Concluding Thoughts: Boundary Crossings: Slavery and Freedom, Legality and Illegality, Past and Present

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This symposium issue is first and foremost about crossing boundaries. The people readers have met in these pages—enslavers and enslaved, traders and purchasers, abolitionists and insurrectionaries—were mobile, and their mobility had consequences. The slave traders who changed flags as they moved across international waters are only the most visible exemplars of this phenomenon. Crossing geographic borders often meant crossing boundaries of race and status as well. All of these articles in one form or another address the question of what it means to cross lines: between "slave" and "free," "legal" and "illegal," "past" and "present."

Crossing Boundaries Between Slavery and Freedom

In different ways, and following somewhat different research strategies, Rebecca Scott's and Keila Grinberg's articles illuminate the ways in which crossing imperial or other jurisdictional lines shaped the status of human beings who could be marked as either free or enslaved depending upon circumstances. Their articles demonstrate the ways that those circumstances were understood and contested in social life, in legal understandings, in international treaties, and in courts of law.

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For example, in Louisiana at the turn of the nineteenth century, all that was required to cross imperial boundaries was to stay in place: the territory changed hands from the French to the Spanish, briefly back to the French, then became a United States territory, and finally became a state. Among the sources that continued to be drawn upon well into the nineteenth century were the *Siete Partidas*, a medieval legal code. Rebecca Scott follows the twists and turns of the *Siete Partidas*'s transmission from medieval Castile to antebellum Pointe Coupée Parish, showing that ideas as well as people traveled through time and space. The influence of the *Partidas* went through a transformation as well, as successive codifications of civil law in Louisiana shifted the emphasis from the slave's perspective to the master's in the section on "prescription" (as it affected those claimed as slaves). The availability of a variety of legal traditions at times gave jurists the ability to pick and choose in order to suit their desired outcome.

Marriage across the slave/free status line allowed Eulalie Oliveau to move out of slavery and live "as if she were free" in a household with her husband, a man of color. However, despite the good intentions of the widow who had owned Eulalie on paper, Oliveau's status also left her vulnerable to the machinations of the widow's family after her death. They seized Eulalie and sold her to slave traders, who defended the sale in Louisiana courts. Eulalie Oliveau may have lived "as free" for decades, but her freedom was precarious.

Likewise, Keila Grinberg describes the insecure status of the enslaved individuals who fled Brazil for northern Uruguay in pursuit of freedom. Crossing among the French, Portuguese, and Spanish empires gave some enslaved people opportunities to claim freedom. Conversely, however, as Grinberg shows, border crossing also allowed enslavers to maintain conditions analogous to slavery free from regulation and insulated from armed conflict.

Intermediate Statuses on the Borders

There is a tendency to assume in debates about what constitutes "slavery" today that this question was simpler in the past, when freedom and slavery were conceived as separate and discrete legal conditions. However, as these articles show, the possibility of owning individuals as property—the "legality" of slavery—did not elucidate whether a particular individual was a slave or not. There were multiple intermediate social and personal statuses between enslavement and freedom.

On the one hand, there were "free" persons who entered into contracts that placed them under burdens analogous to slavery. This was the case

for many of those who worked for Brazilian ranchers in Northern Uruguay, whose condition was renamed as contractual. But the historical record is full of examples in which questions of status or what constituted enslavement are anything but clear. Esteban Barrios, a person described as a "pardo libre" in 1694 Havana, was legally free but agreed to serve Custodio Hernandez without compensation for one year and a half "doing everything" that Hernandez "commanded and ordered *como si fuera su esclavo* (as if he were his slave)."[1] We do not know what this entailed in practice for Barrios or how this form of ownership would be performed: was he to endure physical punishments and other forms of abuse during those 18 months? If Hernandez sold the estancia where Barrios worked, would Barrios be included in the sale? Or consider the case of François Tiocou, a freedman of the "Senegal nation" and resident of New Orleans, who in 1737 formalized an agreement to secure the freedom of his wife, Marie Aram, who was at the time a slave of the recently created Hospital of St. John. Tiocou was apparently an *affranchi* who had obtained his freedom by fighting in the Natchez war against the Indians. In order to obtain Aram's freedom, he committed to "work and exert himself for it and do all that he may be ordered and commanded to do at the said hospital for the service of the poor and sick" during 6 consecutive years, beginning on January 1738, "during which time he will work at the said hospital without any remuneration whatever, being fed with provisions of the country and supported as the Inspector wills." The hospital's representatives, in turn, promised at the end of the contract to "give and remit liberty to one Marie Aram, *négresse* slave of the said hospital, wife of the said Tiocou." Unlike Esteban Barrios, Tiocou's contract did not mention slavery, but the conditions under which he labored seem to have been "como si fuera su esclavo," or analogous to slavery.[2]

On the other hand, moving out of slavery was frequently a gradual and tortuous process that resulted in the creation of middling stations of uncertain and highly contentious legal and social standing. By the late eighteenth century, the existence of persons designated *esclavos enteros* (full slaves) in places such as Havana and San Juan (Puerto Rico) suggests not only that some slaves were not entirely or completely enslaved, but that these realities were widespread enough that a new terminology had been created to capture them. In 1826, a colonial official in Cuba complained about the existence of "bastante gente de color que no siendo libres apenas pueden llamarse esclavos" ("many people of color who not being free can

1. Archivo Nacional de Cuba (hereafter ANC), Protocolos Notariales de la Habana, Escribania Fornari, 1694, fol. 257.

2. Contract of Tiocou with Director of Hospital, July 15, 1737, *Records of the Superior Court of Louisiana*, reprinted in *Louisiana Historical Quarterly* 4 (1921): 366–68.

barely be called slaves") and made reference to the fact that many of them owed only a very small portion of their price to obtain full freedom.[3] These were the *coartado* slaves: individuals who had purchased various portions of themselves and who claimed to be entitled to similar portions of their time, earnings, and labor. The numerous legal conflicts about *coartación* and about the possible rights that flowed from this intermediate condition were cases in which the very meanings of slavery were debated. Like the "liberated Africans" of Brazil about whom Beatriz Mamigonian has written, they were in some sense free and yet might have had to petition for full freedom.[4]

These transits can also be considered in temporal terms. Moving out of slavery required time: the opportunity to live as free and to perform freedom. "Freedom by prescription" was an extreme expression of this, as it implied the passage of long periods of time: 10 years or more. But what happened in the meantime? Did the passage of time and the opportunity to perform freedom shape understandings of social status? What other intermediate situations could be socially produced along the way? In 1556, for example, the Town Council of Havana referred to recently manumitted slaves (*esclavos que se han liberado de poco tiempo a esta parte*) as *esclavos libres* or "free slaves."[5] Did the scribe make a mistake or does the conflation of *esclavos* and *libres* into a single category illustrate how these social conditions could be blurred, in life and in the perceptions of slaveholders and local authorities?

In Cuba as in Louisiana and Brazil, the documentary record is full of references to persons who lived as if they were free, although most of these references say more about masters' anxieties concerning status and social control than about these individuals' social experiences and possible autonomy. Most of those described in this way lived on their own and paid a daily or monthly rent to their masters; the so-called *jornaleros* and *ganadores* who are found all over the Americas. In 1574, Alonso de Caceres, a judge from the Audiencia de Santo Domingo, complained that many slaves

3. The 1826 report is quoted by Levi Marrero, *Cuba: Economía y Sociedad 13* (Madrid: Editorial Playor, 1986), 166.

4. Beatriz G. Mamigonian, "Conflicts Over The Meanings of Freedom: The Liberated Africans' Struggle for Emancipation in Brazil, 1840s–1860s," in *Paths to Freedom: Manumission in the Atlantic World,* ed. Rosemary Brana-Shute and Randy J. Sparks (University of South Carolina Press, Columbia, SC, 2009).

5. Alejandro de La Fuente, *Havana and The Atlantic in The Sixteenth Century* (University of North Carolina Press, Chapel Hill, NC, 2011), 180 (translating February 8, 1556 ordinance). See also 1 Municipio de la Habana, Actas Capitulares del Ayuntamiento de la Habana, 1566–1574 (1937), 110 (regarding the February 8, 1556 ordinance).

in Havana "andan como libres, trabajandose y ocupandose en lo que ellos quieren" ("go about as free, working in whatever they want").[6] One is tempted to dismiss a testimony such as this as simply the grudge of a legislator concerned with proper social ordering; however, the notarial records contain quite a few hints about these slaves who lived "as free" and about how such freedom or quasi-freedom was socially performed.

For example, in 1590, a woman named Juana de Vaca sold her house to two individuals in Havana. It is an unremarkable contract, one that at first sight appears to be simply one of the many real estate transactions contained in the notarial records of early colonial Havana. However, a separate document clarified that Juana de Vaca had performed the sale with the consent of Dona Maria Manuel, her owner. That is, Juana de Vaca was a slave and for the sale of her house to be legal it required the authorization of her master. Little is known about Juana de Vaca's life; however, one can imagine that she would be one of those whom Caceres characterized as living as if free. Only a few days later, Juana de Vaca purchased her freedom, thus becoming legally free, but how her life changed during the few months in which these various transactions took place is something that is not known.[7]

In Cuba, however, living as free was not enough to claim freedom. A slave may have been "andando. . . por si" (going about on his own) in Havana, as the *Siete Partidas* stated when explaining "how a slave may become free through the passage of time," but there was not a single case of freedom granted through the passage of time as formalized in the *Siete Partidas* in Cuba, even though the *Siete Partidas* were otherwise liberally invoked in numerous slave-related cases.[8] Why Cuba was so different from Louisiana is not clear. It is possible that prescription could only happen with changes in jurisdiction—with the sort of movements experienced by Adelaide Métayer and so many others—although, ironically, prescription implied that slave and master lived on the same area. Prescription may also have been more difficult to achieve in certain kinds of living "as free." One can imagine, for example, that in an urban context, the periodic payments of the so-called *jornal* would re-enact the slave–master relationship, perhaps allowing slaveholders to retain the ability to change the lives of slaves living "as free" at will.

6. The Ordenanzas are reproduced in Levi Marrero, *Cuba: Economía y Sociedad* 2 (Editorial San Juan, Rio Piedras, PR, 1984): 429–44.

7. ANC, Protocolos Notariales de la Habana, Escribania Regueira, 1590, fol. 74.

8. On the frequent use of the *Partidas* in Cuba, see Alejandro de la Fuente, "Slaves and the Creation of Legal Rights in Cuba: Coartación and Papel," *Hispanic American Historical Review* 87 (2007): 659–92.

"Legal" and "Illegal" Enslavement

The multiple gradations of status between "slave" and "free" highlight the difficulty of determining precisely what constituted "legal" or "illegal" enslavement. Rebecca Scott and Jean Hébrard's work suggests that apparent legality was sometimes a matter of paper, but of course the illegal enslaver could create plenty of documents to paper over his usurpation, as not only Scott's but also Sparks's article demonstrates.[9] Scott also shows that something resembling prescription could be used not only to help individuals move out of slavery, but also to drive them from freedom into slavery.

As we as scholars try to sort out what was "legal" about enslavement, we must explore the development of vernacular understandings of the law. How did the widow Porche come to know the legal institution of prescription and its possible application to a person once held as a slave? Did she actually use the term, or was Emmanuel Britto instructed by a lawyer to inject this notion into his testimony concerning his conversation with Porche? If ordinary people in antebellum Louisiana had developed an understanding about "freedom by prescription," how did that happen? The claim was not made frequently; how in the absence of a well-known corpus of case law (or something analogous to that) did people such as Porche and Britto come to know about freedom by prescription? In studies about slaves and law in real life, scholars have approached the development of these popular interpretations as a function of the accumulation of legal cases and social struggles, which resulted in the development of customary arrangements and understandings over time.

It is also interesting to note how jurists sought to subtly alter the language of legal texts and to undermine vernacular understandings of the law that allowed slaves to make legal claims. In the *Partidas*, as well as in Spanish texts such as the *Diccionario de Autoridades* (1730s), prescription provided the person in possession of a thing or right (such as freedom) with grounds and standing to oppose any action against such possession.[10] The dictionary stated that the person in possession of such right "puede repeler al que intenta quitarle lo assí posseído" ("may repel he who seeks to deprive him of his possession"). The drafters of the Lousiana Civil Code in 1825 changed the *Partidas* language in such a way that masters,

9. See Rebecca Scott and Jean M. Hébrard, *Freedom Papers: An Atlantic Odyssey in The Age of Emancipation* (Cambridge: Harvard University Press, 2012); Rebecca J. Scott, "Paper Thin: Freedom and Re-enslavement in The Diaspora of the Haitian Revolution," *Law and History Review* 29:4 (2011): 1061–87.

10. Real Academia Española, *Diccionario de la Lengua Castellana* (Madrid: Imprenta de Francisco del Hierro, 1726–1739).

not persons claimed as slaves, became the subject of the article on prescription.[11] There is precedent to this not-so-subtle inversion of legal agency in statutory texts. It is very similar to what legislators in the Spanish colonies did to the legal institution of *servicia* or extreme abuse. The *Siete Partidas* stipulated that in cases of severe abuse, which the law defined as starvation or intolerable physical punishments, slaves could make a petition to a judge. This was, as a colonial official claimed in nineteenth century Cuba, the slaves' "only right." The principle that slaves should not be abused was reiterated by many later regulations, but with a telling distinction. Municipal ordinances and other legal texts stipulated that colonial officials had the duty to denounce abusive masters, but never made reference to slaves' initiating legal action. As in Louisiana, these changes sought to remove the possibility of a "cause of action" for the slaves.[12]

Finally, it is interesting to consider the way that some of these issues would play out in areas such as northern Uruguay, discussed in Grinberg's article. Most of the actors in her account were slaveholders who moved their workers in and out of Uruguay, and state officials concerned with questions of territorial integrity, state-building, and control. But what about those once held as slaves who came to be working on Uruguayan free soil? Did they know that they were entitled to freedom: something that Brazilian jurists acknowledged in their own legal opinions? How were those persons compelled to work and to remain with their owners under these conditions? Did owners develop technologies of control similar to those studied by Edlie L. Wong in *Neither Fugitive nor Free,* a book that deals with questions that are in many ways similar to those that we are examining here?[13] The fact that Brazil managed to sign treaties for the return of slave fugitives with several neighboring countries is quite remarkable, given that several of those countries had abolished slavery (including Argentina and Uruguay) or were about to abolish it (such as Peru). Thus the irony that during colonial times slaveholding empires sometimes granted asylum and freedom to fugitive slaves from other colonies, whereas during the national period a slaveholding nation imposed treaties in defense of slavery upon republics where slavery had been eliminated. The case of northern Uruguay is particularly interesting, as many of the slaves who entered the area from Brazil did so as *colonos* with their owners. What sort of performances of dominium and

11. See Louisiana Legal Archives, *A Republication of the Project of the Civil Code of Louisiana of 1825, 1* (New Orleans: T. J. Moran's Sons, 1937), in the section "Of the prescription of ten years," and the discussion in Rebecca Scott's contribution to this issue.

12. Alejandro De La Fuente, "Slaves and The Creation of Legal Rights in Cuba: *Coartaçion* and *Papel*," *Hispanic American Historical Review* 87 (2007): 659, 670–73.

13. Edlie L. Wong, *Neither Fugitive Nor Free: Atlantic Slavery, Freedom Suits, and The Legal Culture of Travel* (New York: NYU Press, 2009).

freedom were enacted under these circumstances? It would appear that, once on free soil, those who had once held slaves would have to employ those persons "como si fueran libres." If so, are conditions analogous to freedom the same as conditions analogous to slavery?

The "Legal" and "Illegal" Transatlantic Slave Trade

The transatlantic slave trade itself is difficult to divide into "legal" and "illegal" phases. United States historiography tends to assume that the international slave trade ended in 1808 and that after 1808, the action was in the domestic trade. However, what if the "illegal" trade after 1808 was much larger than had been thought, with much greater United States involvement? Furthermore, in what sense was the trade illegal? The slave trade was, to use an expression lifted from Randy Sparks's contribution, "buried" in papers; that is, in legal documents such as bills of sale, custom house clearances, shipping manifestos, or status adjudication cases. Is there some sort of tipping point that made the notionally illegal, legal? Two of the biggest slave societies in the Americas, those of Brazil and Cuba, were built on a massive, pervasive, and widely acknowledged violation of the law. Randy Sparks describes the mechanics of "legalizing the illegal," as Beatriz Mamigonian has called it.[14]

The American ships that carried Africans to Brazil and Cuba sailed in violation of domestic statutes as well as international treaties. The British forced Portugal and Spain to sign treaties banning the slave trade in 1815 and 1817; they forced independent Brazil to do the same in 1826. A second treaty with Spain in 1835 gave the British West African Squadron the right to seize and to condemn any Spanish ship equipped for the slave trade, even if no slaves were found on board. Domestic statutes banning slave importation followed in 1831 and 1850 in Brazil as well as a penal law suppressing the slave trade of 1845 in the Spanish colonies. In 1820, the United States was the only nation to pass a law describing participation in the slave trade as piracy, a criminal offense punishable by death. With the exception of the Brazilian law of 1850, however, these treaties and statutes seem to have had a rather limited impact, at least on the slave trade itself.

Randy Sparks's article shows how important American participation in the Atlantic slave trade continued to be after the formal ban on the

14. Beatriz Mamigonian, "Buried in Silence"? Illegally Enslaved Africans in the Debate on Brazilian Slavery in the Nineteenth Century, delivered at the American Historical Association Annual Meeting, New York City, January 2–5, 2009.

international trade in captives to the United States in 1808. The scale of his findings is surprising. Some of the people involved in policing the slave trade suggested that half of the ships employed in the slave trade and registered to Spaniards or Portuguese were actually American owned or outfitted. Sparks also cites an 1839 press report that claimed that more than 80% of the ships involved in the trade were owned by Americans and fitted out in American ports. However, scholars have downplayed American involvement, in part because of their methodology, which may not take into account the abusive swapping of flags and creation of false papers. The Trans-Atlantic Slave Trade Database counts less than 6% of the ships involved in the slave trade between 1808 and 1866 as sailing under an American flag.[15] Discussions about the illegal slave trade in the literature frequently acknowledge some American participation in terms of financing and supplies, but not to the magnitude uncovered by Sparks.

Beyond the obvious appeal of profits, part of the explanation for the extensive involvement of American ships in the slave trade is that the United States government refused the right of search that allowed the British Navy to stop and search ships from other nations. This provided a level of protection and impunity that ships sailing under other flags did not enjoy, because a ship sailing under the American flag could not be stopped unless it had captives on board and even then, it had to be turned over to American authorities. Sparks discusses the elaborate legal maneuvers used to produce multiple sets of papers (American and Spanish) that provided some degree of legal protection against British and American authorities, respectively. In the process, did a ship remain "American," a denomination that is after all a legal construct? Were they still *American* vessels after being "so completely covered by Spanish papers" that it was impossible to determine their origin?

Sparks's article raises another interesting question concerning United States involvement in the slave trade. He notes that the involvement of United States ships, sailors, and investors in the Atlantic slave trade was widely known, reported in the American press, debated in Congress, and the subject of frequent and loud British complaints. He provides solid evidence to sustain this assertion: why, then, do we now know so little about it? How were these smugglers, whose activities were so publicly known, so successful in erasing their participation in the slave trade from the historical record—in the historiography and in sources such as the Transatlantic Slave Trade Database?

15. Transatlantic Slave Trade Database http://www.slavevoyages.org/voyage/search

Porous Boundaries, Past and Present

Finally, what would be the implications if the boundaries between slave and free, legal and illegal enslavement were so much more porous than had been thought? How do these blurry lines complicate and shape our views of relations of domination in the present day? And conversely, how does the analogy between modern and historic slavery as it is made today reshape the historiography and commemoration of slavery in the past?

Rebecca Scott's article addresses most directly the implications of past definitions of legality and illegality of slavery for present-day efforts to prosecute contemporary forms of domination. She is most hopeful and optimistic about the possibility of defining slavery in a pragmatic way that connects past and present meaningfully. She draws on the experiences of prosecutors from the Brazilian Public Ministry of Labor that have been analyzed by Leonardo Barbosa and Cristiano Paixão in contemporary Brazil, as well as the work of the Human Trafficking Clinic at the University of Michigan Law School. In Brazil, for example, the legal definition of contemporary slavery is grounded in the documentation by legal inspection teams of workers' "degrading conditions of labor" and "debilitating workdays," definitions that are given meaning "by resorting to the considerable institutional experience built during the last twenty years."[16]

Scott suggests that it may be liberating for contemporary legal and political campaigns against slavery to understand past enslavement in a more complicated fashion. Rather than imagining contemporary conditions as more intractable than those of the past because they are illegal and take place under the radar—de facto rather than de jure enslavement—Scott shows that to enslave another has always been a shadowy enterprise. She reminds us of what legal realists have always known, that "the law" is not a list of clear-cut rules, but a set of practices, institutions, and doctrines that may be manipulated and challenged by a variety of actors, and that often the one with the most paper wins. Therefore, the determination of who lives in conditions analogous to slavery today is no more or less "disputed and rancorous" than was the determination of slave or free status two centuries ago, and by implication, no less worth attempting.

The two articles by Lisa Surwillo and Jenny Martinez, and Ariela Gross and Chantal Thomas, by contrast, are less sanguine about the uses of the past–present analogy in contemporary human rights law, slave trade memorials, and the media. Ariela Gross and Chantal Thomas argue that one strand

16. Leonardo Barbosa, "Behind The Definition of Contemporary Slavery in Brazil; Cristiano Paixão and Leonardo Barbosa, Perspectives on Human Dignity (On Judicial Rulings Regarding Contemporary Slavery in Brazil)," *Quaderni Fiorentini* 44 (2015): 1167–84.

of the campaign against contemporary slavery, "neo-abolitionism," depends on an oversimplified comparison between past and present, which they term the "slavery–trafficking nexus." Lisa Surwillo and Jenny Martinez also critique the analogy of past and present slavery in international law and popular culture, especially as exemplified in the metaphor of the *négrier*, or transatlantic slave trader. Both pairs of authors warn of the danger that the analogy may detract from "our moral sense and historical understanding" of the powerful legacies of the transatlantic slave trade and its "sui generis nature"; both express the concern that linking past and present abolitionism may turn attention away from redress or reparations for the past, and toward individual rather than collective or structural approaches to migration, labor, and human vulnerability in the world today.

However, taken together with the other works in this issue, these articles raise the question of whether one should eschew historicism entirely, or simply do better history? That is, perhaps what is so problematic about contemporary accounts is that they draw too easy equivalences or contrasts between past and present, and sometimes make assertions that are themselves deeply anti-historical (including the peculiar assertion that there are "[m]ore slaves today than in all 350 years of the Atlantic Slave Trade").[17] The problem may not be the use of analogy per se, but rather analogy poorly executed and historically abusive.

One difficulty with comparison between past and present is that the past created the present; the two exist in relation not only to the histories we write, but also to one another. Surwillo and Martinez fear that analogies tend to emphasize continuity and to give short shrift to discontinuity, but there is also the way in which past–present analogy creates *dis*continuity, as though the past and the present are two entirely different countries, and that one was not born of the other. Joel Quirk, in *The Anti-Slavery Project: From The Slave Trade to Human Trafficking*, persuasively demonstrates that slavery did *not* come to an end with the nineteenth-century abolitions, but that millions remained in bondage across Africa, the Mediterranean, and Asia well into the twentieth century. Likewise, as the titles of recent works of United States history attest—*Worse Than Slavery, Slavery By Another Name*—various forms of debt bondage, including peonage, convict leasing, and prison labor, kept African Americans in conditions analogous to slavery for decades past 1865.[18]

17. Kevin Bales, *Disposable People* (University of California Press, Berkeley, 1999), 28.

18. David M. Oshinsky, *Worse Than Slavery: Parchman Farm and The Ordeal of Jim Crow* (Simon and Schuster, New York City, 1997); and Douglas A. Blackmon, *Slavery By Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II* (Knopf Doubleday Publishing, New York City, 2009).

These continuities suggest that it may make more sense to put contemporary forms of exploitation in their historical context and see them as legacies of the slave trade and colonialism, rather than as a new form of the trade bursting on the scene in the twentieth century.[19]

It also makes a difference which forms of contemporary coercion are being compared with the past. As Surwillo and Martinez show, often in the French and Spanish media, the imagery of human trafficking is a black male in maritime transit, although in fact the typical migrant to Spain is a Romanian, Moroccan, or British woman doing domestic work. Often, in the United States, "trafficking" is equated with "sex trafficking," and the imagery involves white women transported for sex work, evoking the early twentieth century panic over "white slavery." By contrast, the agricultural workers who are being targeted for *resgate* (rescue) by Brazilian inspectors and prosecutors are often descendants of those enslaved on similar plantations a century and a half ago. It is easiest to see "conditions analogous to slavery" when one is laboring in the same fields in which one's great-great-grandparents labored under the regime of slavery. It is more difficult to sustain the analogy in the cases that Surwillo and Martinez point to, of people who chose migration to a place where the sanction they face is to be shipped home.

In his most famous speech on race, President Barack Obama quoted William Faulkner: "The past isn't dead and buried. In fact, it isn't even past."[20] Just as the abolition of the slave trade gave rise to the first international human rights tribunals, human rights law today is still pervaded with the image of the "monster trader."[21] This metaphor powerfully moves a Western audience to care about migrant laborers. However, to truly address conditions of exploitation today, and at the same time increase understanding of transnational histories and moral obligations, what is needed is a better sense of the past as it lives on in the present: messy and unbounded.

19. Oshinsky, *Worse Than Slavery*; and Blackmon, *Slavery By Another Name.*

20. See Thomas J. Sugrue, *Not Even Past: Barack Obama and The Burden of Race* (Princeton: Princeton University Press, New York City, 2010).

21. See Jenny S. Martinez, *The Slave Trade and The Origins of International Human Rights Law* (Oxford University Press, New York City, 2012); and Lisa Surwillo, *Monsters By Trade: Slave Traders in Modern Spanish Literature and Culture* (Stanford: Stanford University Press, New York City, 2014).