

***Partus Sequitur Ventrem* in the Caribbean and Americas:**

The Cyclical Replenishment and Authority of the 'Peculiar Institution'

By Emma Gauvin

The establishment and success of the colonial Empires of the 'New World' were built on the lands of Indigenous peoples and on the backs of the hundreds of thousands forcibly enslaved Africans. However, where the dreadful 'Middle Passage,' was a literal passage that brought African slaves into colonial American and Caribbean societies, there also was a different, more metaphoric passage; a maternal passage, in which a child's passage from their mother's womb into the real world resulted in their immediate and permanent status of enslavement, their mother forced to literally deliver the child into the shackles of slavery. *Partus sequitur ventrem*, Latin for 'that which follows the womb,' was a legal doctrine adopted by many colonial slave codes which attached the slave status of a mother to her child, meaning mothers transferred the conditions of bondage onto their children, regardless of the child's father. Beyond its ability to force mothers to pass on an inheritance of bondage to their children, the consequences of *partus sequitur ventrem* included the policing of men's and women's sexuality, the encouragement of sexual assault and abuse of slave women by masters, the emasculation and demeaning of male slave sexuality and patriarchal power, the restriction of enslaved peoples' ability to establish families, and the steady creation of new, alienated enslaved populations with every generation. The existence and presence of *partus sequitur ventrem* policies throughout American and Caribbean slave societies were the single most effective, overwhelming, and comprehensive piece of legislation benefitting and protecting the perpetuation of slavery and its conditions, as its control over enslaved women extended enormously into the wider aspects of enslaved life and circumstances.

Origins of *Partus Sequitur Ventrem* and the Code Noir

The concept of *partus sequitur ventrem* emerged in ancient Rome as a legal doctrine that codified the hereditary status of slavery and ensured the generational replenishment of the slave population. First implemented in the ‘New World’ by the colonial Virginia assembly in 1662, various empires across the Americas and the Caribbean subsequently instituted and codified *partus sequitur ventrem* policies into their slave codes or acts, as the prospect of a self-renewing cycle of enslaved populations existed nicely alongside many slave-labour driven economies of the new colonies and imperial empires.¹ In the *Code Noir*, the slave code enforced amongst all French colonies, article 13 established that “children, both male and female, follow the condition of their mother.”² However, in the case of most colonies, there was no legal precedent or explanation for the adoption of a matrilinear system of hereditary slavery in the Atlantic: “the presumption that the condition of the child followed that of the mother was mostly enacted without rationalization.”³ Clearly, the matrilinear nature of slavery in the Atlantic world was inarguably more useful and effective for colonial purposes, but no explanation or legal argument supported the sudden shift from paternal inheritance to the application of a maternal one beyond the implicit understanding of perpetuating racialized slavery.

For example, in the French Antilles, under the *Code Noir*, the doctrine of *partus sequitur ventrem* impacted the nature of slavery on the island and was responsible for maintaining the enslaved status of the black population. Born into the condition of slavery, enslaved individuals

¹ Virginia, *Acts of Assembly, Passed in the Colony of Virginia, from 1662, to 1715*, (London: Printed by John Baskett, printer to the King's most Excellent Majesty, 1727).

² “French Crown, Code Noir, 1685,” In *Slavery, Freedom, and the Law in the Atlantic World : A Brief History with Documents*, edited by Sue Peabody and Keila Grinberg, (Boston: Bedford/St. Martins, 2007), 32.

³ Jennifer Morgan, “*Partus sequitur ventrem*: Law, Race, and Reproduction in Colonial Slavery,” *Small Axe: A Caribbean Journal of Criticism* 22, no. 1 (2018): 5.

existed as chattel or property of their owners, and therefore enjoyed no legal rights or access to the courts, ensuring there were no legal channels through which individuals could petition their enslavement.⁴ Additionally, this ensured no trials of abuse or mistreatment of enslaved peoples earned attention in courts, as enslaved individuals were unable to report or file legal complaints against their owners due to their lack of legal standing and the overwhelming powers afforded to slave owners over their enslaved. While owners in the French Antilles could manumit their slaves without providing a reason, according to Historian Bernard Moitt, an overwhelming amount of the manumitted slaves were one's produced under *partus sequitur ventrem*, in that many slave owners felt compelled to free any of their children mothered by an enslaved woman: "... for every hundred slaves freed, only about five were freed for laudable motives. The other ninety-five were favorite concubines and their children—a likely exaggeration, but an indication of the sentiments within a sector of French Antillean society."⁵ As a result, the French Antilles introduced reforms in the 17th century that limited the privileges of manumission of slave owners, citing domesticity as the source of the abuse of the law, and subsequently adopting a stringent stance on manumission.⁶ It was only with the abolishment of slavery and the *Code Noir* that *partus sequitur ventrem* ceased to take effect over children.⁷

As a Method of Policing Enslaved Female Sexuality

Slavery consists of the total subjugation of an individual's physical body, enforced by the whims or desires of an owner, and *partus sequitur ventrem* enshrined the complete control or

⁴ Bernard Moitt, *Women and Slavery in the French Antilles, 1635-1848*, Blacks in the Diaspora, (Bloomington: Indiana University Press, 2001,) 104.

⁵ Moitt, *Women and Slavery in the French Antilles*, 153

⁶ Moitt, 153.

⁷ Moitt, 163.

oppression of one's body by enabling the additional control or policing of enslaved women's sexuality, further restricting their bodily autonomy. This encroachment upon the intimate act of birth emphasized the proprietary nature of enslaved women and ensured the complete exertion and control of masters over their 'property,' that even another human birthed from you is not your own. In the eyes of the law, there was no distinction between physical labour and childbirth labour, as Jennifer Morgan writes: "Slaveowners presumed that enslaved women's reproductive labour accompanied their manual labour in tobacco and sugar fields."⁸ Legally, there was no aspect of an enslaved woman's life or body that did not fall under the jurisdiction or authority of her master, no aspect of the enslaved woman's body or life that was off-limits, that could not be exploited for profit. Devoid of control over all aspects of their lives, including their sexual and reproductive health, enslaved women experienced and lived the horrors of slavery, but were also condemned to be unwilling perpetrators of it, as they were forced to bring children into the world for the express purpose of subjecting them to bondage and slavery.

Under *partus sequitur ventrem* policies, sexual encounters proved hazardous risks for women, as the threat of pregnancy meant passing on the status of slavery to the child, a deterrent against sexual activity of any kind, regardless of the enslaved or freed status of their male partner. As Morgan states, "Enslaved women gave birth to enslaved children,"⁹ ensuring that there was no situation in which the sexual activity of enslaved women, whether consensual or non-consensual, resulted in the birth of a free child. This resulted in disastrous outcomes for enslaved women, with many unwilling to pass on their status of slavery to their children, resulting in the existence of historical figures such as Margaret Garner. Margaret was born into

⁸ Morgan, "*Partus sequitur ventrem*," 2.

⁹ Morgan, 1.

slavery in Kentucky, and eventually got married and had four children. When the children were little, she orchestrated a failed escape attempt.¹⁰ Moments before her recapture, the pregnant Margaret “grabbed a butcher knife from the kitchen table, cut the throat of her toddler daughter, Mary, and struck the other three children,”¹¹ in an attempt to kill herself and her children instead of returning to a life of slavery. Despite Margaret’s inability to complete the plan (she managed only to kill her youngest daughter before she was caught), her story demonstrates the lengths enslaved women went to in an attempt to circumvent the inescapable slavery status *partus sequitur ventrem* prescribed against their children.

As a result, *partus sequitur ventrem* effectively encouraged the repression of sexual or reproductive urges, acting almost as a form of birth control that plantation or slave owners could deploy against enslaved women to regulate and maintain control of their enslaved populations. This was useful to many slave owners, as they viewed enslaved children as a financial burden or an expensive investment, who require attention, food, clothes, and other necessities of life, without contributing any labour or providing the master with any profit until they reached a certain age. In addition, some slave codes mandated that proper care be shown towards the enslaved, such as in the *Code Noir*, which stated in article 26: “Slaves who are not fed, clothed, and supported by their masters according to what we have ordered by these articles...[will be prosecuted] without cost. We want [these articles] to be observed for the crimes and barbarous and inhumane treatments of masters towards their slaves.”¹² Therefore, slave owners wishing to avoid the additional responsibilities of raising children could deploy the threat of *partus sequitur ventrem* as a way to discourage enslaved women from sex and pregnancy.

¹⁰ Mary Frederickson and Delores M. Walters, *Gendered Resistance: Women, Slavery, and the Legacy of Margaret Garner*, New Black Studies, (Urbana: University of Illinois Press, 2013,) 1.

¹¹ Frederickson and Walters, *Gendered Resistance*, 3.

¹² “Code Noir,” 33.

As a Tool of Intimidation

Partus sequitur ventrem policies also incentivized the abuse, sexual assault, and rape of enslaved women, as children produced under slaveowner and enslaved ‘relationships’ belonged to the owner, thus the consequences of sexual promiscuity amongst slaveowners was an increase in property or economic gain. According to David Davis, author of *Inhuman Bondage: The Rise and Fall of Slavery in the New World*, there is “abundant evidence that many slaveowners, sons of slaveowners, and overseers took black mistresses or in effect raped the wives and daughters of slave families,”¹³ ensuring the humiliation, degradation, and further dehumanization of black women. A “dramatic shortage of white women encouraged a much greater acceptance of racial intermixture between female slaves and white men,” however, these relationships still suffered from racialized attitudes.¹⁴ Furthermore, Davis maintains that while planter society officially condemned sexual and romantic interracial unions, there were popular and repeated adages such as “White women are for marriage, mulattoes for fornication, and Negresses for work,”¹⁵ which indicates the sexual exploitation of enslaved women occurred on plantations to a frequent degree.¹⁶ In fact, abolitionists utilized the rampant climate of sexual assault found within systems of slavery as a primary component of their anti-slavery campaigns and attempts to dissuade public support of slavery by appealing to the moral and religious conscience of the public and claiming that slavery was “immoral” and corrupted slave owners as it allowed “Southern white men to cast off all restraints and exploit the highly vulnerable slave women” in extremely violent

¹³ Davis, *Inhuman Bondage*, 201.

¹⁴ Campbell and Elbourne, *Sex, Power, and Slavery*, 45

¹⁵ Davis, *Inhuman Bondage*, 274

¹⁶ David Brion Davis, *The Problem of Slavery in Western Culture*, (Ithaca, N.Y.: Cornell University Press, 1966,) 274.

and sexual manners¹⁷ As a result, *partus sequitur ventrem* encouraged white men to form unequal relationships with enslaved women, in which they enjoyed complete control over their partner and any offspring produced as a result of such a union.

Additionally, the policing of female slave sexuality and frequent sexual abuse of enslaved women impacted the lives and sexuality of enslaved men, as it restricted their already-limited power derived from patriarchal gender dynamics. As stated by historians Pamela Scully and Diana Paton, “The inheritance of slave status through the mother explicitly denied slave men the rights of fatherhood. Slavery thus rested on the slaveholder's ideological defense of the sole rights to masculinity.”¹⁸ *Partus sequitur ventrem* denied enslaved men of patriarchal privileges and superiority over their fellow enslaved women prevalent during this period, demeaning and emasculating the men and relegating them solely to their subservient positions in society, in a display of the totality of slavery and its accepted transgressions against gender dynamics. Additionally, the sexual exploitation of enslaved women provoked rage amongst enslaved men, as they were unable to protect or defend the honour or purity of their fellow black women.¹⁹ However, as Moitt asserts, “male slaves could produce free offspring, female slaves could not,”²⁰ thus their reproductive faculties were not entirely corrupted by slavery as the enslaved woman.

As a result, *partus sequitur ventrem* discouraged relationships between enslaved individuals, prompting men to seek out sexual relationships beyond their fellow enslaved

¹⁷ Juanita De Barros, *Reproducing the British Caribbean : Sex, Gender, and Population Politics After Slavery*, Vol. 1 Edition, (Chapel Hill, NC: The University of North Carolina Press, 2014,) 16; Campbell and Elbourne, *Sex, Power, and Slavery*, 48.

¹⁸ Pamela Scully and Diana Paton, *Gender and Slave Emancipation in the Atlantic World*, (Durham, N.C.: Duke University Press, 2005,) 43.

¹⁹ David Brion Davis, *Inhuman Bondage : The Rise and Fall of Slavery in the New World*, (Oxford, England: Oxford University Press, 2006,) 201.

²⁰ Moitt, *Women and Slavery in the French Antilles*, 89.

women. Thus, enslaved men seeking sexual partners capable of producing free offspring often indulged in risky and dangerous behaviour, forming relationships with white women. While this would ensure the free status of any potential children arising from the relationship, this guarantee was at the direct expense of the father, as enslaved men engaging in relationships or sexual encounters with white women were guilty of sexual assault, regardless of any supposed level of mutual consent, as stated by Davis: “Relationships between male slaves and free women were not uncommon but became increasingly subject to punishment.”²¹ These relationships experienced bizarre power dynamics, as the white women enjoyed more power over the enslaved men; upon getting caught, or simply having a change of heart, the white woman could claim rape and therefore condemn their lover to punishment and potentially death. This played into fears regarding enslaved men’s sexuality, in which society constantly worried about slave rebellions in which black men would rise up, kill white men, and overpower white women—that “slavery could encourage black men to strike back by raping white women,” as Davis suggests.²²

As well, *partus sequitur ventrem* inadvertently led to the creation of race and colour-based identification and classification systems, as the colonies dealt with the mixed or ‘mulatto’ offspring of enslaved mothers. Moitt writes that in the French Antilles, “slave women were assaulted by males of all ethnicities,” producing children with varying skin tones, resulting in the establishment of racialized status systems and acts or legislation combating miscegenation or maintaining race ‘purity.’²³ In Virginia, fears of overwhelming number of ‘mulatto’ children resulted in the creation of harsh, deterring acts passed by the assembly, punishing both the offspring of unauthorized relationships and the white women pursuing such relationships, with

²¹ David Brion Davis, “Slavery, Sex, and Dehumanization,” In *Sex, Power, and Slavery* edited by Gwyn Campbell and Elizabeth Elbourne, (Athens: Ohio University Press, 2014,) 45.

²² Davis, “Slavery, Sex, and Dehumanization,” 48.

²³ Moitt, *Women and Slavery in the French Antilles*, 89.

years of indentured servitude or enslavement as a possible sentence for offending white women, a punishment that could extend to their grandchildren, as well.²⁴

As a Tool of Familial Alienation

Combined, the denial of male and female enslaved individuals' sexuality through the threat of the enslavement of any offspring attempted to prevent enslaved individuals from establishing families. In her memoir, Mary Prince, a slave born in Bermuda, outlined her heartbreaking separation from her family from a young age, as the selling and dispersal of siblings and parents pervaded slave trade practices. While some plantation owners dealt with moral qualms over the separation of husbands and wives and children, Davis suggests that often "the strongest scruples frequently gave way in times of economic need."²⁵ Mary's example also exemplified the demoralising effects of family separation, as it contributed to the 'breaking' of slaves, both mentally and physically, as Mary writes:

Oh dear! I cannot bear to think of that day,—it is too much.—It recalls the great grief that filled my heart, and the woeful thoughts that passed to and fro through my mind, whilst listening to the pitiful words of my poor mother, weeping for the loss of her children. I wish I could find words to tell you all I then felt and suffered. The great God above alone knows the thoughts of the poor slave's heart, and the bitter pains which follow such separations as these. All that we love taken away from us—Oh, it is sad, sad! and sore to be borne!²⁶

Later in her memoir, Prince also recounts her father pleading with her master to no longer harm her, but he nonetheless returns Mary, who had previously run away, to his possession.²⁷ This demonstrates the damaging effects of slavery on families, as slavery demanded that one's obligations towards a master or the institution of slavery supersede obligations or the protection

²⁴ Davis, "Slavery, Sex, and Dehumanization," 46.

²⁵ Davis, *Inhuman Bondage*, 201.

²⁶ Mary Prince, *The History of Mary Prince, a West Indian Slave: Related by Herself*, (Chapel Hill: University of North Carolina at Chapel Hill Library, 2017,) 15.

²⁷ Prince, *The History of Mary Prince*, 15.

of one's family. Slavery expected parents to surrender their authority over their children to their slave owners, who enjoyed a degree of authority distinct and greater than that of parental authority, as the children became their property, and were treated as such. This transference of authority also limited the accurate record-keeping of family lineages, history, and roots amongst enslaved individuals, which aided in the legal efforts to shroud emancipation in difficult-to-prove claims of freedom through one's family history. However, while enslaved families and marriages had "no legal standing or protection" and existed more as a "precarious bond," there are thousands of examples of runaway slaves motivated by their search for lost family members.²⁸

As well, *partus sequitur ventrem*'s control over the children of enslaved individuals stripped mothers and fathers of maternal and paternal fulfillment or duties, denying enslaved individuals of a fundamental human experience and reducing their lives to ones of work and labour. Marriages or relationships between enslaved individuals received no legal protection or standing, and as such, unions were not recognized in any formal manner.²⁹ This further exacerbated the inhumane and racialized treatment of enslaved individuals, as masters controlled and suppressed the human urges and functions of their enslaved populations, contributing to their dehumanization and the justification of their maltreatment and enslavement. Slaveowners reduced the parents' ability to protect or care for their children, ultimately enjoying more control over the lives of children than the parents who had "no custodial claims or powers over their children, and children inherited no claims or obligations to their parents,"³⁰ meaning both the parents and children were subject to the whims of their master.

²⁸ Davis, *Inhuman Bondage*, 201.

²⁹ Orlando Patterson, *Slavery and Social Death: A Comparative Study*, (Cambridge: Harvard University Press, 2018,) 6.

³⁰ Patterson, *Slavery and Social Death*, 6.

Importantly, children born into slavery through the enforcement of *Partus sequitur ventrem* held no legal standing through which they could assert a claim to freedom or manumission, as their enslaved status from birth, as prescribed by the law, ensured there were no loopholes or claims to wrongful enslavement to exploit. As historian Orlando Patterson explains, individuals born into slavery experience no other status, and thus forfeit any legal standing; “alienated from all ‘rights’ or claims of birth, [the slave] ceased to belong in [their] own right to any legitimate social order.”³¹ Thus, under slave codes like the *Code Noir*, children born into slavery relied upon the powers or kindness of their masters to willingly manumit them, as they had no other legal options.

Most explicitly, *partus sequitur ventrem* ensured the cheap and constant renewal of slave labour upon which the colonial economies thrived and relied on for profit. While the sale of enslaved men often dominated auction blocks or markets, enslaved women, often sold at lower prices than men, could provide plantation owners with a long-term investment, as they could generate more slaves for their plantation without any additional charges. However, it is also important to note the limited effectiveness of enslaved reproduction as a source for new labourers, as the infant birth rate and mortality rate amongst enslaved children and women often increased with each year and failed to meet replenishing amounts: “Indeed, slaves in the French Caribbean, as elsewhere in the region save for Barbados, did not reproduce themselves.”³² The commodification of children, while a consequence of *partus sequitur ventrem*, occurred with less frequency due to the burdensome costs of raising a child and the delayed nature of their profit generation.

³¹ Patterson, 5.

³² Moitt, *Women and Slavery in the French Antilles*, 89.

As a Tool of Natal Alienation

Coined by historian Orlando Patterson, the term ‘natal alienation’ was an additional consequence of *partus sequitur ventrem*, which targeted and expelled any connections to a heritage, culture, or community an enslaved individual would have through their family lineage. Expanded upon further by Moitt as “the forced alienation [of the slave], the loss of ties of birth in both ascending and descending generations,”³³ the act of enslavement from birth stripped children of rights to their personal past, with slaveowners capable of completely isolating or separating the child from their mother (and father, if he is also enslaved), denying the child of any ancestral knowledge or identity. Patterson described this as ‘social death’ in which the complete ownership of an individual is achieved; the master’s now owning and withholding critical information about an enslaved individual’s family, culture, and lineage, assuming property not only of the enslaved individual, but of their ancestral past that even predates their birth:

Not only was the slave denied all claims on, and obligations to, his parents and living blood relations but, by extension, all such claims and obligations on his more remote ancestors and on his descendants. He was truly a genealogical isolate... Slaves differed from other human beings in that they were not allowed freely to integrate the experience of their ancestors into their lives, to inform their understanding of social reality with the inherited meanings of their natural forebears, or to anchor the living present in any conscious community of memory.”³⁴

This consequence of *partus sequitur ventrem* ensured slaveowners received total control over enslaved children, their past, and their future, alienating each generation further and further away from their heritage or family. This leads to the long-term effect of *partus sequitur ventrem* and how it continues to impact families and individuals, even today. Nations or societies

³³ Patterson, *Slavery and Social Death*, 7.

³⁴ Patterson, *Slavery and Social Death*, 5.

which implemented *partus sequitur ventrem* into their law codes essentially legalized the erasure and separation of individuals from their lineage or familial knowledge, which extends and compounds into every succeeding generation after them. Even with manumission or abolition, enslaved individuals remained permanently disconnected from intimate parts of themselves, existing in the world without complete knowledge of themselves, with the institution of slavery forever owning the histories and pasts of these enslaved individuals, as “the incapacity to make any claims of birth or to pass on such claims is considered a natural injustice among all peoples, so that those who were obliged to suffer it had to be regarded as somehow socially dead.”³⁵ For example, in Brazil, the institution of slavery remained operational and alive even after the abolishment of the slave trade, due to the replenishing nature of their codified *partus sequitur ventrem* laws: “ending slavery required legislation, with the ‘law of the free womb’ in 1871 and several interim measures, until final emancipation in 1888.”³⁶

An example of the modern consequences of natal alienation is the birth of another new term, most relevant in America, which is the term African-American. The term or identifier of ‘African-American’ exists because people with enslaved ancestors in their lineage at some point experienced natal alienation, which as Patterson explained, impacts not only that person’s connection to their past but their offspring as well. As the descendants of such individuals, a large portion of the current black population of the United States (as well as black individuals from other former colonies), have fragmented history or family trees that only ‘begin’ with slavery. Somewhere in their lineage, an enslaved ancestor unfortunately belonged to a slave owner who took their past and forever stripped their bloodline of a homeland, a family name, and

³⁵ Patterson, *Slavery and Social Death*, 8.

³⁶ Stanley Engerman, *Slavery, Emancipation, and Freedom*, (Baton Rouge: Louisiana State Press, 2007,) 9.

a heritage, permanently denying that family tree of proper roots and forever impacting future generations.

Conclusion

Unrivalled by any other single doctrine or law code in its expansive and all-consuming properties, *partus sequitur ventrem* impacted virtually all aspects of enslaved life in the Caribbean and the Americas. Exerting control over bodies, sexuality, and reproduction, enslaved women and men experienced the obvious and invisible consequences of the doctrine through the pressures and realities *partus sequitur ventrem* fostered, as it enabled slaveowners to maintain control over the sexual lives of their enslaved. This included the frequent sexual abuse of enslaved women, as well as the emasculation of enslaved men and their sexuality and masculine power. However, unintended consequences of *partus sequitur ventrem* included the adoption of risky behaviour by enslaved men, who sought out sexual partners capable of birthing free children, resulting in dangerous affairs between men of colour and white women occurring with more frequency, at the risk of personal safety or livelihood of the enslaved man, and the subsequent emergence of racialized hierarchies based on new mixed skin tones, further cementing the institution of slavery as one based on race. In addition, children born under *partus sequitur ventrem* enjoyed no legal rights or claims to manumission, existing solely as slaves or labourers since birth. Socially, *partus sequitur ventrem* disrupted family ties and connections throughout enslaved populations, endowing slave owners with authority over children, while enslaved parents remained relatively helpless to the whims of the slave owner, subject to the separation or isolation of family members at any time. As a result, generations of enslaved individuals suffered from natal alienation, existing with an unawareness for their past or heritage, which continues to impact individuals and communities today. *Partus sequitur ventrem* was an

overwhelming and comprehensive demonstration of the power of slavery, in which a single legal doctrine or law passage single-handedly informed and impacted the lives of enslaved populations in virtually all aspects of their lives, controlling and restricting their bodies, sexuality, and even future generations.

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