

*“The girl did not recognise him as her husband”: freedmen, sexual violence, and gendered authority after emancipation*

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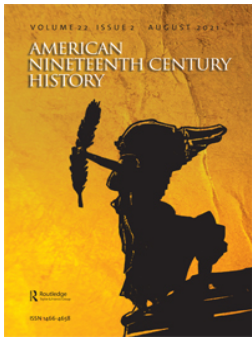
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## “The girl did not recognise him as her husband”: freedmen, sexual violence, and gendered authority after emancipation

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### ABSTRACT

Historians have demonstrated that white men used sexual violence as a weapon of terror after the Civil War to re-establish and strengthen white supremacy. Freedwomen’s testimonies against this violence have also been analysed as a key site of resistance in which women crafted alternative narratives about race, gender, and freedom. Little attention has been paid to the roles freedmen played in these processes, however. This article examines two ways in which black men shaped understandings of sexual violence against black women in the Reconstruction period: as allies and as perpetrators. In doing so, this work adds critical nuance to understandings of sexual violence in the Reconstruction South.

### KEYWORDS

Slavery; reconstruction;  
gender; sexual violence

Cuff Canara arrived, bleeding and exhausted, at the Sparta, Louisiana office of the Freedmen’s Bureau in July 1866. The freedman had run ten miles, pursued by hounds and armed local whites, to report a crime. Canara’s employer and former owner, Dan Docking, had raped Canara’s wife on more than one occasion, flagrantly disregarding the legal shifts brought about by emancipation. In recognition of the new rights that freedom afforded him, however, Canara took the decision to speak out against these violations. In the process, he assumed the traditional patriarchal role of mediator between his wife and the law, supporting and representing her in their personal struggle against a wider post-war phenomenon.<sup>1</sup>

A freedman named Arnold undertook a similar journey towards the Demopolis, Alabama office of the Freedmen’s Bureau in February 1867. Arnold too wished to step into a patriarchal role, attempting to secure his rights to his wife’s labour and company, rights he believed had been wrongfully denied him by a white employer. Unlike Canara, however, Arnold was not acting on behalf of the woman he declared his wife. Resisting his attempts to claim her, the unnamed freedwoman directed her employer to make it plain to the Bureau that she did not consent to leaving with Arnold, as she “did not recognise him as her husband.” Rather than a legitimate patriarch, Arnold was an opportunist and an abuser: his “wife” was a teenaged girl who had been “traffic[ked]” during the recent war and gifted to Arnold by his mother. Arnold was not

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an ally in the fight against sexual violence, but a credible threat himself – one who knew how to appeal to the assumptions federal agents made about relationships between white employers and freedpeople in the post-war South.<sup>2</sup>

Both journeys reveal facets of the role that Black men played in Black women's post-war struggles against sexual violence. The two very different ways in which these freedmen attempted to wield patriarchal authority, and the role that freedwomen played in challenging or legitimizing this authority, offer further insight into women's agency within Black families and communities immediately after emancipation. Black women's right to bodily integrity – one of the most radical changes that freedom promised – was frequently at the heart of this jostling over gendered power. Slavery's demise did not fundamentally upend relationships between Black men and women. Enslaved couples generally lived within their own established gender norms, dividing labour along gendered lines within their own families.<sup>3</sup> Expectations around sex were similarly gendered, with allowances made for the conditions of enslavement, which impeded couples' abilities to guarantee lasting monogamous relationships.<sup>4</sup> Nevertheless, emancipation did bring significant changes: as the South was reconstructed, relations between Black men and women were necessarily restructured.

Across the South, this restructuring of relationships was framed around the traditional white Euro-American household.<sup>5</sup> In their attempts to bring formerly enslaved people under the protection of the law, federal authorities placed them within legal structures that the law was already designed to accommodate; patriarchal households, with a male head and a network of dependents, women and children who looked to him for support and protection. Black women, therefore, were in the eyes of the law essentially shifted from one household to another, moved away from the authority of slaveholders and placed into dependent relationships with Black men. This is in direct contrast both with the family formation during slavery and with the realities of freed families' lives. Female-headed households, multigenerational households, and the pooling of resources were common within enslaved and freed communities.<sup>6</sup> American law failed to grapple with these complexities, instead relying on established white norms to regulate Black lives. This process began during the Civil War, when, as Stephanie McCurry highlights, the U.S. Army turned to the legal fiction of "the Black soldier's wife" to shape their responses to refugee women and children.<sup>7</sup> U.S. law, and those forming it, simply could not conceive of female citizenship outside of the constraints of marriage and the patriarchal household. Emancipations across the Americas were legalized in similarly patriarchal terms.<sup>8</sup>

As several historians have noted, however, Black men's patriarchal power remained insecure immediately after the Civil War. Although marriage vows for formerly enslaved people "redirected" patriarchal authority from the enslaver/enslaved relationship into Black marriages, lived realities did not always reflect this patriarchal ideal.<sup>9</sup> In some ways, Black women simply could not sequester themselves within households, even if they have might desired to. Women's wage labour was vital to supporting Black families and they, therefore – like many other poor women across racial and ethnic lines – could not be truly dependent in the way the law expected of them. Tera Hunter's characterizations of Black families as "mostly male dominated" rather than strictly patriarchal is a more accurate reflection of the realities of emancipation: women were subordinate to their husbands in many ways, but were not utterly dependent on them.<sup>10</sup> The willingness of federal authorities to intervene and interfere in Black families also challenged the

patriarchal authority of Black men.<sup>11</sup> Freedmen did not have unchallenged supremacy in their own households, and neither state nor federal authorities hoped or expected them to. Whites viewed patriarchy within Black families as a structure through which they could exert power rather than a guarantee of Black independence.

Black women who stepped outside of patriarchal structures to represent themselves before the law threatened to upend established social relations in the South altogether. Rather than simply standing alone as women, those who testified to the violence they suffered shaped a shared African American identity as a “subjugated people.”<sup>12</sup> Freedwomen who testified for themselves did not narrow the web of relations they lived in by subverting patriarchal authority but expanded it. Speaking out against gendered violations was a critical part of identity formation after emancipation, and freedwomen knew from experience the dangers of identities that were formed exclusively in relation to another. Enslaved women’s inability to conform to white ideas of womanhood had been weaponized by whites for centuries: only by moving beyond the confines of gendered expectations could freedwomen meaningfully secure their rights. Testifying simply as freedwomen, rather than as loyal employees, dutiful wives, or chaste daughters, allowed women to command their own sexuality and refute white ideas that their race made them unworthy of bodily integrity.

The realities of the post-war South, however, made it difficult for Black women to assert their independence. Ultimately dependent on men – financially, physically, or otherwise – Black women’s bodies became, in Catherine Clinton’s words, the “bloody terrain” upon which Reconstruction’s battles were fought.<sup>13</sup> Aligning themselves with male interests became critical to freedwomen’s survival. Black women navigated the patriarchal authorities in their lives carefully, taking into account the various benefits – and pitfalls – that came with performing dependency on one patriarch over another. The ways in which women made accommodations to the patriarchal structures of the post-war South reveal much about gendered authority after emancipation. As Deniz Kandiyoti argues, analysing women’s navigation of the patriarchy – the “bargains” that they strike with male authority – encourages a fuller understanding of how gendered hierarchies operate; conversely, relying on abstract theoretical understandings of patriarchy obscures the impact it has on women’s lives.<sup>14</sup> By focusing on the choices women made when facing sexual danger and violation, this article exposes the limited nature of Reconstruction-era reforms. Rather than signalling a drastic rupture with the immediate past, for women emancipation offered opportunities that were confined within established hierarchies of gendered power. While Black men could leverage their patriarchal authority to aid the women in their lives, the limits of patriarchy were most exposed when Black women faced exploitation at the hands of those ostensible allies.

Cuff Canara’s journey on behalf of his wife in 1867 was not unique. Across the South, Black men made legal complaints about the white supremacist violence perpetrated by former enslavers, vigilantes, and employers. In January 1866, Shadrak Key took a complaint to local civil authorities after two white men broke into his home and raped his daughter, Lyda. Her attackers, T. J. McLane and J. J. Jones argued that Lyda was engaged in sex work and that the encounter was consensual and paid for.<sup>15</sup> James Ramsey, the local Bureau agent in Shelbyville, Tennessee, was forced to pass the case on to the state’s assistant commissioner after a judge advised him that civil statutes did not allow for a Black woman to be raped by a white man.<sup>16</sup> Clinton Fisk’s office

responded to Ramsey's report with an impassioned expression of outrage characteristic of many military men confronted with the racist realities of the South. Convinced by the evidence that Ramsey had provided, the reply simply stated that "if the civil courts would do justice, [McLane and Jones] would be imprisoned during the remainder of their lives." The Assistant Commissioner's office ordered that the parties involved be brought to the state headquarters so that a military commission could be conducted, convinced that the assailants would not "properly be dealt with" by civil authorities.<sup>17</sup> At that point, Key's case was lost to bureaucracy: federal authorities may have decided that overstepping the boundaries of their power was simply not worth it in this case, or the evidence may have convinced them otherwise. Whatever the reasoning, there is no evidence to suggest that a military trial of McLane and Jones ever went ahead.

Joseph Ramsey described Shadrak Key as elderly and "timid," and he was clearly unable to physically defend himself or his family from McLane and Jones. The first time that the white men came to the Key home, Shadrak stayed away: like many Black families after the end of the Civil War, the Keys believed that the men in their household faced greater danger at the hands of invading white men than freedwomen did. They were right to be afraid. McLane and Jones arrived "cursing and swearing" and demanding to see "Old Shade." When they could not find Shadrak, however, the men directed their attentions to Shadrak's wife, Winne, and his daughter Lyda. McLane and Jones both raped Lyda and then molested her mother. Lyda and Winne's experiences informed the Key family's response when the same men returned to their home to attack again. On the second occasion, Shadrak remained in the home with the intention of defusing the situation. He was unsuccessful in his attempts to appease McLane and Jones, however, who assaulted him and threatened Winne with a pistol. This seems to be the extent of the second attack, however, as the Keys testified to no further violence. After the second home invasion, Shadrak took his case to the civil authorities.

Shadrak Key may have felt that he failed his family. Violent resistance to white oppression was a celebrated tenet of enslaved manhood, lauded by abolitionists and enslaved people themselves as proof of Black people's suitability for freedom and citizenship. As David Doddington argues, however, celebrating violent resistance also meant shaming those who were submissive, placing men like Shadrak Key below their more outspoken peers in the hierarchy of masculinity.<sup>18</sup> While enslavement limited Black men to fairly limited ways of expressing manhood – accommodation or overt resistance – freedom offered another avenue for them to perform masculinity. In representing their families before the law, freedmen were able to step into a traditionally masculine role denied them during their enslavement. Doing so after incidents in which their female relatives and kin faced sexual harassment or abuse was significant: being forced to stand by while their loved ones were violated had been an especially keenly felt injustice for enslaved men.<sup>19</sup>

Federal authorities were happy to treat Black men as mediators between Black women and the law. When Andrew Payne, a former slaveholder resident in Murfreesboro, Tennessee, continued to harass and exploit Black women after emancipation, the freedpeople involved went directly to the Bureau. Sam Neal reported Payne, his employer after he made "several base attempts" upon Neal's daughter. Neal also raised a broader complaint on behalf of his family, informing the Bureau that Payne had ordered them off his land without pay. In this case, Neal's patriarchal duties to his daughter bound up neatly

with his responsibilities, as head of his household, to secure the family's wages and handle their employment contracts. Payne's crimes, including the sexual harassment of Neal's daughter, were framed together as wrongs done to Sam Neal himself. The local agent, John Seague, ordered Payne to pay Neal twenty-five dollars. No mention was made of how Payne would atone specifically for the harm he did to Neal's daughter; by ordering that her father be compensated, Seague evidently believed that justice had been done on her behalf.<sup>20</sup>

Black women frequently refused to accept that they needed a patriarch to liaise with federal authorities on their behalf: while many may have accepted that men "dominated" their families and communities, freedwomen also asserted their rights as individuals.<sup>21</sup> Two of the freedpeople who also complained of Andrew Payne's sexual misbehaviour to John Seague were women. One, Tabby Wheatly, complained that Payne and a companion had come to her home in pursuit of her daughter. Wheatly's daughter had fled to her home after Payne and a man named Miles Ferguson violently attacked her. When they arrived, Payne took Wheatly's daughter "down the back of the yard & pulled her clothes over her head & beat her holding [her] head between his knees." Seague once again granted justice to the complainant rather than the victim, ordering Payne to pay a fine of twenty-five dollars to Tabby Wheatly. Another victim of Payne's took her complaint directly to the Bureau. Maria Posey alleged that Payne had come to her home and attempted to rape her. Posey resisted, and tried to run away, at which point a man who had been waiting outside intervened in the assault, pushing Posey into the fire in the process. Posey produced her burned dress as proof of Payne's attack. In this case, although the agent did not doubt Payne's guilt, he concluded that the case could not be proved.<sup>22</sup>

When Tabby Wheatly and Maria Posey took their complaints to the Bureau, they defied the expectation that freedwomen should allow patriarchs to speak on their behalf. This could have been out of simple necessity – both Wheatly and Posey may have been without husbands or other male relatives whom they trusted to liaise with the law for them. In speaking for her daughter, Wheatly stepped into a role that would usually be reserved for such a male relative. Drawing upon her authority as a mother allowed her to imitate established norms, presenting her daughter as her dependent and worthy of being protected by the law. The clear sexual overtones of Payne's assault allowed Wheatly to slip into that role more easily; as Sharon Block's work on the colonial period indicates, mothers and married women had traditionally been allowed special authority to speak before the law about incidents of sexual abuse.<sup>23</sup> Maria Posey, a mother herself, made no claims to dependency. She went to the Bureau independently, speaking on her own behalf and demanding justice. While there were clearly other factors at play here, it is notable that Posey was the only one of the three freedpeople who did not see Payne punished for the violence that he committed against her. Stepping outside of patriarchal expectations often meant speaking without backup.<sup>24</sup> As Laura Sandy notes elsewhere in this issue, women of all classes in the South who fell outside of the boundaries of patriarchal control often found themselves vulnerable both before the law and in their social relationships with men. This was certainly the case for Maria Posey.

Freedmen such as Cuff Canara, Shadrak Key, and Sam Neal, in reporting sexual attacks upon their female relatives, fulfilled traditional patriarchal duties which demanded that men act as intermediaries between their dependents and the law. Enslaved men had

been denied this duty: to seize this responsibility after emancipation satisfied a practical need to seek legal help and was a significant assertion of Black men's new legal rights and their freedom. This does not mean that Black families during Reconstruction were strictly patriarchal, however. They understood the scepticism with which all allegations of sexual violence were met, and therefore, like their white counterparts, knew to adhere to certain societal expectations to establish credibility. The practicalities of reporting may also have played a role in these cases. Freedmen remained more mobile than their female relatives and kin, and may have simply been more capable of making the sometimes extensive journeys between their homes and legal authorities. While freedmen reporting on behalf of the women in their lives may indicate the assumption of patriarchal roles within Black families after emancipation, there is evidence to suggest that these gendered relationships were not rigid: women frequently complained to legal authorities themselves, and even on behalf of male family members. Nevertheless, in making these complaints freedmen established sexual attacks against their female kin as something which was bound up with their own rights as free men.

In an even starker expression of their new legal status, some freedmen physically defended their families against white harassers and rapists. Performing violent acts of resistance that would have been met with swift and brutal punishment prior to emancipation, Black men asserted their freedom and seized the opportunity to challenge centuries of sexual exploitation by whites.<sup>25</sup> This resistance was not without risk. In November 1865, Sally Berry reported to a Georgia agent that a white man had shot her brother Jim at a quilting party in the Berry family home. Jim had intervened to defend his niece Amanda from the assailant who had attempted to rape her; while Amanda was saved by her uncle, the attacker's shot left Jim with a "probably fatal wound."<sup>26</sup> Black men risked not only injury when they acted in defence of relatives, but also the wrath of the law. Burt Chery, for example, faced murder charges in Goldsboro, North Carolina, after he killed a white intruder who had broken into his home and slipped into his sixteen-year-old sister's bed in the night.<sup>27</sup> Violent freedmen also risked provoking further violence against their families and communities. Washington Travick and a gang of white men rampaged through a Black community in Alabama in 1867 when a freedman shot Travick after catching him sexually assaulting freedwomen. Travick's gang assaulted and murdered several people in revenge for a freedman daring to defend Black women from violation.<sup>28</sup>

Vengeance was not the exclusive purview of whites, however. As white vigilantism exploded across the South in the wake of emancipation, Black men also turned to extra-legal methods to exact justice. The *Henderson Times* reported in 1869 that John Lloyd and his stepfather, Henry Bell, had murdered Lloyd's white employer, John Nelson. Nelson had allegedly been "too intimate" with Lloyd's wife – likely a euphemism for sexual assault, given the relationship between the two parties. The attack was evidently planned, as Lloyd and Bell lay in wait for their employer and enlisted a third freedman to lure Nelson to the place of his death.<sup>29</sup> Rather than appealing to the law, these men decided to exact justice themselves. Through this act, Lloyd secured retribution on behalf of his wife, and also affirmed his rights as a free man and as a husband to exclusive sexual access to his wife. In an incident reminiscent of a later lynching, a Black mob in Yorktown, Virginia, assaulted and killed a white sailor who had attempted to rape a Black girl.<sup>30</sup> In this instance, Black men beyond the victim's immediate family clearly felt a

responsibility, or at least the right, to violently respond when a woman in their community was harmed. Much like Lloyd, these men may also have been attempting to draw, through violence, a social barrier between Black women and white men – a barrier which could both shield freedwomen from harm and assert Black men’s patriarchal rights.

Freedmen who acted on behalf of violated freedwomen fulfilled expected patriarchal responsibilities. In doing so, they acted to assert their freedom, stepping into roles that enslavement had denied them. These men also asserted the freedom of their female relatives, whose new rights included legal protection against sexual violence. Critically, freedmen who intervened in cases of sexual violence were able to express their manhood in a way that directly addressed one of the key ways in which enslavers strove to emasculate them.<sup>31</sup> While men’s involvement signified positive steps towards justice and legal accountability, it also meant they spoke and acted for women. The patriarchal ordering of Black families after emancipation contributed to the dearth of women’s voices in the archive, and in turn, obscured many of the issues that freedwomen faced after the Civil War.<sup>32</sup> Reinforcing gendered hierarchies also threatened the safety of freedwomen who were without reliable patriarchs, or, worse still, saddled with abusive ones.

Freedmen did not always use their gendered authority to protect Black women or represent their interests. Sexual violence within Black families and communities, although rare, does appear in the archive. Much like white abusers, Black men weaponized racist and misogynist stereotypes in their favour, framing their violence against freedwomen as legitimate expressions of male authority.<sup>33</sup> The rights that freedwomen won with emancipation drove some to appeal for legal intervention. Leslie Schwalm points out the complexities of this process, with freedwomen forced to “negotiate the competing jurisdiction of military, bureau, and civilian authorities” in their pursuit of redress against husbands who abused or neglected them.<sup>34</sup> Schwalm adds that domestic abuse was one of the rare factors that compelled freedwomen to involve external authorities in the affairs of their families.<sup>35</sup>

It is important to note, however, that white authorities typically framed all Black families as dysfunctional in order to justify egregious interference in freedpeople’s lives. Tera Hunter argues that, while “in extreme cases” domestic violence did occur in Black families, white Americans exaggerated reports of such behaviour.<sup>36</sup> Hunter adds that Bureau agents “functioned as social workers,” interfering in African American family life far more than was acceptable in white families.<sup>37</sup> Allegations of violence, often made by white employers rather than by freedwomen themselves, offered them an excuse to do so. Both Schwalm and Mary Farmer-Kaiser, however, point out the failings of the Freedmen’s Bureau with regard to cases of domestic violence. Both argue that, despite willingness on the part of many agents, ultimately their limited power and responsibilities meant that intervention was often impossible. “By and large,” Farmer-Kaiser argues, the Bureau did what it could to protect freedwomen. Generally, its agents were limited to an advisory role, with little power to enforce their recommendations.<sup>38</sup>

Historians of Reconstruction have neglected the subject of intimate partner sexual violence, choosing instead to focus on wife-beating and neglect. Sexual violence offered unique challenges for both the women reporting it and the authorities dealing with it and needs to be considered as distinct from, although linked to, other forms of spousal abuse. While reports in the Bureau records of marital discord must be treated with care, women’s testimonies against abuse are compelling. Freedwomen had to approach

these cases with caution: they faced not only the disbelief of whites but also backlash within their own families and communities. The material consequences of reporting sexual abuse could be severe, and inviting further white scrutiny into their sexual and family lives posed its own dangers. As the following examples demonstrate, women generally seem to have handled these issues alone, turning to legal authorities only when absolutely necessary.

In some instances, freedmen continued patterns of abuse that they had established before emancipation. As part of efforts to understand the layers of oppression with which enslaved women lived, historians of the antebellum South are increasingly analysing sexual abuse perpetrated by Black men against enslaved women. Emily West, for example, explores evidence of intimate partner abuse within the WPA narratives and argues that formerly enslaved women framed the abuse they suffered at the hands of spouses within a broader narrative of their oppression as slaves. West adds that some women stayed with partners they had not chosen after emancipation, taking a “pragmatic” approach to marriage and the family.<sup>39</sup> In his wider study of violence in the slave quarters, Jeff Forret has analysed incidents of sexual abuse perpetrated by Black men, highlighting that enslavement was “conducive” to such abuses, particularly due to a lack of legal recognition of the sexual violation of enslaved women. Forret adds that, in many cases, incidents of violence committed by enslaved women against enslaved men were in response to some kind of sexual threat, either actual or perceived.<sup>40</sup>

David Doddington’s work makes it clear that enslaved women recognized the agency of some of the enslaved men who used violence against them, understanding that their oppression was not always directed by slaveholding whites. Furthermore, he proposes that enslaved men themselves understood that they could use sex to gain power over both enslaved women and fellow enslaved men, using violence to perform masculinity. Sexuality and sexual behaviour were central factors in the creation and maintenance of gendered power structures within enslaved communities.<sup>41</sup> For freedmen, controlling the sexuality of Black women offered one familiar way to assert their newfound rights and authority after emancipation.

The methodological challenges posed by uncovering intimate partner sexual violence make analysing stories of abuse especially difficult. All forms of sexual violence are under-reported, but silence looms particularly large around abuse perpetrated by men known to the victim. Women who are sexually assaulted by men known to them experience serious difficulties in the aftermath of attacks. Modern studies have shown that sexual violence of this nature is more damaging to women’s long-term well-being than violence perpetrated by strangers.<sup>42</sup> For freedwomen, who faced so much violence, exploitation, and abuse in their labouring lives, familial and community-based sexual violence would have been especially traumatic. Such violence robbed women of a potential space of safety and retreat and reminded Black women of the dual burden they had to bear: their race and their sex. Nevertheless, some women did appeal for aid when Black men attempted to manipulate patriarchal authority in their favour, and in doing so crafted alternative narratives of gender, power, and legitimacy.

Arnold hoped to exploit an assumption of patriarchal authority when he set out for the Bureau office in Demopolis in 1867 to demand the return of his “wife.” Without the intervention of former slaveholder E. Blanks, this case would have seemed quite straightforward: like many freedmen in the South, Arnold alleged that his wife’s employer was

detaining her illegally and against her will. Such abuses were common across the post-war South, and the Bureau routinely intervened to ensure that freedpeople were treated lawfully. Arnold assumed that the Bureau would automatically defer to his authority as a husband, granting him the right to determine where his wife should go and for whom she should work. He may also have hoped that his “wife” would bow to this authority, accepting his claim to her and doing as he directed. Arnold’s “wife,” an unnamed freedwoman, refused to accept his authority, however, and requested her employer’s support in ensuring that Arnold’s claim over her would not be legally recognized.<sup>43</sup>

The layers of exploitation, in this case, are complex, and began years before the federal authorities were alerted to the situation. During the Civil War, Arnold’s mother had established a “bawdy house,” or brothel, to entertain U.S. Army troops when they arrived in the area. She had “enticed” the victim, at that point only fifteen years old, to “make traffic of her virtue.” When the girl’s mother found out, Arnold took part in a staged sham marriage that was orchestrated by his own mother in an attempt to prevent the girl’s mother from taking custody of her daughter. The marriage was plainly illegitimate. The ceremony was simply officiated by a soldier who frequented the brothel, and neither the girl’s mother nor the girl herself consented to the union. This girl thus found herself trapped in a web of exploitation spun by another enslaved woman.

Arnold did not stick around for long. Shortly after emancipation, he robbed the home of his former enslaver, E. Blanks, and then fled the county when a one-hundred-dollar reward was offered for his arrest.<sup>44</sup> He left his new “wife” destitute and pregnant. Blanks, who enslaved and then employed the victim’s mother, allowed the girl to stay with her relatives on his plantation. When she recovered, he included her in the contract that he held for the labour of her family. The girl may have felt that the horrors of her wartime experiences were behind her until Arnold returned to claim her. It is unclear how directly involved Arnold was in the exploitation of the girl before emancipation. While he was obviously complicit in the attempt to cover up his mother’s transgressions, the sham wedding may have been the extent of his involvement. Although the victim was pregnant when Arnold fled, any of the men who frequented the brothel may have been responsible. When Arnold went to the Bureau in an effort to force the girl to live as his wife, however, he actively tried to capitalize on his mother’s crimes to subjugate the girl again.

In reporting this incident, Blanks was clearly aware of the very dynamics that Arnold had hoped to exploit. Blanks was a prominent former slaveholder and one of the wealthiest landowners in the small town of Dayton.<sup>45</sup> While some Freedmen’s Bureau agents respected men like Blanks, others were rightfully suspicious of former enslavers, especially those who maintained their influence after emancipation. Blanks apparently travelled to the Bureau with an awareness of the possibility that he would be welcomed less than warmly. Rather than hoping that his own word would be enough to convince the agent, Charles W. Pierce, of the veracity of his version of events, Blanks travelled to the Bureau carrying a letter verifying his statements. The letter was penned by Robert Christian, a Virginian raised in a more modest slaveholding household, who wrote both as Blanks’ friend and as a lawyer with knowledge of Arnold’s past misconduct and criminal behaviour.<sup>46</sup> Likely aware of the prejudices that many Bureau agents held, Christian, took care to distance his friend from the plantation elite, making it clear to Pierce that Blanks was “a plain, self-made man” who was “entirely reliable, truthful, and trustworthy.” At the

same time, however, Christian invoked the ideology of paternalism and depicted Blanks as the classic Southern patriarch, shielding his employees – people he formerly enslaved – as if they were part of his extended family. The victim, in this case, Christian stated, was cared for by Blanks as an “act of charity,” granted because the girl’s mother was “a favourite servant” of his. Robert Christian, much like the victim, understood the importance of carefully drawing upon the narratives that surrounded relationships in the post-war South. In this instance, Blanks’ interference was justified by his understandable paternal concern, a concern which the victim had encouraged to ensure her safety.

The documentation of this incident reveals the limitations of the archive as well as how Black women were marginalized in the post-war South. None of the women involved in this case are named by Robert Christian or by the Bureau agent but are defined entirely according to their relationships with the men in their lives. The victim, in this case, is referred to exclusively as Blanks’ employee and a victim of trafficking: Robert Christian’s letter reduces her to the services she can offer to these two men. It seems, however, that the freedwoman was at least somewhat complicit in being characterized in this way. Rather than taking complete control of the situation herself, she allowed her employer to represent her at the Bureau. This woman never testified directly and seems to have never travelled to the Demopolis office to make her own complaint against Arnold. While this may have been simply a pragmatic decision – the journey may have been too demanding or the formal setting too intimidating – this victim may have been aware of the benefits of at least appearing to fit into societal expectations of women’s behaviour. By attempting to extract herself from her “husband”’s influence via her employer, this freedwoman did not present herself as seeking independence, but simply as accepting a legitimate patriarch over an unworthy one.

The victim, in this case, was operating within a system that gave her little power and few options. While asserting her independence may have been a more effective method to secure her rights in the long term, turning to her employer to shield her from Arnold was an effective strategy to combat an immediate threat. In doing so, however, the victim accepted and endorsed Blanks’ patriarchal authority over her and her family. The woman struck here what Deniz Kandiyoti has termed a “patriarchal bargain”: she accepted her dependence as a necessary payoff for securing Blanks’ protection.<sup>47</sup> For women like her, who faced danger from Black men, freedom was limited. The path to citizenship that emancipation offered women – one that relied exclusively on Black men – was incomplete. That some freedwomen had to retreat back into the households of their former enslavers to find safety exposes the limited opportunities that the patriarchal route to emancipation had offered Black women.

The records offer no clear conclusion in this case – or, indeed, in many other incidents – but it appears that Arnold was a serial abuser. On 27 February 1867, just a day before Blanks travelled to the Bureau with the letter penned by Robert Christian, Dr James D. Browder complained about marital strife among his employees. The agent at Demopolis simply recorded that Browder had told him “Arnold & Caesar have been whipping their wives raising a disturbance on the plantation.” The wives in this short complaint are named as Nancy and Letty; both Arnold and Caesar are listed with the last name Blanks.<sup>48</sup> Given the location and the details of the complaint, the Arnold Blanks named by Browder was almost certainly the same Arnold about whom Robert Christian wrote. Browder’s complaint adds weight to the narrative of E. Blanks and Robert Christian: it is

implausible that three men in two separate incidents would fabricate such serious allegations. Arnold's conflict with the woman he lived with on Browder's plantation may have even inspired his decision to seek the return of the woman his mother had gifted to him before emancipation.

In both incidents, paternalism looms large. Blanks and Browder, through their interventions in the sexual lives of their employees, were extending powers that the institution of slavery had granted them beyond emancipation. It is important to recognize, however, the agency that women could have in these situations. While both Blanks and Browder could have simply been interfering where they were not welcome, it is possible – indeed probable, in Blanks' case – that their interventions were invited. Much like during their enslavement, Black women appealed to the narratives that white Southerners had crafted about themselves in order to improve their own situations. Blanks and Browder were by no means selfless in their support of freedwomen: ultimately, both stood to gain from maintaining the peace on their plantations and securing the valuable labour of their female employees. Both men acknowledged this fact to an extent in their communications with the Bureau they were clearly not engaged in any "self-deception" about the realities of their relationships with the people they used to enslave.<sup>49</sup> To intervene in the sexual lives of their employees was essentially patriarchal, however, and in many ways went against the spirit of emancipation. For freedwomen, appealing to paternalistic ties in this way was familiar, a calculated way of navigating male authorities in their lives. While they gambled with their future safety in doing so, the immediate benefits of accepting a white patriarchal authority were hard to resist.

Not all freedwomen could rely on former slaveholders to defend their interests. The upheaval of the immediate aftermath of slavery meant that some women had to turn to the Bureau to address long-standing abuses. In most involuntary sexual relationships between enslaved men and women, slaveholders played an active role. While many women were able to escape these pairings after emancipation, some faced ongoing efforts by former slaveholders to dictate the family lives of the formerly enslaved. Although employers no longer stood to benefit financially from forcing enslaved women to bear children, they were still able to profit from controlling women's labour through their husbands. Under the laws introduced by the federal government, husbands and fathers were able to control the labour of their dependents: employers were aware that tying women to compliant men made for a workforce that was easier to maintain and organize. In most instances, freedpeople solidified their family ties voluntarily. Black couples rushed to legalize their marriages, and many formerly enslaved people flooded newspapers with desperate pleas to reunite them with lost relatives.<sup>50</sup> Some women used emancipation as an opportunity to escape unwanted partnerships, however, often without the aid of whites.

Sarah Cherry found herself in a difficult position in late 1867 when she attempted to extract herself from an involuntary sexual relationship that she had been forced into before emancipation. Henry Stevens had purchased Cherry and her three children from a man in South Carolina "about two years prior to the abolition of slavery." Stevens "would not allow his slaves to intermarry with any but his own servants," and therefore forced Cherry to act as a "concubine" to an enslaved man named Warnick. The word "concubine" here is crucial: Cherry made it clear that when Stevens forced her into this arrangement Warnick was already married to a woman with whom he continued to live after emancipation. This other woman was the mother of Warnick's two children,

and in Cherry's view was, therefore, his legitimate wife. Upon emancipation, Cherry took immediate steps to leave Warnick's clutches. Despite his marriage to another woman, however, he was not willing to let her go without a struggle. When he learned of Cherry's attempts to marry another man, Warnick seized one of Cherry's children in an attempt to force her to stay. Henry Stevens was complicit in Warnick's effort to force Cherry to remain in a sexual relationship with him, taking the child that Warnick had kidnapped and binding her to him as an apprentice.<sup>51</sup>

Sarah Cherry faced a difficult situation. Unlike Arnold, Warnick had secured the support of his former enslaver in his endeavour to maintain an exploitative relationship after emancipation. That Warnick and Stevens had cooperated in the kidnapping of Cherry's daughter Josephine limited Cherry's options. Unlike Arnold's victim, Cherry could not appeal to her former enslaver to shield her from an illegitimate Black patriarch. Stevens' involvement also caused further legal problems for Cherry: he held a contract for the labour of Cherry's daughter, although notably, not one with which the Bureau had been involved in drafting or authorizing. The existence of this document slowed the federal authorities' response to the situation, as they needed to ascertain the legality of the apprenticeship before they could intervene on Cherry's behalf. Cherry's actions suggest that she may have been aware of this legal complexity. Before complaining to the Bureau, Cherry removed Josephine from Stevens' custody. Indeed, Cherry only complained to authorities when Warnick and Stevens once again seized the girl, and Cherry once again had to take her back. It was Cherry's fear that her daughter might be kidnapped a third time that drove her to involve the Bureau in the matter.<sup>52</sup>

Cherry was right to act before taking her complaint to the Bureau. While the Bureau appeared to be leaning towards siding with her – an endorsement from the Florida Sub-assistant Commissioner's office expressed the opinion that Josephine did seem to have been bound without her mother's consent – they ordered she be placed in Stevens' custody until an agent could examine the contract.<sup>53</sup> This contract was supposed to be sent by Stevens to the agent at Quitman, Georgia. Unfortunately, the Bureau abandoned the office, and the state, before a resolution was reached. The contract never arrived at the office, and no further record of the case was made. One hopes that Sarah Cherry took matters into her own hands for a third time and secured custody of her daughter extralegally.

That Cherry chose to handle the matter with the Bureau herself is revealing. By the time that she complained to the authorities, she had already legally married another man, Prince Cherry. While she did mention her new husband in her affidavit, she did not place his authority over her in opposition to Warnick and Stevens' actions. Cherry instead framed herself as the legitimate authority over both the labour of her daughter and her choice of sexual partner. Rather than performing dependency or invoking Prince's protective power, she asserted her own rights before the federal authorities. Her experiences with Warnick may have driven this desire to distance herself from dependency. Cherry's complaint depended entirely upon delegitimizing any claim that Warnick could make to Josephine, and framing herself, as a mother, as the only true warden of her daughter's best interests. Through framing the dispute this way, she resisted shifting responsibility for her daughter simply from Warnick and Stevens to her husband, Prince. Cherry attempted to remove her daughter entirely from this web of patriarchal relations, drawing Josephine under her own authority and no one else's. While Prince was a supporting figure in this claim – Cherry makes "her and her husbands [*sic*] ability

to support and maintain her children” clear – he was not at its heart. Josephine fell under no one’s authority but her mother’s.

In the effort to assert their bodily integrity after emancipation, freedwomen had to navigate a patriarchal order in flux. The waning power of former slaveholders and the legalization of Black marriages significantly altered the social structure of the South, transferring Black women from the slaveholding household into those headed by Black husbands and fathers. Black families were not – and could not be – strictly patriarchal, however, given the harsh realities of the post-war South. Nevertheless, legal authorities had gendered expectations that assumed that Black women would behave in set ways before the law. Much like the white women seeking divorce whom Marie Molloy explores elsewhere in this issue, Black women were cognizant of these expectations and sought to use them in their favour. While Black women had gained new rights and freedoms, the law worked to constrain their behaviours, anticipating performances of “helpless victim [hood]” when men overstepped their patriarchal authority.<sup>54</sup> For women who suffered sexual violations, these expectations were even more entrenched, layered with long-standing beliefs about the behaviour of victims of sexual violence in legal settings.

Some women seized upon the opportunity to step outside of expected hierarchies of patriarchal authority. Often, this strategy involved a retreat beneath the umbrella of white patriarchal power, a desperate move to ensure safety in dire circumstances. Others came forward themselves, bucking gendered expectations entirely in order to assert independence. In doing so, they worked to dismantle the expectations of Black womanhood in the period. Through testifying against their husbands, formerly enslaved women challenged conventions which highlighted obedience as a wifely duty. In cases in which whites were complicit, women refused to bow not only to the authority of their husbands but also to the demands of their former enslavers. This was a reflection of their lived experiences, in which Black male authority was present, but not supreme. Federal agents and civil authorities struggled to navigate these grey areas, however, failing to conceive of women’s rights as separate from the citizenship of their menfolk.

The “patriarchal bargains” that freedwomen struck, and the ones they refused to strike, indicate simultaneously the opportunities and the constraints of Black women’s rights in the immediate aftermath of the Civil War. Women such as Sarah Cherry, who spoke up for themselves and refused to bow to expectations of deference to patriarchal authority, demonstrated the potential that Black women felt freedom offered them. Women like Cherry were rare, however. Freedwomen generally understood that accepting patriarchal authority was the best route to securing safety and justice. This allowed Black men, long denied the right to protect and defend their families, the chance to step into patriarchal roles and express manhood in ways long denied them. Women sacrificed their own independence, therefore, in favour of securing it for their husbands. They were generally correct to assume that working with patriarchal authority was a more effective way to combat sexual danger than attempting to further dismantle an already shattered social order.

## Notes

1. August 1, 1866, Records of Murders and Outrages, New Orleans, La., vol. 30, Records of the Assistant Commissioner for the State of Louisiana, Roll 34, M 1027, BRFAL, NARA. Gendered relationships before the law have received much attention. In cases of rape, Sharon Block

demonstrates that American households in pre-revolutionary North America had an established hierarchy of reporting that involved the patriarch – whether husband, father, or employer of the victim – taking complaints to the law; see Block, *Rape and Sexual Power*, 116–24. For the English roots of these patriarchal norms imported to the colonies, see Brown, *Good Wives*, 13–41. For examinations of gendered inequality and the law in the nineteenth century, see Edwards, *The People and Their Peace*; Hoff-Wilson, *Law, Gender, and Injustice*, 117–150; Stanley, *From Bondage to Contract*.

2. Robert Christian to the Office of Civil Affairs, Bureau of Freedmen, Refugees, and Abandoned Lands, Demopolis, February 28, 1867, Letters Received, Demopolis Agent, Roll 9, M 1900, BRFAL, NARA.
3. White, “Female Slaves,” 56; Hunter, *Bound in Wedlock*, 35–6. For more discussion of the gendered nature of power in enslaved families see Forret, *Slave Against Slave*, 264; Doddington, “Manhood, Sex, and Power,” 146. The role that enslaved men played in courtship also suggests an uneven gendered power balance – see West, *Chains of Love*, 36–8.
4. See, for example, Forret, *Slave Against Slave*, 244; Genovese, *Roll, Jordan, Roll*, 467; Morgan, *Slave Counterpoint*, 553–4; Rothman, *Notorious in the Neighborhood*, 121–2.
5. As many scholars have highlighted, viewing any family or household structure as “typical” or “normal” is misleading – across time and space, people have formed families in a variety of ways. See, Hilde, *Slavery, Fatherhood, and Paternal Duty*, 6–11, for an interdisciplinary discussion of these issues.
6. See, for example, Hilde, *Slavery, Fatherhood, and Paternal Duty*, 209–10, 270; Schwalm, *A Hard Fight for We*, 66–9.
7. McCurry, *Women’s War*, 7–8, 63. See also Hunter, *Bound in Wedlock*, 166–7.
8. For links between marriage and freedom in the French colonies, see Fick, *The Making of Haiti*, 161; Blackburn, *The Overthrow of Colonial Slavery*, 218, 260; Peabody, “Negresse, Mulatresse, Citoyenne,” 57, 64–5. On this issue in the British Caribbean, see Brereton, “Family Strategies,” 155–6.
9. Hunter, *Bound in Wedlock*, 213. See also Bell, “Self-Emancipating Women”; Schwalm, *A Hard Fight for We*, 66–9.
10. Hunter, *Bound in Wedlock*, 224.
11. Farmer-Kaiser, *Freedwomen and the Freedmen’s Bureau*, 151; Hunter, *Bound in Wedlock*, 245.
12. Williams, *They Left Great Marks on Me*, 15.
13. Clinton, “Bloody Terrain.”
14. Kandiyoti, “Bargaining with Patriarchy.”
15. Joseph Ramsey to Brvt. Lieutenant General Fisk, 23 January 1866, R-13 (1866), Registered Letters Received, ser. 3379, Tennessee Assistant Commissioner, BRFAL, NARA (Freedmen and Southern Society Project, A-6315).
16. Joseph Ramsey to Brvt. Major General C B Fisk, 10 February 1866, R-15 (1866), Registered Letters Received, ser. 3379, Tennessee Assistant Commissioner, BRFAL, NARA (Freedmen and Southern Society Project, A-6315).
17. J.E. Jacobs to Joseph Ramsey, January 27, 1866, Letters Sent, vol. 9, December 1865–February 1866, Assistant Commissioner, Tennessee, Roll 2, M999, BRFA, NARA.
18. Doddington, *Contesting Slave Masculinity*, 22–3.
19. This was perhaps best expressed by Henry Bibb, who lamented the “insults and licentious passions” white men levelled at his beloved wife Malinda: “Heaven forbid I should be compelled to witness it.” Bibb, *Narrative of the Life*, 42.
20. John Seague to Lt. J.T. Alden, January 17, 1866, Reports of Outrages, Riots and Murders, ser. 3394, Tennessee Assistant Commissioner, Roll 34, M 9, BRFAL, NARA.
21. Hunter, *Bound in Wedlock*, 224.
22. John Seague to Lt. J.T. Alden, January 17, 1866, Reports of Outrages, Riots and Murders, ser. 3394, Tennessee Assistant Commissioner, Roll 34, M 9, BRFAL, NARA.
23. Block, *Rape and Sexual Power*, 107–9.
24. This was not the last time the Bureau had to intervene to defend freedpeople from the violence of Andrew Payne. In April 1866 a man named Allen Cleveland complained that Payne

- had threatened to kill him and had ordered his foreman to whip the hands. Statement of Allen Cleveland, [30 Apr.? 1866], and proceedings in a case against Andrew B Payne, [2 May 1866], both filed with statement of John Seague, [2 May 1866], S-194 1866, Registered Letters Received, series 3379, TN Assistant Commissioner, BRFAL, NARA.
25. Rebecca Fraser notes that, prior to emancipation, Black men often intervened in violence directed against Black women by offering their own bodies to be punished instead. Fraser, "Negotiating their Manhood," 84–5.
  26. Affidavit of Sally Berry, November 29, 1865, Affidavits and Other Papers Relating to Freedmen's Complaints, ser. 764, Augusta GA Acting Subassistant Commissioner, BRFAL, NARA (Freedmen and Southern Society Project, 5734).
  27. Endorsement of George O. Glavis, 10 October 1865, on statement of W.G. Lewis, 10 October 1865, Miscellaneous Records, ser. 2637, Goldsboro, NC Subassistant Commissioner, BRFAL, NARA.
  28. Sam S. Gardner to Col O.D. Kinsman, July 25, 1867, Unregistered Letters Received, ser. 9, Alabama Assistant Commissioner, BRFAL, NARA (Freedmen and Southern Society Project, A-1853).
  29. Clipping from the *Henderson Times*, Texas, 1869, ser. 4837, Letters Received Relating to Murders and the Apprehension of Murderers, Office of Civil Affairs, 5th Military District, RG 393 Part 1.
  30. Engs, *Freedom's First Generation*, 60. For further exploration of the lynching of a white rapist by Black men, see Baker, "Lynch Law Reversed."
  31. See, for example, Staples, *Black Masculinity*, 2; Patterson, *Rituals of Blood*, 29–37. Aliyah I. Abdur-Rahman refers to the violations of enslavement, especially the inability for enslaved people to fit into established gendered and sexual norms, as producing a "collective 'raped' subjectivity." Abdur-Rahman, "The Strangest Freaks of Despotism," 231.
  32. While the issue of slavery and the archive has attracted much scholarly attention, the nature of the post-war archive has not been as thoroughly examined. For work that analyses Black women's voices in the Reconstruction archive, see Williams, *They Left Great Marks*, 17–54; Rosen, *Terror in the Heart of Freedom*, 222–41.
  33. Laura Edwards explores Black men's use of white supremacy against Black women in her study of Granville County, North Carolina. Edwards, "Sexual Violence, Gender, Reconstruction," 246–8.
  34. Schwalm, *A Hard Fight for We*, 261.
  35. *Ibid.*, 262.
  36. Hunter, *Bound in Wedlock*, 226, 235.
  37. *Ibid.*, 238.
  38. Schwalm, *A Hard Fight for We*, 262–3; Farmer-Kaiser, *Freedwomen and the Freedmen's Bureau*, 153; Hunter, *Bound in Wedlock*, 266.
  39. West, "Reflections on the *History and Historians*," 9, 13.
  40. Forret, *Slave Against Slave*, 345, 348–9.
  41. Doddington, *Contesting Slave Masculinity*, Chapter 4, 127–70.
  42. Mahoney and Williams, "Sexual Assault in Marriage," 142–4.
  43. Robert Christian to the Office of Civil Affairs, Bureau of Freedmen, Refugees, and Abandoned Lands, Demopolis, February 28, 1867, Letters Received, Demopolis Agent, Roll 9, M 1900, BRFAL, NARA.
  44. E. Blanks' first name does not appear in either the Bureau records or the 1870 census; in both cases he is referred to simply by his initial. US Census 1870, Dayton, Marengo, Alabama.
  45. US Census 1870, Dayton, Marengo, Alabama.
  46. US Census 1870, Perry, Alabama; US Census 1850, Williamsburg, James City, Virginia; US Census Slave Schedule, 1850, James City, Virginia. Robert Christian's father, John Christian, was listed as the owner of 11 enslaved people in 1850. At the time, Robert himself was a young law student still living in the home of his father, a judge. By 1870, he was established as a lawyer himself in Alabama.
  47. Kandiyoti, "Bargaining with Patriarchy."

48. February 27, 1867, Register of Complaints, February 1866–August 1868, Demopolis, Alabama, Roll 10, M1900, BRFAL, NARA.
49. Genovese and Fox-Genovese, *Fatal Self-Deception*.
50. Works that examine ties of marriage, family, and kinship during the transition from slavery to freedom include Hunter, *Bound in Wedlock*; Schwalm, *A Hard Fight for We*; Berlin and Rowland, *Families and Freedom*; Penningroth, *The Claims of Kinfolk*; Farmer-Kaiser, *Freedwomen and the Freedmen's Bureau*; Franke, "Becoming a Citizen."
51. Affidavit of Sarah Cherry, Lowndes Co., GA, 9 Dec 1867, enclosed in Alvin B. Clark to Capt W.G. Vance, December 13, 1867, Letters Received, ser. 988, Quitman, GA Agent, BRFAL, NARA (Freedmen and Southern Society Project, A-5596).
52. For an examination of the apprenticing of Black children in the Reconstruction South, see Zipf, *Labor of Innocents*, Chapter 2, 40–67.
53. Endorsement of W.G. Vance, December 20, 1867, on Alvin B. Clark to Capt W.G. Vance, December 13, 1867, Letters Received, ser. 988, Quitman, GA Agent, BRFAL, NARA (Freedmen and Southern Society Project, A-5596).
54. Basch, "Marriage and Domestic Relations," 270.

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