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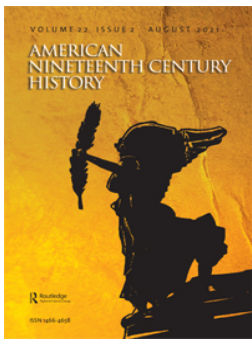
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“An illicit and criminal intercourse”: adultery and marital breakdown in the slaveholding South

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ABSTRACT

This article examines divorce petitions filed by white southern women in the nineteenth-century slaveholding South that specifically cited “adultery” or “illicit relations” between their husbands and Black enslaved women as a reason for seeking a dissolution of marriage. White women have until fairly recently been exonerated from blame in slavery, seen as either benevolent bystanders to the worst excesses of slavery, or at least partial victims themselves within the matrix of uneven gender relations in marriage. Yet increasingly more evidence has shown that white slaveholding women, wielded “soft power” in their own right. They manipulated their reputations as “good southern wives and mothers” to win the favour of the courts by discrediting their wayward husbands and the enslaved women with whom they engaged in sexual relationships in their divorce petitions submitted to the higher authority of the courts. This often resulted in their petitions being granted and alimony awarded, which enabled them to support themselves and their children as single women. The court petitions thus provide vital evidence in further understanding how race, class, and gender interacted, to provide a measure of agency for some white women whilst reinforcing the constraints of negative gendered racial stereotypes for Black, enslaved women.

KEYWORDS

Adultery; divorce; slavery; South

Elizabeth Hill, a white female slaveholder from Leon County, Florida, filed for a divorce from her husband, John M. Hill, in 1860, after 25 years of marriage, claiming that he had brought shame and disgrace on her and their family by becoming “involved” with an enslaved woman. In her petition to the Honorable J. Wales Baker, Elizabeth reiterated her conduct as “a good, kind, and faithful wife,” in contrast to her husband’s “corrupted duty to his family”.¹ She further noted a distinct change in his conduct towards her that dovetailed with the timing of his illicit affair. His “violent and ungovernable tempers” made “her life one of extreme unhappiness,” marked by “neglect,” “indifference,” “faithlessness,” and “corruption”.² Elizabeth framed her divorce petition in the language of feminine “duty,” honour, and respectability, and by expressing her bill of complaint in this way, she demonstrated key markers in common with other white women who were granted divorce petitions by the courts in the nineteenth-century slaveholding South.

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Elizabeth's use of specifically gendered language seems to have been an important factor in the granting of her divorce petition. She justified abandoning the family home with her three children by constructing a detailed narrative that reflected her white feminine virtue, confirming her as the innocent party, juxtaposed with her husband's failure to fulfil his own marital duties.

In Elizabeth's case at least, the main reason that propelled her to leave the marital home was the intense personal trauma caused by the cold psychological detachment exhibited by her husband, coupled with his open infidelity with their enslaved female property, which threatened to become public knowledge and sully their good name. Elizabeth noted that "her self-respect and her duty to her children prompted her to abandon the house of her husband," as she felt "disgraced by his conduct."³ Furthermore, according to Elizabeth's petition, John moved his enslaved woman into the house almost as soon as she moved out of it, causing her to reflect on how "the Negro slave to all intents and purposes supplies the place lately occupied by your oratrix."⁴ Elizabeth was not alone in her revelation to the court that her "place" had been "occupied" by an enslaved woman, and there is evidence in court records and from the personal testimonies of white and enslaved women that alludes to this fact. In port cities such as New Orleans, these living arrangements often became more permanent as a system of *plaçage* or the "placement" of women of African or Native descent became more commonplace. These so-called left-handed marriages were tolerated by some but abhorred by others, primarily white women who felt sullied by their husbands' open disregard for their marital vows, and these women turned to the courts to voice their dissatisfaction. Historian Loren Schweninger examined numerous court records that revealed planter wives' dissatisfaction with their husbands' living arrangements, such as living with "Black or mulatto women as de facto wives," that were particularly prevalent in port cities such as New Orleans.⁵

This article examines divorce petitions filed by white southern women in the nineteenth-century slaveholding South that specifically cited "adultery" or "illicit relations" between their husbands and Black enslaved women as a reason for seeking a dissolution of marriage. The article builds on the work of previous scholars from a range of disciplines (history; sociology; and literature), to shed light on the connections between race, class, and marriage from 1820 to 1870. White women have until fairly recently been exonerated from blame in the historiography of slavery, seen as either benevolent bystanders to the worst excesses of slavery or at least partial victims themselves within the matrix of uneven gender relations in marriage. Yet increasingly more evidence has shown that white women, especially those of the slaveholding class, wielded "soft power" in their own right, making them co-conspirators within the slave system.⁶ Despite the constraints of patriarchy, white southern women were at times able to manipulate their privileged position as southern ladies, which won them favour in the courtroom and through the eyes of the law.⁷ This status often resulted in favourable outcomes in their divorce petitions and alimony being awarded that enabled them to support themselves and their children as single women. The court petitions, therefore, provide vital evidence in further understanding how race, class, and gender inextricably intertwined, providing a measure of agency for some white women whilst reinforcing negative gendered stereotypes for Black enslaved women. Laura Sandy's contribution to this issue similarly highlights how slave-owning women were embroiled in court cases regarding slave stealing, which revealed considerable agency that challenged conventional gender conventions.

Schweninger calculated that about 40% of white women who filed for a divorce and/or separation did so due to their husbands' infidelity.⁸ Not all of these women were able to prove that their husbands had definitely been involved in illicit relations, although neighbourhood gossip certainly alluded to it. Many of the women who petitioned the courts for a dissolution of marriage came from well-off families, and 83% were members of slaveholding families.⁹ White women who sought a divorce did so for a plethora of reasons that included neglect to provide, violence, drunkenness, and cruelty. Yet few studies have focused exclusively on adultery across the colour line.¹⁰ White women were frequently cognizant of the extra-marital relations in which their husbands indulged, which were akin to what Timothy Lockley referred to as an "open secret" in their communities.¹¹ These illicit relations often appear to have been tolerated if they were perceived as casual encounters. Nevertheless, illicit relationships that regularly crossed the colour line were rarely consensual within the context of race-based slavery. Rachel Feinstein concurs that interracial sex was *always* coerced, due to the unequal power dynamic between a free white man and an enslaved Black woman.¹² Historian Peter Kolchin referred to sex across the colour line as "casual sex between captor and captive" that underscored the non-consensual nature of "adulterous" affairs.¹³ White women might well have been oppressed by a system that placed them in an inferior position to their husbands, but they also had leverage to remove themselves from difficult situations in a way that Black women did not. Moreover, part of the justification for their actions was the inherent belief that Black women were by nature promiscuous, which fed the cycle of racism and oppression that characterized the slave South.

The language used by white women in their petitions to the court implicated white men for their dishonourable behaviour in crossing the colour line but also shamed enslaved and Black women who were embroiled in them, despite their unfree status as human chattel. This highlights the complex matrix of race, class, and gender dynamics that intersected in a slaveholding society. Terms such as "wench," "mulattress," and "prostitute" frequently populate female petitioners' bills of complaint in divorce cases in which "adultery" was cited as one of the chief factors in the breakdown of the marriage.¹⁴ Thavolia Glymph has discussed how white slaveholding women were co-masters in slavery and argued compellingly that "white women's agency has been profoundly underestimated."¹⁵ Stephanie Jones-Rogers has branded white Southern women as complicit in the business of slavery and concluded that they were not "passive bystanders" but "co-conspirators" in the slave system.¹⁶ Verbal allegations and slander often proved effective weapons in exonerating white women in the breakdown of southern marriages whilst simultaneously reinforcing the "Jezebel" stereotype so often attached to Black enslaved women at the time.

The negative racial and gender stereotyping of Black women has a long history. Even pre-dating American slavery, European travellers to West Africa made unfavourable observations in reference to African women's bodies in comparison to those of white women. African women were depicted as wanton, lascivious, and sexual creatures in travelogues and artworks. In the early expansion of the slave trade, European perceptions of the "African woman" condensed into key stereotypes: the "whore" or Sable Venus, the workhorse, and the she-devil.¹⁷ Jennifer Morgan has discussed how European travellers spoke of Black African women's breasts as "duggens" in West Africa, drooping so low that they made breastfeeding easy and the labour of childbirth equally so. These

images were tied to assumptions and entrenched beliefs that led to dual exploitation of enslaved women's bodies as reproducers and workers, but also to their sexual exploitation by white men and women. There was an association with Black women's "superior ability" to suckle, which made it easy to commodify (and to justify) using their bodies for labour, and for sexual gratification.¹⁸ During slavery, the "Jezebel" figure emerged as an unfavourable racial stereotype that depicted Black women as promiscuous. This image became the rationale for the treatment and especially the sexual exploitation of enslaved women.¹⁹ In the 1830s, Southerners increasingly justified slavery and race relations by adjusting their thinking and describing slavery as a "positive good" that formed the bedrock of a pro-slavery argument. The figure of the "Jezebel" excused miscegenation, the sexual exploitation of Black women, and the creation of a "mulatto" population, which was intimately tied to the derogatory language used to refer to Black enslaved women in accusations of "adultery" and the framing of divorce petitions by white Southern women.²⁰

The narrative of marital breakdown in the slaveholding South bears many similarities to the tales of marital discord across time and space. Even in the modern era, stories of marital breakdown are replete with tales of infidelity, cruelty and ill-treatment, financial devastation, failed expectations, and broken promises. Yet marital breakdown in the slaveholding South was also unique in that it reflected gendered expectations of marriage that shadowed the South's hierarchical structure demarcated by race, class, and gender. Historian Martha Hodes noted that most women who petitioned for divorce did so on grounds of cruelty and desertion and argued that adultery might only have taken place because of abandonment, which was certainly true in some but by no means all cases.²¹ The historical literature has shown that white men routinely indulged in forced sex across the colour line both inside and outside of marriage, in large part left unchecked by any meaningful laws to deter them. Peter Bardaglio described the legal process as reinforcing a status quo that ignored casual interracial sexual activity between white men and Black women, whilst denigrating the reverse – sex between white women and Black men.²²

According to Harriet Jacobs, white Southern women were not ignorant of the sexual misdemeanors of their husbands; after all, they had routinely witnessed it from birth, observing their fathers, brothers, and later on, husbands indulge in sex across the colour line. As Harriet surmised in her often-cited autobiographical testimony, published in 1861:

Southern women often marry a man knowing that he is the father of many little slaves. They do not trouble themselves about it. They regard such children as property, as marketable as the pigs on the plantation; and it is seldom that they do not make them aware of this by passing them into the slave-trader's hands as soon as possible, and thus getting them out of their sight. I am glad to say there are some honorable exceptions.²³

Jacobs' account is suggestive of the fact that Southern women were cognizant of the sexual activities of the white men whom they had married. The famous Civil War diarist Mary Chesnut, who began her diary in 1860, on the eve of the war, spoke candidly about white women's awareness of sexual infidelity on neighbouring plantations but asserted they remained blind to what was happening on their own plantations.²⁴ Stephanie Jones-Rogers' recent monograph *They Were Her Property* resonates with Jacobs'

statement that some wives viewed mixed-race children born of these unions as nothing more than “property” as “marketable as pigs” that could be bought or sold. Failing to acknowledge them, or by placing no value on them as human beings, but only “marketable” as property, meant that Southern wives could avoid the ugly reality of their husbands’ forced sex and resultant offspring with their enslaved property. This behaviour ultimately made white Southern women complicit in the horrors of slavery, rather than benevolent bystanders in the slave system.²⁵ As W. L. Bost, a formerly enslaved man from North Carolina, highlighted in a WPA interview in 1937, “plenty of the colored women have children with white men. She know better than not to do what he say. They take the very same children what have they own blood and make slaves out of them.”²⁶ Of course, not all southern women were willing or able to ignore sexual infidelity across the colour line, as reflected in their court petitions concerning adultery.

There is also a sense that white women’s expectations of marriage were slowly ingrained from birth, and the fulfilment of that marital ideal was often a bitter disappointment compared to the vision that had been sold to them in childhood. This is particularly evident in the mid-nineteenth century, due to the rise of the ideal of companionate marriage, or “marriage for love” rather than fiscal gain.²⁷ Jones-Rogers argues that the southern family groomed its daughters for their future roles as wife and plantation mistress, and that “a planter’s daughter feared none but white men.”²⁸ Young daughters developed different models of mastery from their brothers from an early age, through play with their enslaved property, and quickly learned how class intersected with race and gender to raise *them* onto a higher pedestal than other lower-class women, both Black and white. In the ladies’ gift manuals and prescriptive literature, such as *Godey’s Lady’s Book*, women of the middle and upper classes were strongly encouraged to fulfil the ideals consecrated in the “Cult of True Womanhood”: piety, purity, domesticity, and submissiveness.²⁹ The ideal Southern lady was expected to be married by twenty and was considered a “thornback” or an old maid if she remained unmarried in her mid-twenties.³⁰ Her sexual purity prior to marriage was paramount, and sexual intercourse was for procreation, not for pleasure.³¹ This restrictive control of white women’s bodies illustrates the patriarchal power of the Southern society that exercised control over all women, to varying degrees, which in part explains their victimized status in earlier historiography. Middle- and upper-class white women were taught from birth to accept their subordinated position as wives and mothers in light of their racial superiority over Blacks within the Southern hierarchy. The rigid definition of the role and behaviour of Southern women was to an extent mirrored in Victorian England by the ideal of the “Angel in the House.”³² Yet in the Slave South, there was a tendency to dignify the “family,” with an emphasis on the planter as “patriarch” and ruler of the household that was more pronounced than elsewhere. Through marriage, a woman traded her status as a *feme sole* (a woman alone) for that of a *feme covert* (a woman covered), which effectively stripped her of her legal identity in the eyes of the law.³³ Women, therefore, traded their legal autonomy for social acceptance. Laura Edwards referred to this status as that of a “domestic dependent,” as white women and slaves were both dependent on the authority of the master.³⁴ Wider society expected women to revere white masculinity in the form of their husbands, and to fulfil their subordinate place within the Southern hierarchy and *not* to challenge it. Therefore, women both white and Black, free and unfree, were to

various degrees, caught in a complex web in which white propertied men held all the cards.

White Southerners such as George Fitzhugh argued that slavery lifted all women, both free and enslaved, and stated that this situation had an ameliorating effect on all but the lowest of white women. Historian Rachel Feinstein refers to white women as the “intermediate group,” or women in the middle, who reinforced “intersectional oppression.”³⁵ White women who stepped out of line (such as “lewd” white women who had sex outside of wedlock, or, worse still, who had illegitimate children) were castigated for disrupting the social order and were stigmatized and treated as such. This category included single women, who to some extent also fell outside of the bonds of “true womanhood” by failing to marry and have children, and they were ostracized in society to varying degrees, until the Civil War at least, for their failure to conform to perceived roles.³⁶ In this social context, it was imperative that white women demonstrated an outward adherence to prescribed gender roles in penning their divorce petitions, in order to win the sympathy of the court and to get their petitions passed. Feinstein maintains that white women adopted a performative strategy in terms of the powerful language adopted in their divorce petitions. This is a useful perspective in helping to unravel the outcomes behind court petitions such as Elizabeth Hill’s, which seemed to hinge on her faultless testimony as a good Southern wife, but also on the “dubious” nature of her husband’s entanglement with his enslaved female lover. Elizabeth’s case is instructive in unravelling white women’s petitions more generally, in that what she referred to as adultery in her bill of complaint was more likely a forced sexual arrangement orchestrated by her husband, a white propertied male in a position of power and dominance over his enslaved property. White women often “overlooked the violence and rape carried out by [their] husbands against an enslaved woman” in their divorce petitions, and in their personal testimonies more generally. In order to gain their own freedom as a feme sole, and to reinstate their legal identity as a single woman from an “adulterous” marriage, white women were complicit in deliberately reinforcing racist stereotypes that framed Black women as lascivious “Jezebels.”³⁷

This article is in congruence with the wave of scholarship that argues that slaveholding women were, at least in part, co-conspirators in the slave system. White Southern women’s divorce petitions benefited those who capitalized on their white femininity in order to gain their own freedom as single women. In other words, when a woman such as Elizabeth Hill framed her petition using the language of female submission, she upheld, in theory at least, an outward commitment to white femininity. By doing so, she heightened her chances of achieving success, by proving that she was the “innocent and virtuous spouse.”³⁸ Elizabeth’s lawyer emphasized that she had “uniformly and constantly endeavored to the utmost of her ability to discharge all the duties and obligations of a good, kind and faithful wife, contributing by her general management, prudence, labour and economy to the promotion of the interest, well-being, and happiness of her said husband and his family.”³⁹ Therefore, in appealing to the court for a divorce, and alimony from her spouse, that included a male slave “and divers sums of money” inherited from her father that amounted to “eleven hundred dollars,” Elizabeth clearly occupied a privileged position in Southern slaveholding society.⁴⁰ This was a position on which she was able to capitalize in articulating her demands for provision and protection, by premising the standards of white femininity in her petition to the court. In so doing, Elizabeth

drew a clear distinction between *her* faultless behaviour and her husband's departure from *his* expected role as husband and patriarch: the provider and protector of the home and family. Nonetheless, she made no indication in her court petition that the "involvement" between her husband and his female bondswoman was anything, other than consensual. Yet the "adulterous" act that propelled Elizabeth into the courtroom in order to gain her own freedom was most likely a coercive sexual relationship between her husband and an enslaved woman. In penning their divorce petitions, white women such as Elizabeth, therefore, reinforced gender, race, and class stereotypes to ensure they were the victors in the courtroom and reaped the "reward" of adequate provision and protection as white Southern women when their marriages failed them. These actions also conduced the stripping away of Black women's femininity, dignity, and honour in a process that Feinstein refers to as the "intergenerational transmission of white masculinity."⁴¹

The divorce petitions, therefore, provide an important lens through which to explore more fully the roles of white women in relation to gender and race in the slave South. In analyzing divorce petitions submitted to the courts in which petitioners openly referenced the intimate details of their partners' illicit sexual encounters, the cases underscore how Southern women's appeals to the courts also relied on their kin and the wider community in their attempts to divorce their wayward husbands. Laura Edwards' argument in reference to nineteenth-century law is instructive in understanding how white women's divorce petitions tested the limits of patriarchal power. As she argues, women did not necessarily intend to overthrow the existing social order, but nonetheless they "questioned the proper expression and substantive limit of patriarchal power."⁴² In the case of white women's divorce petitions regarding adultery (and for several other reasons), women "mobilized the full force of social custom and extensive community networks" to support their claims through family, friends, and kin ties.⁴³ White women achieved this aim in a particularly effective way through emphasizing their white feminine virtues, set against the backdrop of their husbands' infidelity and dishonour, in collusion with their lascivious enslaved property. By pitting white femininity against Black womanhood (or lack thereof, as it had been stripped from them in multiple ways), white female petitioners fulfilled, but also challenged, what Edwards referred to as "the legal definition of domestic dependence."⁴⁴ That is to say, despite the fact that the law may have acted to uphold the power of white male households and that of patriarchy (on which the future of the peculiar institution rested), there existed a gap between the law and the community.⁴⁵ Therefore, in the case of divorce petitions, the local level was particularly instructive in shaping the final decisions of the courts and white women's fortunes alongside them. Simply put, white women were prepared to make public what had previously been private family affairs in order to garner the support of their families and local communities and, not least, the sympathy of the judges, which in turn could favour them in the outcome of their divorce petitions.

Intimately tied to this issue was what Feinstein refers to as the "white racial frame," a term coined by Joe R. Feagin that refers to a "dominant frame of mind" in "racial matters."⁴⁶ This concept implies that white women were "motivated by the privileges associated with white femininity," and consequently "engaged in several practices that reinforced the oppression of enslaved Black women who were victims of sexual violence."⁴⁷ It includes the language employed by white women in their appeals to the

higher authority of the court in their divorce petitions. Interrogation of separation and divorce petitions thus demonstrates an alternative approach to understanding the complexities of Southern white marriage and divorce by offering a nuanced perspective on marital breakdown linked to male “adultery” in the slave South. As Schweninger observed, the evolution of divorce and property laws in themselves “created a framework for the narratives presented by plaintiffs and defendants as well as arguments made by their lawyers” in order to “gain the sympathy of the judges and juries,” which would ultimately get a divorce granted.⁴⁸ Key issues were emphasized, “that related to specific laws” (such as property rights) that favoured literate slaveholding women, enabling them some agency within the constraints of the slaveholding system. These women also benefited from either a lawyer to help support their case (again, a privilege that only money could buy) or a “next friend,” who was often a male relative or a man of good standing within the community who could support their cause.⁴⁹ Male witnesses regularly attested to a female petitioner’s claim that her husband had acted inappropriately by exhibiting violence, cruelty, neglect, or sexual promiscuity within the bonds of marriage. It is evident, therefore, that “women were dependent on the courts and community (i.e.: men) for their protection,” and ultimately for their release from a broken marriage, but if they were successful, they gained considerable agency in the process.⁵⁰

This is well-illustrated by the case of Rebecca Spragins, a young woman from Halifax County in Virginia, who a year after marrying Dr Leonidas Spragins, found herself “under great apprehension of bodily hurt ... charging that her life was in great danger.”⁵¹ Rebecca recounted that she had been “forced to stay concealed in the garden [for] the greater part of the night” before finally “prevailing” on the servants to fetch her father and other “respectable” neighbours to come to her protection. She had been left with little recourse but to appeal to the men in her wider family and “respectable” community since Leonidas had taken to carrying “deadly weapons such as pistols and knives” in the marital home, “and frequently threatened to take” her life. Describing his conduct as “offensive” and “low and vulgar” to herself, to her father, and “to two or three respectable gentleman,” Rebecca appealed to the wider patriarchy of slaveholding society to protect her from a dishonourable and dangerous husband. In addition, Leonidas had done little to conceal his “illicit intercourse” with his and others’ slaves. He had openly failed in his duty to provide for and protect his wife, a fact substantiated by John Milner, Rebecca’s male next friend, in addition to other reliable male witnesses. This situation indicates both the privileges and the limitations of white women’s powers of persuasion, for, no matter how appropriately they might have behaved throughout the course of their marriage, they were also reliant on other male figures of authority to lend support to their claims, which was evident in Rebecca’s case.⁵²

White women’s court petitions demonstrate how frequently sexual infidelity occurred, and that it was cited as a reason for the dissolution of marital bonds for white women. Adultery seldom occurred in a vacuum, and divorce petitions are replete with accusations (some proven, others hearsay) of cruelty, neglect to provide, coldness, drunkenness, violence, and debauchery.⁵³ In order to gain the sympathy of the courts, southern women petitioning for a divorce had to demonstrate that they had fulfilled the tenets of “true womanhood” in their marriage. This concept was tied to models of white femininity that depended upon race and class. Female petitioners had to demonstrate that they had done *everything* in their power to make a marriage work, including ignoring minor

(and sometimes major) indiscretions by their husbands, in order to be granted a divorce and returned to their single status as a *feme sole*. *Feme sole* status restored certain rights and privileges to white Southern women, including a legal identity of one's own and rights over property.⁵⁴ In order to navigate this process successfully, women had to prove that they had acted with "ladylike" decorum in their daily lives in order to gain the support and ultimate approval of the highest legislative body, which could offer both protection and enhanced agency for them. Furthermore, wives had simultaneously to attest that their husbands had failed in their duty to provide for and protect them and their families, if they were to stand a reasonable chance of having their claims validated in court, as in the Hill case.⁵⁵

In a similar tale of marital discord, Elizabeth Campbell, from Lowndes County, Mississippi, filed for a divorce from her husband, Leonard Campbell, in October 1852. Assisted by her next friend and her brother John Pierce, Elizabeth's bill of complaint was granted by the chancery court just a month after submission. The complaints lodged against her husband were numerous, including most notably that Leonard had committed adultery with *several* women, including two female slaves who were not his property. The petition recounted numerous acts of "adultery," habitually with female slaves, including Mary Ann Taylor (Polly) and Nancy Taylor in the city of Columbus. In the accused's confession, Leonard Campbell admitted "that he has at several times committed adultery with *lewd women* and common *prostitutes* in the city of New Orleans," and, according to his wife, he "committed adultery with divers persons ... whose names are unknown to your Oratrix."⁵⁶ By all accounts, Leonard Campbell was a serial adulterer. The language of "dissipation" and "debauchery" saturated the petition, conjuring up a sordid image of Leonard's unacceptable behaviour within the marriage, but it was also used as a negative frame of reference for the *type* of women with whom he "committed his acts of infidelity."⁵⁷ Leonard referred to "lewd women and prostitutes" with whom he regularly consorted, and in describing his behaviour in this way he reinforced the negative racial stereotyping of promiscuous Black women that echoes that of the Hill case.⁵⁸ There is much evidence to suggest that these "adulterous" liaisons were anything but consensual. The famous account of formerly enslaved Harriet Jacobs describes at length the sexual violence she personally experienced during her enslavement with Dr Flint and his wife in North Carolina. This particular excerpt refers to her adolescent years, when she was no more than 15 years of age, and which marked a turning point for her in terms of how she was treated by her master and mistress:

Master met me at every turn, reminding me that I belonged to him, and swearing by heaven and earth that he would compel me to submit to him. If I went out for a breath of fresh air, after a day of unwearied toil, his footsteps dogged me. If I knelt by my mother's grave, his dark shadow fell on me even there ... The other slaves in my master's house noticed the change. Many of them pitied me; but none dared to ask the cause ... They knew too well the guilty practices under that roof; and they were aware that to speak of them was an offence that never went unpunished.⁵⁹

Jacobs' heartrending account vividly depicts the coerced nature of sexual encounters across the colour line. Her master, Dr Flint, an otherwise well-respected man within the local community, used his patriarchal power and authority to remind Harriet that she was his property and that "he would compel me to submit to him."⁶⁰ Contrastingly, his

wife, Mrs Flint, channeled the full force of her anger towards Harriet for providing a source of sexual temptation to her husband. As Jacobs knowingly recounted, “the other slaves in my master’s house ... knew too well the guilty practices under that roof,” but they remained silent, fearful no doubt of a reprimand if they dared to intervene or to protect her.⁶¹ Female slaves could not rely on protection from anyone, including their white mistresses, who placed many “impositions” on them due to their “jealousy.”⁶² Richard Mack, a formerly enslaved man from Maryland, later recalled that “colored women had many hard battles to protect themselves from assault by employers [masters].”⁶³ Historian Darlene Clark Hine argued that female slave narratives were replete with references to rape, and therefore “an emphasis on consensual interracial unions seems historically unsound,” which seems particularly relevant in reference to accusations of adultery in divorce petitions.⁶⁴ Beth Wilson’s contribution to this issue reveals that formerly enslaved women were often constrained by racialized and gendered emotional standards that for many years prevented them from speaking out about their experiences. However, by speaking with honesty about their past, they undertook what Wilson describes as an “emotional form of resistance” that reveals considerable personal agency.⁶⁵ Therefore, to gain a more comprehensive picture of the ramifications of white women’s divorce petitions, and on how they were written and for what purpose, it is also necessary for historians to examine the testimonies of the formerly enslaved in reference to relationships across the colour line.⁶⁶ Jacobs’ account consequently provides evidence to suggest that the accusations of “adultery” put forward by white Southern women were ill-conceived and that the lewd and brazen women who were depicted as at fault in the petitions were actually frequently victims themselves.

Within this context, Southern white women were complicit in the negative stereotyping of Black enslaved women, for failing to refer to the sexual relations between their husbands and their enslaved property as forced.⁶⁷ There was little recourse for Black women, as the law did not protect them, whereas white women could refer to the promise of provision and protection within their coverture.⁶⁸ As Jacobs recognized,

there is no shadow of law to protect her [the enslaved female] from insult, from violence, or even from death; all these are inflicted by fiends who bear the shape of men. The mistress, who ought to protect the helpless victim, has no other feelings towards her but those of jealousy and rage.⁶⁹

A bondswoman was the master’s property, but she was also at the mercy of the mistress; and if she was not seen as a person under the law, how could she be raped?⁷⁰

In this historical context, Southern white women’s use of derogatory language that depicted Black women as “Jezebels” further contributed to a culture that “minimize[d] the rape of Black women and white men’s responsibility in the perpetration of violence.”⁷¹ During the development of second-wave feminism, rape began to be considered as “an act of violence, not as sex” that connected power and dominance to forced sex. This idea is instructive in re-evaluating nineteenth-century divorce petitions that were submitted on the grievance of female petitioners regarding male “adultery” across the colour line with Black enslaved women because it sheds light on the interplay of race, class, and gender ideals within Southern marriages.⁷² The court petitions penned by white Southern women, therefore, contribute to a false narrative that depicted Black enslaved women as willing partners in “adulterous” affairs with white men that led to the breakdown of

Southern white marriages. Elizabeth Hill, the female petitioner from Florida who successfully divorced her husband, for example, was shocked that her husband had moved his female slave into the family home, “supplying the place” she had previously occupied as his wife, which suggested the perceived culpability of the Black woman involved.⁷³

Elizabeth Campbell employed the term “carnal knowledge” to describe the sexual activity between her husband, Leonard Campbell, and Sarah, Mrs Sparkman’s female slave. Carnal knowledge is defined as “an act of especially illegal sexual intercourse.”⁷⁴ In legal terms, “carnal knowledge is sometimes an element of the statutory definition of rape in addition to being a separate offense.”⁷⁵ This correlates with Andrew Neal’s definition of rape as “unlawful sexual activity” – the use of force or threat of force against the victim. These definitions are thus helpful in further unravelling the way in which white women’s divorce petitions can be examined to better understand the relationship between race, adultery, and divorce.⁷⁶

Elizabeth Campbell’s use of language is therefore important as it underscores the permeable boundary between what she (and other white women) perceived as “adultery” and in many cases the reality of white men’s non-consensual sex with their enslaved female property. The “dissipation” and “debauchery” she described did not only refer to her husband Leonard’s unacceptable behaviour within the marriage but were also used as a frame of reference to differentiate her from the Black women with whom he “committed his acts of infidelity.” In keeping with the format of similar divorce petitions, Campbell’s narrative opens as a blueprint of “marital harmony and good conjugal fidelity” for the first nine or ten years of marriage, until in 1850, her husband sank into “repeated acts of adultery” with Mrs Sparkman’s slave Sarah and Mrs Goodman’s slave Henrietta.⁷⁷ According to Schweninger, adultery cases split into different categories: men who had illicit sexual relations with their own slaves, those who had adulterous affairs with slaves whom they did not own, and men who indulged in sex with free women of colour or white women.⁷⁸ This categorization can be instructive in drawing connections between the types of adultery cases submitted to the court, the relative sympathy of the courts, and ultimately the outcome of the case.

South Carolinian Eliza Prince, a devoted wife for twenty-six years, petitioned the court in June 1837 to prevent her husband from leaving the state and “compelling him” to pay for the support of his “legitimate” children. Similar to previous cases, Eliza played upon the fulfilment of her role as a “faithful” and “affectionate” wife, contrasted to her husband’s total neglect, lack of provision and “state of vicious and illicit connection with ... his slave and concubine [Jemima Jones, a ‘Mulatto’].”⁷⁹ Yet, despite Eliza’s desperate petition, she had clearly endured this ill-treatment for several years, as she noted that the “illicit connection” had begun “thirteen or fourteen years ago.”⁸⁰ Her petition to the court, therefore, materialized when it appeared that John was about to leave the state with Jemima, leaving Eliza penniless. Through her next friend Edwin Prince, Eliza’s pleas to the court hinged on John’s neglect to provide, rather than on his adulterous affair. Fearful that John was about to leave the state with Jemima and their two illegitimate children (proof in itself that the liaison had been ongoing for some time), Eliza asked the court to intervene in a feminine appeal to the piety and Christian values they should apply to an unprotected white woman. Her pleas evidently fell on sympathetic ears, most probably reflective of the fact that the courts were convinced of her upstanding nature as a good Southern wife.

Poorer white women similarly employed the language of femininity or submission to gain the support of the courts, although typically, they were less successful compared to their middle- and upper-class counterparts. As Edwards notes, lower-class white women were not likely to remain totally silent in the face of abuse and neglect from their husbands; they were also prepared to fight for the protection that they saw as rightly theirs.⁸¹ Certainly, this is true in the case of Sarah Robinson, who boldly vocalized the wrongdoings of her husband and her miserable marital plight before the court. Hailing from Campbell County, Virginia, Sarah submitted her divorce petition in February 1840, presenting a woeful tale of marital neglect and infidelity. By her own admission, she had rather naively married a poor, property-less man, convinced instead of his “reputable character.”⁸² Perhaps unsurprisingly, Samuel Robinson’s good character quickly turned sour, and Sarah “pleaded with the court for protection” after he became “turbulent and tyrannical,” “threatening personal violence,” frequently becoming intoxicated, and “notoriously living in habits of illicit intercourse” with women “both white and black, and had children by them.”⁸³ In Sarah’s case, the court sanctioned her pleas, and her petition was granted eighteen months or so later. Many lower-class petitioners were far less fortunate, as they were deemed much less “worthy” in contrast to wealthy white women, thus reinforcing the patriarchal structures of the Southern society. For them, slavery had certainly not “lifted them up,” as George Fitzhugh had suggested, and they instead regularly found themselves relegated in the public mind to the lowest and basest sort of “poor white trash.”

Constructions of gender, both Black and white, therefore collided with race and class to dictate a woman’s likelihood of her divorce petition being granted. Frequently, female petitioners relied on and consciously played with their white femininity to win over the court and to get their petitions granted. Yet in the so-called cases of “adultery” across the colour line, white women not only positioned themselves as the innocent party but also ensured that their husbands and their Black lovers were both tarnished by the type of language employed in the divorce petitions they penned. Consequently, white femininity was both a constraint and a liberator for female petitioners, who at times successfully manipulated the social and racial hierarchy to their advantage. By emphasizing white feminine virtues, set against the backdrop of their husbands’ infidelity and dishonourable collusion with their lascivious enslaved property, white women pitted white femininity against Black womanhood and ultimately won. In a public display of vulnerability, white Southern women, supported by their respectable male next friends, neighbourhoods, and family networks, navigated their freedom from an “adulterous” marriage by robbing Black women of their respectability and womanhood, making them culpable in the maintenance of slavery.

Notes

1. Divorce Petition of Elizabeth Hill to the Circuit Court of the Middle Circuit of the State of Florida in and for the County of Leon, in Chancery sitting, *Race and Slavery Petitions Project*, University of North Carolina at Greensboro Library (hereafter *RSPP*), PAR no. 20586003.
2. Ibid.
3. Ibid.
4. Ibid.

5. Nagel, *Race and Culture in New Orleans*, 10–11, and Schweninger, *Families in Crisis*, 20. Plaçage refers to “the custom among many white men of setting up a black or mixed-race woman in her own household in addition to or in place of a wife.” Oxford English Dictionary <https://www.lexico.com/definition/plaçage>. Also, see Stevenson, “What’s Love Got to Do with It?”, 159–188.
6. For an excellent discussion on gendered violence, see Glymph, *Out of the House of Bondage*, chapter 1. She posits that “the power of slaveholding women ... is mistaken as powerlessness and taken less seriously, not because it was invisible or unrecognizable as such, but primarily because the prevailing ideology, then and now, presumes it not to exist,” 26. For further discussions on white women’s culpability in various aspects of slavery, see Feinstein, *When Rape Was Legal*; Jones-Rogers, *They Were Her Property*; Knight, “Mistresses, Motherhood, and Maternal Exploitation,” West and Knight, “Mothers’ Milk.”
7. This correlates with Kandiyoti’s ideas of “patriarchal bargains,” as discussed in Elizabeth Barnes’ article in this issue. There has also been some excellent work on legal history, such as Edwards, *A Legal History of the Civil War and Reconstruction*, and Gross, *Double Character* and *What Blood Won’t Tell*, and Morris, *Southern Slavery and the Law*.
8. Schweinger, *Families in Crisis*, 27.
9. *Ibid.*, 27–8.
10. *Ibid.*
11. Lockley, “Crossing the Race Divide,” 159–73.
12. Feinstein, *When Rape was Legal*, 11. Also see Jennings, “‘Us Colored Women Had to Go Through a Plenty’”; Roberts, *Killing the Black Body*; Sommerville, *Rape and Race*; Bynum, *Unruly Women*; Morris, *Southern Slavery and the Law*, chapter 14; Berry, *Ar’n’t I a Woman?*, and Stevenson, “What’s Love Got to Do with It?”
13. Kolchin, *American Slavery 1619–1877*, 124–5.
14. Feinstein, *When Rape Was Legal*, chapter 5, 71 and 74 especially.
15. Glymph, *Out of the House of Bondage*, 31.
16. Jones-Rogers, *They Were Her Property*, 205.
17. For a useful discussion of these tropes, see Bush, “Daughters of injur’d Africk”, 673–98. Bush referred to the links to African culture and beliefs that survived post-slavery, including storytelling, religion, kinship, and sexuality. This included a gendered collective memory and oral traditions, which included those of the “Sable Venus” and the African woman as a worker. This concept was reinforced by the large numbers of women who were sold in the internal slave trade, due to their higher demand as domestic and agricultural workers, concubines and child bearers.
18. Morgan, “Some Could Suckle,” 167–92. Also, see Berry and Harris, eds., *Sexuality and Slavery* esp. chapter one, Camp, “Early European Views”; Morgan, *Laboring Women*.
19. For an excellent discussion of the “Jezebel” and “Mammy” figures, see White, *Ar’n’t I a Woman*, chapter one, “Jezebel and Mammy: The Mythology of the Female Slave.” Also see Stevenson, “Gender Convention, Ideals, and Identity,” in *More than Chattel*, 169–92.
20. White, *Ar’n’t I a Woman*, chapter one.
21. Hodes, *White Women*, 78.
22. Bardaglio, “Shamefull Matches” in *Sex, Love, Race*, 113.
23. Jacobs, *Incidents in the Life of a Slave Girl*.
24. Mary Boykin Chesnut, ed. by C. Vann Woodward. Also, see Rohrbach, “The Diary may be from Dixie.” It is important to note that, whilst Mary Chesnut may have *begun* her diary in 1860, it went through several stages of revisions prior to publication, during which she revised and edited its original contents. This is important with regard to her views on interracial sex and her candid remarks on the evils of slavery.
25. Jones-Rogers, *They Were Her Property*.
26. Bost, “On Slaveholders’ Sexual Abuse of Slaves”.
27. It is worth noting that the rise of companionate marriage also correlated to changes in married women’s property law, which meant that women could protect any property they

brought into a marriage. Therefore, for wealthier southern families, daughters had more freedom to marry for love rather than for fiscal gain.

28. Jones-Rogers, *They Were Her Property*, 1–25, esp. 13.
29. Welter, “The Cult of True Womanhood,” 151–74. For more information on the expectations of southern white womanhood, see Scott, *The Southern Lady*; Clinton, *The Plantation Mistress*, and Weiner, *Mistresses and Slaves*, esp. part 2: “Expectations and Interactions.”
30. For more information on single women, see Molloy, *Single, White Slaveholding Women*; Carter, *Southern Single Blessedness*, and Chambers-Schiller, *Liberty a Better Husband*, 10–28.
31. Donat and D’Emilio, “A Feminist Redefinition of Rape”, 9.
32. Poet Coventry Patmore in Victorian England popularized the phrase “The Angel in the House” to refer to the ideal woman, similar to the “Cult of True Womanhood” in the U.S.
33. According to Hartog, “all participants in the antebellum Anglo-American legal culture understood what marriage was ... being married meant subjecting oneself to a known and coercive public relationship.” See Hartog, “Marital Exits and Expectations,” 96.
34. Edwards, “Law, Domestic Violence,” 733–70.
35. Feinstein, *When Rape was Legal*, 8. There has been a great deal of work done since the 1980s on the intersection of race, class, gender, sexuality and other identity variables. For example refer to, White, *Ar’n’t I a Woman?: Female slaves in the Plantation South*, chapter one; Glymph, *Out of the House of Bondage*, and Berry, *Swing the Sickle*.
36. This negative stereotyping started to change in the years leading up to and during the Civil War, with the recognition that southern women could remain single and still usefully contribute to their natal families, and to God and to their local community. This was referred to as the “Cult of Single Blessedness.” See Molloy, *Single, White Slaveholding*, 4–5.
37. Southern women often vented their anger and frustration towards enslaved females, rather than at their husbands, though exceptions occurred. For instance, see Harriet Jacobs’ autobiography *Incidents in the Life of a Slave Girl*, chapter five, “The Jealous Mistress.” Jacobs recounts her mistress’ reaction when she discovered that her husband, Dr. Flint, was sexually pursuing Harriet, their enslaved female property, when she was around fifteen years old.
38. Hodes notes that “a divorce was in theory, a reward for an innocent and virtuous spouse, victimized by an evil partner.” See Hodes, *White Women*, 78.
39. Divorce Petition of Elizabeth Hill, RSPP, PAR no. 20586003.
40. Ibid. In Elizabeth’s divorce petition, she requested a divorce, as well as installments of alimony that the court deemed “right and proper,” in addition to any further relief.
41. Feinstein, *When Rape was Legal*, 11–12.
42. Edwards, “Law, Domestic Violence”, 740.
43. Ibid.
44. Ibid.
45. Ibid.
46. Feagin, *The White Racial Frame*, and Esterline review of *The White Racial Frame*, 111–12. Esterline’s review noted that the white racial frame was “an overarching white worldview that encompasses a broad and persisting set of racial stereotypes, prejudice, ideologies and images, interpretations and narratives, emotions and reactions to language accents, as well as racialized inclinations to discriminate,” 111–12.
47. Feinstein, *When Rape Was Legal*, 11.
48. Schweninger, *Families in Crisis*, 15.
49. Ibid.
50. Donat and D’Emilio, “A Feminist Redefinition,” 10.
51. Rebecca Spragins divorce petition to the Honorable Hunter. T Marshall Judge of the Court of Halifax County, 14 April 1859, RSPP, PAR. no 21685915.
52. Rebecca Spragins was granted a divorce around April 1859. In addition, she made a claim for a division of the estate “as may be just and proper.” As she herself claimed, Leonidas was in possession of a fee simple of a valuable tract of land “compromised of some 900 acres and worth at least 10 thousand dollars,” in addition to owning eighteen slaves. It was therefore in her best interest not only to prove that her husband had been unfaithful and cold, but

- also to demonstrate that he had endangered her life by carrying a lethal weapon that he intended to use on her. This claim was also confirmed by her next male friend who took on the role of protector when her husband had failed in his duty to do so.
53. For a detailed account of marital strife and divorce in the slaveholding South see Censer, "Smiling Through her Tears," 24–47.
 54. Hartog, *Man and Wife in America*, 115–18.
 55. See chapter 5, 'Law, Property and the Single Woman' in Molloy, *Single, White Slaveholding Women*, 134–66.
 56. Divorce Petition of Elizabeth Campbell to the Hon Henry Dickinson Vice Chancellor of the State of Mississippi in Lowndes County, Mississippi. RSPP, PAR no. 21085221.
 57. Ibid.
 58. Ibid.
 59. Jacobs, *Incidents in the Life of a Slave Girl*, 46.
 60. Ibid.
 61. Ibid.
 62. Richard Macks, interviewed in 1937, Federal Writers' Project, *WPA Slave Narrative Project*. See "On Slaveholders' Sexual Abuse of Slaves".
 63. Ibid.
 64. Hine, "Rape and the Inner Lives," 912–20, esp. 912. Also refer to Yarbrough, "Power, Perception and Interracial Sex," 559–88.
 65. See Beth R. Wilson, "I ain' mad now and I know taint no use to lie': Honesty, Anger, and Emotional Resistance in Formerly Enslaved Women's 1930s Testimony" elsewhere in this issue.
 66. See Yarbrough, "Power, Perception and Interracial Sex," 559–88.
 67. Feinstein, *When Rape Was Legal*, 2.
 68. See White, *Ar'n't I a Woman*, introduction.
 69. Jacobs, *Incidents in the Life of a Slave Girl*.
 70. Neal, *Unburdened By Conscience*. As Neal argues, "Typically, the bondswoman engaged in sexual intercourse with the master, his son, the overseer, or other white men, under the threat of injury and against her will," 52.
 71. Feinstein, *When Rape was Legal*, 5.
 72. Donat and D'Emilio, "A Feminist Redefinition of Rape," 15.
 73. Divorce Petition of Elizabeth Campbell, RSPP, PAR no. 21085221.
 74. Legal definition of "carnal knowledge." See Merriam Webster Dictionary. <https://www.merriam-webster.com/legal/carnal%20knowledge#:~:text=Legal%20Definition%20of%20carnal%20knowledge,a%20juvenile%20%E2%80%94%20see%20also%20rape> (accessed 4/11/2020).
 75. Ibid.
 76. Neal, *Unburdened By Conscience*, 52.
 77. Divorce Petition of Elizabeth Campbell, RSPP, PAR no. 21085221.
 78. Schweninger, *Families in Crisis*, 21.
 79. Divorce Petition of Eliza Prince to the Honorable Chancellors of the State of South Carolina, 27 June 1837, RSPP, PAR 21383923.
 80. Ibid.
 81. Edwards, "Law, Domestic Violence," 743.
 82. Divorce Petition of Sarah H. Robinson to the Honorable the Judge of the Circuit Superior of Law and Chancery holden in, and for the County of Campbell, RSPP, PAR no. 21648009. The case was granted in September 1840.
 83. Ibid.

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