. Even if the injury diminished the value of slave property, it was not indictable as cruel and unreasonable battery. The court held that the power of the master was absolute and not a subject for discussion.⁴⁸

The higher court ruling held that the master had absolute power to render the submission of the slave perfect; yet it was also argued that the harshness of such a principle would be regulated not by existing legislation but by feelings—the benevolence and affection between master and slave and the ruling moral code. In other words, the court considered affection to be an internal regulating principle of slave relations. The Supreme Court reversed the decision of the lower court on the following grounds: the power of the master had to be absolute in order “to render the submission of the slave perfect” although “as a principle of moral right, every person in his retirement must repudiate it. But in the actual condition of things it must be so.” Yet the harshness implied by this difficult yet unavoidable decision would be regulated by “the protection already afforded by several statutes (which made it illegal to murder a slave in cold blood), . . . the private interest of the owner, *the benevolence toward each other, seated in the hearts of those who have been born and bred together*, [and] the . . . deep execrations of the community upon the barbarian, who is guilty of excessive cruelty to his unprotected slave” (emphasis mine).

Although the court acknowledged that the scope of such absolute rights of property left the enslaved open to violent abuses, it also recognized that the right to abuse had to be guaranteed for the perpetuation of the institution, since the amorphous “public good” mandated the absolute subordination of the enslaved. The opinion amended this brutal admission with the assurance that the rights of ownership generally precluded such abuses because of self-interest, that is, pecuniary considerations. The rights of ownership, even temporary rights of possession, permitted any and all means necessary to render perfect submission; however, it was hoped that the use of excessive force was unnecessary because of the reciprocal benevolence of master-slave relations.

Rather than distinguish between implied relations and absolute dominance or separate affection from violence, the court considered them both essential to the maintenance and longevity of the institution of slavery. In short, the ethic of submission indiscriminately included absolute power and human feelings, for on one hand, the court admitted that the obedience of the slave was “the consequence only of

sion be guaranteed? The services of one "doomed in his person and his posterity" and "without knowledge or the capacity to make anything his own, and to toil that another may reap the fruits" could only be expected of "one who has no will of his own" and "who surrenders his will in perfect obedience to that of another."⁴⁹ To be sure, the power of the master had to be absolute to produce this surrender of the will.

Not only was perfect submission an ordering principle of the social, to be accomplished by whatever violent means necessary, regardless of how brutal, but also this conceptualization of power relations depended upon feelings, not law, to guarantee basic protections to the enslaved. Submission not only encompassed the acquisition of power but also explicitly addressed the power of affection in influencing relations between master and slave, although the court distinguished between the relationship of master and slave and other domestic relations it was frequently compared with, like those of a parent and child, tutor and pupil, and master and servant. The centrality ascribed to the role of feelings implicitly acknowledged the unrestricted violence the *Mann* opinion had licensed yet minimized the consequences of this through an appeal to "moral right" rather than the actual condition of things. Feelings were to balance the use and role of force. As Judge Ruffin states: "I must freely confess my sense of the harshness of this proposition; I feel it as deeply as any man can; and as a principle of moral right every person in his retirement must repudiate it. But in the actual condition of things it must be so."

The importance attributed to the intimacies of domination illustrates the role of seduction in the law. As the opinion clearly stated, power resided not only in the title to slave property but also in the bonds of affection. Feelings repudiated and corrected the violence legitimated by law. Material interests and mutual benevolence would "mitigat[e] the rigors of servitude and ameliorat[e] the condition of the slave" and protect the slave from the ravages of abuse unleashed by the ruling. In other words, the brutal dominion guaranteed by the law was to be regulated by the influence of the enslaved—their pull on the heartstrings of the master. Slave law contradictorily asserted that absolute dominion was both necessary and voluntary. The intimacy of the master and the slave purportedly operated as an internal regulator of power and ameliorated the terror indispensable to unlimited dominion. The wedding of intimacy and violent domination as regulatory norms exemplifies the logic through which violence is displaced as mutual and reciprocal desire.

The significance attributed to feelings, attachment, and the familiarity of domestic slavery rendered domination in a heartwarming light. The power of influence invested in the enslaved—the power of the weak to sway the powerful—and the place attributed to feeling in regulating the excesses of market relations refigured relations of domination and exploitation in the garb of affection, family, and reciprocal obligations. Such reasoning held that violence was both necessary and tolerable, while insisting that feelings determined the character of the master-slave relationship and informed social, familial, and political organization. In short, slave relations were dependent upon and determined by "the action taking place in individual hearts."⁵⁰

The contradictory appeal to the public good contended that public tranquillity required violence and, at the same time, served as the guarantee that this entitlement to virtually unlimited power need never be exercised. The invocation of the public

good authorized necessary violence and established minimal standards for the recognition of slave humanity. Just as the appeal to the public good mandated absolute submission, it also required that certain provisions or protections be granted to the enslaved, like housing, clothing, food, and support for elderly and infirm slaves. Yet this concern for the welfare of the enslaved and the provisions granted them should not be mistaken for a dispensation of rights. As a judge commented in another case that hinged on determining degrees of necessary and excessive violence, although excessive violence "disturbed the harmony of society, was offensive to public decency, and directly tended to a breach of peace," the rights of the slave were extraneous to such considerations: "The same would be the law, if a horse had been so beaten. And yet it would not be pretended that it was in respect to the rights of the horse, or the feelings of humanity, that this interposition would take place."⁵¹ The public good mandated absolute submission and minimal protections intent upon maintaining harmony and security. Even when the entreaty made in the name of the public good acted minimally on the behalf of the enslaved, it did so, not surprisingly, by granting these limited entitlements in a manner that "recognized" black humanity in accordance with minimal standards of existence. This truncated construction of the slave as person, rather than lessening the constraints of chattel status, enhanced them by making personhood conterminous with injury.

Although the public good served as the arbiter of care and coercion, the precarious status of the slave within this sphere raises questions about the meaning of the slave person, the protections advanced on the slave's behalf, and the limited concerns of public decency. Contrary to pronouncements that sentiment would abate brutality, feelings intensified the violence of law and posed dire consequences for the calculation of black humanity, for the dual existence of the slave as object of property and person required that the feelings endowed to the enslaved be greatly circumscribed. While the slave was recognized as a sentient being, the degree of sentience had to be cautiously calibrated in order to avoid intensifying the antagonisms of the social order. How could property and person be reconciled on the ground of mutual benevolence and affection? How could the dual invocation of humanity and interest be sustained?

The dual existence of the slave as person and property was generated by the slave mode of production.⁵² The law attempted to resolve the contradiction between the slave as property and the slave as person/laborer or, at the very least, to minimize this tension by attending to the slave as both a form of property and a person. This effort was instrumental in maintaining the dominance of the slave-owning class, particularly in a period of national crisis concerning the institution. The increasing recognition of the slave person in the period 1830–1860 was an effort to combat the abolitionist polemic about the degradations of chattel status and the slave's lack of rights.⁵³ In any case, the dual invocation of slave law was neither a matter of an essential ethical contradiction nor a conflict between bourgeois and slave relations but an expression of the multivalence of subjection. The dual invocation quite easily accommodated the restricted recognition of the slave as person and the violence necessary to the accumulation of profit and the management of a captive population, since the figuration of the humane in slave law was totally consonant with the domination of the enslaved. The constitution of the slave as person was not at odds

slave, that offense *not affecting the existence* of the slave, and that existence being the extent of the right which the implication of the law grants.⁶¹

Cobb, concerned with the neglect of sexual injury and the failure to protect slave women from rape in slave law, stated that "although worthy of consideration by legislators," it need not cause undue concern because "the occurrence of such an offense is almost unheard of; and the known lasciviousness of the negro, renders the possibility of its occurrence very remote."⁶² As the black male's nature made "rape too often an occurrence," the black female's imputed lasciviousness removed it entirely from consideration. It is not simply fortuitous that gender emerges in relation to violence—that is, gender is constituted in terms of negligible and unredressed injury and the propensity for violence. The en-gendering of race, as it is refracted through Cobb's scale of subjective value, entails the denial of sexual violation as a form of injury while asserting the prevalence of sexual violence due to the rapacity of the Negro. While Cobb's consideration of sexual violation initially posits gender differences within the enslaved community in terms of female victim and male perpetrator, ultimately the "strong passions" of the Negro—in this instance, lust and lasciviousness—ultimately annul such distinctions and concomitantly any concerns about "the violation of the person of a female slave." Since, according to Cobb, blacks were endowed less with sexuality than with criminality, they were in need of discipline rather than protection, since as sexual subjects they were beyond the pale of the law and outside the boundaries of the decent and the nameable.

In *George v. State*, George, a slave, was indicted for rape under a statute making it a crime to have sex with a child under ten years of age. The Mississippi Supreme Court overturned a lower-court ruling that convicted George for the rape of a female slave under ten years old and sentenced him to death by hanging. The attorney for George cited Cobb's *Law of Slavery* in his argument before the court, declaring that "the crime or rape does not exist in this State between African slaves. Our laws recognize no marital rights as between slaves; their sexual intercourse is left to be regulated by their owners. The regulations of law, as to the white race, on the subject of sexual intercourse, do not and cannot, for obvious reasons, apply to slaves; their intercourse is promiscuous, and the violation of a female slave by a male slave would be mere assault and battery."⁶³ According to George's attorney, the sexual arrangements of the captive community were so different from those of the dominant order that they were beyond the reach of the law and best left to the regulation of slave owners. The Mississippi Supreme Court concluded that based on a "careful examination of our legislation on this subject, we are satisfied that there is no act which embraces either the attempted or actual commission of a rape by a slave on a female slave. . . . Masters and slaves cannot be governed by the same common system of laws: so different are their positions, rights, and duties." The lower court's judgment was reversed, the indictment quashed, and the defendant discharged on the grounds that "this indictment cannot be sustained, either at common law or under our statutes. It charges no offence known to either system." The opinion held that slaves were not subject to the protection of common law and that earlier cases in which whites were prosecuted for the murder of slaves under common law were founded on "unmeaning twaddle. . . . 'natural law,' 'civilization

and Christian enlightenment,' in amending *proprio vigore*, the rigor of the common law."

If subjectivity is calculated in accordance with degrees of injury and sexual violation is not within the scope of offenses that affected slave existence, what are the consequences of this repression and disavowal in regard to gender and sexuality? Does this callous circumscription of black sentience define the condition of the slave female, or does it challenge the adequacy of gender as a way of making sense of the inscription and exploitation of captive bodies? Put differently, what place does the enslaved female occupy within the admittedly circumscribed scope of black existence or slave personhood? As a consequence of this disavowal of offense, is her scope of existence even more restricted? Does she exist exclusively as property? Is she insensate? What are the repercussions of this construction of person for the meaning of "woman"?

The "too common occurrence of offence" and an "offence not effecting existence" differentiated what Cobb described as the strongest passion of blacks—lust—into gendered categories of ubiquitous criminality and negligible injury. Such designations illuminate the concerted processes of racialization, accumulation, engenderment, domination, and sexual subjection. Here it is not my intention to reproduce a heteronormative view of sexual violence as only and always directed at women or to discount the "great pleasure in whipping a slave" experienced by owners and overseers or eliminate acts of castration and genital mutilation from the scope of sexual violence but rather to consider the terms in which gender—in particular, the category "woman"—becomes meaningful in a legal context in which subjectivity is tantamount to injury. The disavowal of sexual violence is specific not only to engendering "woman" in this particular instance but also to the condition of enslavement in general. In cases like *Humphrey v. Utz* and *Werley v. State*, essentially what was being decided was whether acts of genital mutilation and castration (legally defined as acts of mayhem) were crimes when perpetuated against the enslaved or acts of just and reasonable violence. Obviously, the quotidian terror of the antebellum world made difficult the discernments of socially tolerable violence versus criminal violence. How did one identify "cruel" treatment in a context in which routine acts of barbarism were considered not only reasonable but also necessary?

To return to the central issues, the law's selective recognition of slave personhood in regard to issues of injury and protection failed to acknowledge the matter of sexual violation, specifically rape, and thereby defined the identity of the slave female by the negation of sentience, an invulnerability to sexual violation, and the negligibility of her injuries. However, it is important that the decriminalization of rape not be understood as dispossessing the enslaved of female gender, but in terms of differential production of gendered identity or, more specifically, the adequacy or meaning of gender in this context. Therefore, what is at stake here is not maintaining gender as an identitarian category but rather examining gender formation in relation to property relations, the sexual economy of slavery, and the calculation of injury.

The weighing of person and property—the limited recognition of the slave as person, to the extent that it did not interfere with the full enjoyment of the slave as

thing—endowed the enslaved with limited protections and made them vulnerable to injury, precisely because the recognition of person and the calibration of subjectivity were consonant with the imperatives of the institution. The protection of property (defined narrowly by work capacity and the value of capital), the public good (the maintenance of black subordination), and the maintenance and reproduction of the institution of slavery determined the restricted scope of personhood and the terms of recognition.⁶⁴ These concerns also governed the regulation and nullification of mothering and the protections extended to white women in order to control their sexual conduct and consolidate black subordination.⁶⁵ The affiliation of sexuality, property, and injury and the particular determination of “offences to existence” and alienable or extricable features of the slave person are illuminated by the negation of black parenting and the law’s protection of white women.

In the case of motherhood, the reproduction and conveyance of property decided the balance between the limited recognition of slave humanity and the owner’s rights of property in favor of the latter. The maternal function was not enshrined with minimal or restricted rights but indistinguishable from the condition of enslavement and its reproduction. Motherhood was critical to the reproduction of property and black subjection, but parental rights were unknown to the law. This negation was effected in instances that ranged from the sale and separation of families to the slave owner’s renaming of black children as a demonstration of his power and dominion. The issue of motherhood concerned the law only in regard to the disposition and conveyance of property and the determination and reproduction of subordinate status. The concept of “injury” did not encompass the loss of children, natal alienation, and enforced kinlessness. The law’s concern with mothering exclusively involved questions of property: diminutions in the value of slave property if the slave female was unable to reproduce or disputes regarding the conveyance and loss of property—lest we forget, we are talking about children here. Motherhood, specifically, and parenting, in general, were social relations without legal recognition in terms of either positive or negative entitlements.⁶⁶

The relations between protection, injury, and property and the constituents and entitlements of “woman” are also illuminated by the laws concerning miscegenation, seduction, and rape, for the protection extended white women reveals not only the indeterminacy of rights but also the way in which these entitlements are used to secure, if not intensify, subordination. In this case, “protection” operated in concert with the maintenance of racial and gender hierarchies and as an instrument of social control. For example, the civil remedy for seduction required an action by the father in which the suit for damages was conducted under the guise of the master-servant relationship. Damages were awarded on the basis of lost services.⁶⁷ In cases of seduction, the protection extended women was articulated not in the form of their embodied rights but in terms of the master’s entitlement to his servant’s services and the right to compensation for the injury or impairing of his servant. These laws sheltered white women from harm as they intensified the regulation and control of white female sexuality, since this security depended upon chaste and virtuous behavior and an allegiance to racist regulatory norms. The selective protection of the law only encompassed “respectable” women, and this respect ultimately depended upon the legitimate proprietary rights of men over female sexuality. (As neither

black fathers nor husbands bore any sanctioned or lawful relation to black women, they existed outside the circle of protection in this regard, too.)

Proper and legitimate relations determined a white woman’s respectability. In cases of rape involving white women and black men, the charges were sometimes dismissed if these women were known to associate with blacks. White women’s interracial liaisons with black men denied them the protection of the law. As well, the fact that the rape of black women was not a crime had important consequences for white women. The minimal conditions of existence deemed tolerable for slave women made it necessary to secure whiteness in order to guarantee that only white women received certain protections. The fact that slave women were not subject to the protection of common law (or slave law) regarding rape mandated that the whiteness of white women raped by slave men or by free black men had to be established in order to prosecute the assailant. Cases were dismissed in which the race of white women was not explicitly declared.

In *Commonwealth v. Jerry Mann*, Mann had been indicted, tried, and convicted for “feloniously making an assault upon a woman, with intent to ravish her. The law declares that if a slave shall attempt to ravish a white woman, he shall be adjudged a felon.”⁶⁸ However, the judgment was arrested because “it was nowhere in the indictment stated, that Mary M’Causland was a white woman.” In *Grandison (a Slave) v. State*, Grandison was convicted of assault and battery with intent to ravish Mary Douglass.⁶⁹ He was sentenced to death. But the judgment was reversed and arrested, and the prisoner was remanded to jail because “such an act committed on a black woman, would not be punished with death. . . . This fact [that the woman assaulted was white] gives to the offence its enormity. . . . [It] must be charged in the indictment and proved on trial.” Yet the “enormity of offence” and “offences not effecting existence” are neither endowments nor dispossessions of gender but instead demonstrate the manner in which deployments of sexuality act concertedly with processes of racialization, accumulation, and domination.

It is necessary to belabor the issue because too often it has been argued that the enslaved female existed outside the gendered universe because she was not privy to the entitlements of bourgeois women within the white patriarchal family. As a consequence, gender becomes a descriptive for the social and sexual arrangements of the dominant order rather than an analytic category. As well, it naturalizes the discourse of protection and mystifies its instrumental role in the control and disciplining of body, and, more important, maintains the white normativity of the category “woman.” What I am attempting to explore here is the divergent production of the category woman rather than a comparison of black and white women that implicitly or inadvertently assumes that gender is relevant only to the degree that generalizable and universal criteria define a common identity. Can we employ the term “woman” and yet remain vigilant that “all women do not have the same gender?”⁷⁰ Or “name as ‘woman’ that disenfranchised woman whom we strictly, historically, geopolitically *cannot imagine* as a literal referent” rather than reproduce the very normativity that has occluded an understanding of the differential production of gender?⁷¹ By assuming that woman designates a known referent, an a priori unity, a precise bundle of easily recognizable characteristics, traits, and dispositions, we fail to attend to the contingent and disjunctive production of the category.