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Private Law and Enslaved Families in Colonial Brazil

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Private Law and Enslaved Families in Colonial Brazil*

The book *Laços de família: Africanos e crioulos na capitania de São Paulo colonial* delves into the almost entirely erased past of family relationships of enslaved people in late 18th and early 19th century Brazil. Could slaves marry free people? Could they be godparents to free children? How did they structure their families within bondage? Could Africans own slaves? How could they change their legal status, i. e. move from slavery to freedom?

These are some of the legal questions that Fabiana Schleumer, professor of African History at the Federal University of São Paulo, proposes to answer. Defended as a Master's thesis over twenty years ago and only recently published as a book, *Laços de Família* is a representative example of Brazilian historiographic production on social dependency and slavery, both for its limited temporal and spatial scope and for its methodological approach of combining administrative and ecclesiastical sources. In her case study of the village of Cotia, on the outskirts of the city of São Paulo, between the years 1790 and 1810, Schleumer describes a »history of the daily life« (22) of the enslaved people and freedmen in a poor slave-owning society based on smallholder farming. As the author indicates – without actually exploring the comparative perspective – the social structure of the small and peripheral Cotia differed greatly from other regions of the same *capitania* of São Paulo, which were composed of large sugar and coffee plantations. (A *capitania* was the top-tier administrative unit, *vila* and then *freguesia* being the lower levels.)

Schleumer organises her investigation of the local dynamics of family arrangements of Africans and Creoles in Cotia into five chapters. First, she discusses methodology, especially the use of demography in historical research, pointing out the advantages of cross-referencing census data to formulate hypotheses and draw conclusions about the

local economy and the everyday life of enslaved and freed people of African origin. In the second chapter, the author reviews and compares the historiography of slave families in Atlantic slave societies, particularly those of the United States of America and Brazil, drawing on a number of anthropological aspects of African family structure, such as the function of betrothal, dowry, marriage, and the role of kinship in African societies. In the third chapter, Schleumer discusses the primary demographic sources of the local *freguesia* of Cotia and examines the structure of slave ownership in that jurisdiction as well as the family and kinship networks arranged within or on the margins of bondage. The author succeeds in proving that there was a predominance of nuclear families over broken or matrifocal ones (172), which denotes a more permanent form of family structure among the enslaved Africans and Creoles. In the fourth chapter, she highlights the participation of women and children in the unequal social relationships in Cotia, taking a close look at both slave-owning women and enslaved or freed African and Creole women. In the fifth and final chapter, Schleumer analyses changes and continuities in social and family relationships of Africans and Creole people in Cotia. Using census data from 1798 and 1808, the author looks in detail at patterns of birth, marriage, death, and social mobility found among the enslaved and freed black population in Cotia.

This book represents analytical gains, especially for understanding the historical relationship between enslaved and freed Africans within a slave society of low population density (60 households) based on smallholder farming. However, it disappoints readers familiar with the social history of slavery in Brazil and the Atlantic world on three fundamental levels: historiography, methodology, and conceptualisation of private law. Historio-

* FABIANA SCHLEUMER, *Laços de família: Africanos e crioulos na capitania de São Paulo colonial*, São Paulo: Alameda 2020, 320 p., ISBN 978-65-86081-21-0

graphic misconceptions are present in the argument that Cotia's social formation was exceptional. In analysing only that one jurisdiction within the *capitania* of São Paulo, the author argues that slavery in Cotia was singular when compared to the other *freguesias* and *vilas* of the colony. But singular in what respect, if there are no comparisons based on geography – i. e. with neighbouring villages and regions – or along a temporal line? The reader is not informed of Cotia's location on the demographic, economic, ecclesiastical, legal, or administrative map of the *capitania* of São Paulo, nor does the author give any timeframe for the cited historical statistics. The alleged uniqueness of that location leads to assertions that are at best dubious, including the claim that the *freguesia* of Cotia was a »non-polarised society between slave-owners and slaves« (53), something that simply cannot be supported by historical documentation. In fact, slavery played such a crucial role in the organisation of São Paulo's colonial *capitania* that it can be said to have fundamentally shaped society, both at the macro and the micro levels. It is clear, then, that Cotia was, like its neighbouring villages, polarised between slave-owners and slaves – even when such polarisation did not have a direct and vertical impact on the social fringes of the notoriously small free population that did not own slaves.

In turn, the eclectic methodological approach of this book leaves the reader unable to judge the inferences and conclusions that Schleumer takes as evidence throughout the text. Is it accurate to say, for instance, that »[slave-owning] Africans possessed a feeling of brotherhood with their slaves« (83)? There is nothing in the book that leads the reader to believe such a presumption. By resorting excessively and unnecessarily to anthropological clichés from secondary literature, the author departs from the authentic value of the book: the analysis of primary demographic and ecclesiastical sources that illuminate the historical understanding of the family structure of Africans and Creoles in Cotia. Instead, Schleumer goes down a tortuous path of hypothetical connections between African

private law and its uncertain reproduction in the family structure of African descendants in Brazil. Finally, the author's superficial understanding of private law in a slaveholding society leaves the reader without explanation or an understanding of what kind of marriages were performed or maintained between freedmen and enslaved people; how enslaved children were registered; or how manumission was accomplished. While the author partially succeeds in describing and cross-referencing demographic and economic data from the sixty households studied, which allows us to see a complex network of relationships mediated by private law, she does not scrutinise the functions that private law played in that society, neither to define a particular form of slave ownership nor to establish a specific model of family that, as the author notes, combined the marriage of »slaves of the same ethnic group« (116) with the marriage of »slaves from the same owner« (117).

Not only does this book employ a precarious historical, methodological, and conceptual perspective, it also contains undeniable stylistic and editorial errors. Over seventeen full pages (220–236) Schleumer quotes the same author exclusively for fifty-eight consecutive times. This type of exhaustive and uncritical citation is repeated many times. However indispensable the work of a particular historian or anthropologist may be, it does not seem reasonable that any expert could rely so heavily on the writings of others and not even promote dialogue among different perspectives over so many pages. Furthermore, the book lacks basic editorial revision. The author indicates maps, graphs and tables that do not actually appear in the text (253, 254, 257, 258, 267), and omits or makes errors in footnotes (e. g. 26, 27, 39, 136, 137, 166, 175, 176, 268).

The book has many faults. But it also has positive features, among them an invitation to the legal historian to dedicate himself or herself to the almost unexplored field of private law in a slave society.

