Section II: Law and Culture in Class Structure

ALICE RIO

Self-sale and Voluntary Entry into Unfreedom, 300–1100

Voluntary entry into unfreedom, or self-sale, seems to us a very strange proposition. We now place an extremely high value on personal freedom, and find it incomprehensible that anyone should ever wish to part with it, whatever the price. Using one's free choice in order to become unfree also constitutes a paradox. Kant saw the giving up of freedom as fundamentally at odds with the moral law of autonomy, self-esteem, and rational will, and as a decision which no rational human being could make. One of John Stuart Mill's few concessions to the paternalistic model was in allowing room for rules forbidding people from selling themselves into slavery.[1] None of these models was intended to be descriptive or empirical, but similar Enlightenment values, not always so clearly thought out, have often been extended to inform modern historians' assumptions regarding what constitutes "normal" human desires and behaviour, and by extension what choices people are or are not likely to have made, even in past societies very distant and different from ours. By and large we tend to assume that self-enslavement in the Roman and medieval worlds was never in fact voluntary, but always coerced in one way or another, by force or by necessity. This view often seems to find resonance in the writings of Roman and medieval authors, who also valued freedom highly. This apparent continuity between medieval and modern ways of thinking about self-sale is, however, more superficial than real, and has had a deeply distorting effect on modern scholarship on this topic.

I. Self-sales in Modern Historiography

Very little has been written about self-sales under the Roman empire, because this phenomenon is not very visible in the surviving record.

Voluntary self-sale features above all in laws, a kind of evidence famously difficult to assess. Nevertheless, it is worth taking seriously the possibility that this practice was more widespread than the thinness of the evidence suggests. This was argued almost thirty years ago in an important article by Jacques Ramin and Paul Veyne.[2] They argued that self-sales were widespread in the Roman world, but that they were a taboo subject, which is why literary sources make few references to them.[3] By contrast, self-sales are more visible in legal sources because they constituted an unavoidable practical issue that legislators had no choice but to deal with. Ramin and Veyne's article, though it is often cited without criticism, does not seem to have found much resonance in subsequent historiography, and self-sales in the Roman world have not been the object of much scholarly interest since then.[4]

Self-sale in the early middle ages has played a much more central role in analyses of social change. For a start, modern historians have been much more willing to believe it happened, no doubt partly because historians have always been more inclined to believe the worst of early medieval societies, but also because there is more evidence for it. Taken at face value, this could seem curiously at odds with the view that slavery was in decline during this period, but self-sales in the medieval world have been associated less often with slavery than with serfdom. The continued use of the same Latin words to refer to all unfree people throughout this period means that the distinction between these two forms of unfreedom is left entirely to interpretation, and many different chronologies have been proposed for the transition from one to the other. Marc Bloch, whose thinking remains fundamental to all discussions of early medieval servitude, thought it had taken place by the ninth century; the school of thought referred to as "feudal mutationism," partly influenced by Bloch's work and associated with Georges Duby, places it around the year 1000. By this account, only eleventh-century self-sellers would have been entering serfdom, with earlier medieval self-sales involving actual slavery.[5]

This latter view was based on a peak in documentation for self-sales in the eleventh century, with the wealth of evidence provided by the *Book of Serfs* of Marmoutier, which contains sixty-five cases of people giving themselves to this monastery (something for which French scholars have coined the useful word "autodédition") and was cited as evidence of mass deterioration in the condition of the free peasantry.[6] Dominique Barthélemy has discussed the same evidence in very different terms, and argued against considering such arrangements in terms of a social revolution, or even necessarily of the oppression of the weak by the strong.[7] By reconstructing the background to some of these agreements, he showed that self-sales did not always involve the most desperate, but could represent entry into a particular kind of "career" for skilled workers or people performing an administrative office for the monastery, and could be the occasion of a "marchandage serré."[8] He emphasised continuity with Carolingian times, contrasting Carolingian and later unfreedom with Roman slavery.[9] As an eleventh-century specialist, however, he left open the question of how far back this continuity should be stretched.

This debate has been dominated by French historiography,[10] so that self-sales and the question of whether early medieval people were selling themselves into slavery or serfdom have mostly been discussed by historians writing with the eleventh century in mind, in order to prove or disprove the idea of a feudal

mutation. Self-sales have played a much more minor role in arguments put forward by historians interested in the post-Roman and earlier medieval world, who tend to discuss self-sales only to point to them as generally indicative of the harshness of the times.[11] As a result (and also because the available evidence allows it), the autodeditions at the later end of the chronological scale have been dealt with more interestingly and imaginatively, and with greater attention to the practical consequences of such agreements. By contrast, historians of the Roman and early medieval worlds, partly through dearth of sources, are often forced into a more legalistic approach, and more rarely question what kind of dependence it was that people were getting themselves into.

Interpretations of early medieval self-sales and autodeditions thus vary depending on whether historians are looking back to Roman times or forward to the central and later middle ages, in a kind of historiographical tug-of-war: that is, whether the historian is primarily interested in the debate about the transformation of the Roman world or that about the feudal revolution. Interpretations from either standpoint have had something in common, however, in that they often link the practice of self-sale with catastrophist arguments and social crisis. It seems worth taking a longer-term view encompassing this whole chronological spectrum: in what context and for what purpose did late Roman and early medieval sources mention self-sales, and in what discourse did they participate? Can an increased frequency of such references be held to reflect an increase in real terms? Under what conditions did people think it advantageous to give up their freedom, and what was it exactly that they were giving up? Literary and documentary sources prompt very different answers to these questions, and made different uses of the varieties of Roman thinking on the enslavement of the free.

II. The Legal Background: Self-sales in Roman Law

At first sight, a view of personal freedom as sacred and inalienable appears to be one of the fundamental cornerstones of Roman law. The high value placed on freedom is one of the few things in Roman law with which a modern reader would be able to sympathise, and a somewhat airbrushed reading of the Roman discourse of freedom (in contrast, happily, to its ideas about slavery) played an important part in shaping modern attitudes to freedom since the Enlightenment. Roman law ostensibly made it illegal to sell oneself, and treated freedom as too valuable to put a price on it: *homo enim liber nullo pretio aestimatur*.[12] In principle, self-sales were not accepted as legitimate transactions, and were treated as fraud.[13] All came down to deciding which of the parties should be held responsible for perpetrating this fraud: this was done by determining who had been aware that the person being sold was free at the time; whether the person being sold had benefited from the sale financially; and whether they were of an age at which they could be considered legally responsible. A free person who had agreed to be sold as a slave could reclaim their freedom if they had been unaware that they were free at the time of the sale, if they had been under the age of twenty, or if the buyer had also known that they were free and had thus participated in the fraud.[14]

Laws devote much space to making distinctions on the basis of who had known what at the time of the sale. But this lengthy material may be something of a red herring: the reason why laws concentrate on cases in which not everybody involved knew that a free person was being sold is that these were the situations which presented a confusing legal puzzle. Roman jurists explored this puzzle through the study of ever more complex examples, which look more like exercises intended to focus the mind on the attribution of liability: for instance, what if there were two buyers, and one of them knew they had bought a free person but not the other?[15] It seems safe to assume that the majority of cases would have been more straightforward: in most cases people must have known what was going on, particularly if the free people in question were selling themselves locally, as is likely. In any case it would have been difficult to establish in court what each party had known at any given point, and using this as a legal criterion would have left a lot of room for manoeuvre. In practice, as laws acknowledge, the proof was seen to lie in whether or not the person being sold had received a share of the proceeds of the sale, which simplified the situation greatly: slaves obviously did not receive a share of their sale price, so accepting it was proof that the person being sold had known they were free.[16] The language used in laws to refer to people who had willingly sold themselves is extremely severe and judgmental: forfeiting freedom was seen as a perverse decision, and the people who took it were described as having richly deserved their loss of status.[17] Indeed, their punishment was that they should remain slaves, effectively making the arrangement permanent and giving it legal sanction. Although self-sale was technically described as fraud, its detection was therefore wholly without consequences: laws simply confirmed such transactions and protected buyers.[18] Legislators, while conscious that self-sales were at odds with the spirit of Roman law and trumpeting their opposition to them, were in practice careful to leave loopholes in order to allow them. Other legal sources state candidly that self-sale, alongside birth and capture in war, constituted one of the standard ways into an unfree status.[19]

Ramin and Veyne found additional evidence for their argument that self-sales were widespread in imperial rescripts, which they treated as more reliable than other legal material, because rescripts at least offer glimpses of situations that actually came up as opposed to what ought to happen.[20] This evidence does confirm that self-sale happened in practice, but since these rescripts most often show emperors reversing such contracts after an appeal, they do not provide unequivocal support for the view that emperors were leaving the back door open for this practice. Ramin and Veyne do not really explain this contradiction. I would argue that emperors were in fact reversing such arrangements for quite separate reasons, not primarily aimed at protecting free status in general: they were more pointedly concerned with maintaining the authority of the state as a necessary sanctioning power in matters of personal status, and with stopping *all* changes of status from being made without reference to a public setting. The same rescripts often rule simultaneously against enslavement and against manumissions made in such an informal way. Manumissions were clearly legally valid provided they were done properly. The link created between the two could indicate that in the case of self-sales too, it was the *manner* rather than the practice that was being criticised: what was wrong was not the action being taken, but that it had been achieved through a *pactum privatum* or

conventio privata.[21] In the case of self-sale, the required public action may have amounted to a *Scheinprozess* (a court case for form's sake only, confirming an existing arrangement). In one third-century rescript written in answer to someone who had been forced into signing a document claiming that he was a slave, the emperors Valerian and Gallienus annulled the document, pointing out that even if the man had not been coerced the document would still have been invalid: simply agreeing privately that one was a slave did not make it so.[22] These rescripts suggest that self-sale (as well as coerced entry into slavery) was an established practice, and also that provincial practice could be much less strict than imperial law in permitting such arrangements to take place on an informal basis. This is what allowed those shrewd enough to appeal to imperial authority to overrule these local arrangements in order to get out of them. But although people who had entered relationships of this kind could take advantage of the insistence of imperial authority that everything be done officially, the protection of such people was not the main concern of emperors: in all these rulings emperors seem to have been essentially concerned with stopping people taking their status into their own hands and disposing of it informally. The reason for emperors' insistence on this point could well have been the fact that personal status also affected tax status. Although taxation is more often linked in the historiography with the institution of the colonate,[23] it would also have had an impact on the state's attitude towards self-sale, as self-sellers' tax liability passed on to their new masters. It may be significant in this respect that so many of the rescripts forbidding private arrangements should have been issued by Diocletian,[24] with the introduction of a system of tax distribution linked to the numbers of the taxable population (*capitatio*), for which keeping an orderly record of people's personal status would have been an essential requirement.

Roman law thus gives us very mixed messages: its discourse was very much against self-sales, though the same texts make it clear that they were happening, and that emperors were not in fact deeply committed to stamping them out. This mismatch between discourse and social practice is echoed in the Byzantine world, where laws show the same distaste for self-sale and self-sellers.[25] In the late ninth century, Leo VI made it illegal for people to sell themselves, making much of the fact that previous laws had allowed this practice and that it was happening all the time.[26] The version of *Digest* 5.5.1 given in the *Basilica*, a monumental Roman law collection compiled under Leo, accordingly omits the clause stating that people over twenty years of age could sell themselves.[27] Leo makes the very Kantian observation that the man who wishes to sell himself is "deprived of reason" (δυστυχῶν εἰς φρένας—literally "unfortunate as to the mind"). But whereas earlier emperors would have condemned such a man to remain unfree as a punishment for his weakness of character, thereby *de facto* recognising the self-sale, Leo condemned both buyer and seller to a flogging, and the latter was to remain free. This is the only evidence that any emperor ever seriously tried to stop self-sales, and it is difficult to know what to make of it. By seeking to re-establish the principle of the inalienability of freedom, it constituted a ruling about this matter which at least made sense on its own terms, as earlier legislation arguably never had. In view, however, of Leo's own observation that self-sales were well implanted in practice and that they corresponded to a social demand, one may doubt whether this law would have met with much success.[28]

III. The Literary Evidence: Self-sales and the Loss of Political Freedom in Christian Polemic

From the late fifth century onwards, laws loom less large in the evidence for self-sale: Western states seem to have quickly lost interest in controlling this practice, no doubt because the abeyance of the Roman taxation system made personal status ever less relevant to state concerns, and became much more openly permissive towards them.[29] Literary authors, on the other hand, became more willing to broach the subject, and portrayed it in a very negative light. These references are chronologically bunched in the fifth and sixth centuries.

At first sight, the discussion of self-sales by late antique writers seems to confirm historians' worst suspicions about the transition to the medieval world. Loss of freedom was certainly presented by contemporary writers in dramatic terms. References to the enslavement of free people in literary sources corresponded to an established and self-conscious discourse of crisis, and historians have tended to follow their cue; I will try to show, however, that a closer examination of the context in which such sources present self-sales suggests that these writers had an altogether different sort of crisis in mind.

Self-sales tend to appear as a literary trope in the context of famine. There can be little doubt that there were famines in the early middle ages, and that these might lead to self-sales, but these famines are always made to participate in narratives describing wider turmoil, which was itself of a political rather than social nature. One example is Victor of Vita's description of a famine in his tract on the Vandal persecutions of African Catholics, during which he says people tried to sell themselves but found no buyers: "some wished to exchange their freedom and that of their children for permanent servitude, and they could find no way to do this."[30] The absence of buyers implies no one had any food to spare, and has the effect of emphasising the seriousness of the famine. This thinking is echoed in the following section (III, 59), in which Victor makes out, rather counter-intuitively, that the Vandals suffered more than Catholics because they were richer and had more slaves, and consequently more mouths to feed. It is not hard to see why Victor would have needed to show that Vandals were being singled out for special suffering, since their treatment of Catholics was meant to be the intended target of God's punishment. Book III, in which this description is found, had begun with Huneric's anti-Catholic edict, and the various catastrophes included in the rest of this book are set out as consequences of it. The point Victor is making here is not really social, but political: famines and self-sales, like all other typical manifestations of God's displeasure, above all reflected bad governance.

Gregory of Tours similarly links self-sale with political crisis: his own description of a famine in 585, the only one in which he says poor people sold themselves,[31] follows on from his account of the rebellion of Gundovald and Mummolus against Guntram, which culminated in the killing of a bishop by decapitation.[32] The description of this famine is immediately preceded and followed by other scenes involving things both worrying and unnatural: a giant carpenter found in Mummolus's camp; a prophetess possessed by a demon taken under the protection of the queen Fredegund; an envoy of the count of Bourges being rude about Saint Martin—as well as civil discord, with servants murdering their own master in a forest and the beginning of the conflict between Sichar

and Chramnesind.[33] Here as in Victor of Vita, the mention of self-sale functioned as an intensifying element in an otherwise routine use of famine as a trope.

One text offers a more explicit, self-conscious formulation of the link between the subjection of the free and a more general sense of crisis: Salvian's *De gubernatione Dei*, the catastrophist view of the fifth century *par excellence*, which long constituted a key source for negative evaluations of the late Roman empire.[34] Now that historians are less keen to see the fifth-century empire as wracked by social conflict, Salvian has been reevaluated, and is read more as a theologian and moralist than as a social commentator: his virulent attack on the rich tends to be interpreted in the light of his asceticism rather than any commitment to social equality in this life. Although it is undeniable that its outlook was primarily moral and theological, it would be a mistake to deny the *De gubernatione Dei* any serious political content: moral priorities, after all, formed an essential part of the justification of political power.

In book V, in a famous diatribe against late Roman taxation, Salvian describes some *pauperes* and *egestuosi* being forced by circumstances into becoming the *coloni* of rich men. Salvian describes them rather pointedly as the *consultiores* among the poor ("those among them who were *consultiores*, or whom necessity had made so"): the word could mean that they were "more experienced" in general, but it could also mean that they had a better knowledge of the law.[35] Although one would expect this to give them some advantage over their peers, Salvian was clear that this constituted a dramatic loss of freedom,[36] and then went on to describe the rich abusing the situation even further, claiming that although these people were supposed to be *coloni*, they were in practice turned into slaves: he likens this to Circe turning men into pigs.[37]

Here too, however, these comments are presented in the context of political rather than social commentary. When Salvian discussed *pauperes* in this section of the *De gubernatione Dei*, he meant not just the rural poor, but anybody who had been oppressed by the Roman state. Salvian also describes those who joined the Bagaudae or went over to the barbarians as *pauperes*, and also discusses their situation in terms of loss of freedom,[38] but they were clearly a very different sort of people: he says many of them were "of not obscure birth, and educated like gentlemen," and also "great and noble."[39] As Van Dam has pointed out, these people resemble disgruntled local elites taking matters into their own hands more than they do poor peasants at the end of their tether.[40] Salvian seems to identify himself with these *pauperes* rather than with the "rich," that is, the office-holders who had done well out of the empire. He once even uses the first person plural when talking about *pauperes*:[41] in strictly social or economic terms this would be absurd, but in political terms it would have been less so, if he used the word to convey a sense of powerlessness.[42] The artificial conflation of these very different groups, the rural poor and the politically marginalised lesser elite, was meant to intensify the picture Salvian was painting of the sufferings of the latter: he arguably discussed the rural poor only in order to exaggerate, by amalgamation, the evils of taxation and the resulting plight of the lesser elite. Salvian was making a point not about social injustice, but about the legitimacy of political power and the proper way to exercise it, with the aim of highlighting huge deficits in the aspirations as well as the performance of late Roman government.

It is worth pausing to consider what entering slavery might have meant to Salvian and other Christian thinkers of his day. Ascetic thinking had, after all, lent additional layers of meaning to the concept of slavery, some very positive: crucially, it was used to represent the correct attitude which all Christians should adopt towards God (in Salvian the parallel was extended to liken God's punishment of the Roman empire to a master's legitimate punishment of disobedient slaves). Given this positive spin, one might wonder why the idea of free people entering a servile condition still retained the power to convey so much outrage. Yet despite such connotations, and despite Saint Paul's exhortation that slaves should serve Christ by being faithful to their masters,[43] Salvian was also keenly aware of the real material difficulties involved in being a good Christian while serving an earthly master. In book IV, Salvian offered a list of typical servile vices, which he explained—and to some extent excused— through the harshness of their condition. Living a life of constant fear, he argued, almost inevitably led slaves to sin: slaves steal, but only because they have nothing; they run away and lie, but only to avoid torture; they are gluttonous, but only because they are so often denied food; if they are women they are virtually doomed to fornication with their masters.[44] *Exceptionally* holy persons might, of course, manage to transcend this disadvantage, and there are rare instances of slave saints; a servile status was therefore not a total barrier to holiness, but, significantly, it was presented as a serious obstacle to overcome. A parallel could be made with married holy women: both types of saints' lives in fact display similar tropes, with the saint managing to access true holiness only through the rejection, death or conversion of master or husband.[45] Whereas *pauperes* lay at the heart of the Christian project (since poverty, far from posing an obstacle to being a good Christian, was a step in the right direction), being a slave was more problematic, and in practice was recognised as a life fraught with compromise, even to the point of hampering salvation. The new, positive connotations of slavery as a metaphor for correct religious observance did not, therefore, make the move from *pauper* to *servus* any less disastrous to Christian authors; for them, its consequences might indeed seem more severe than the simple loss of civil status.

In all these cases self-sale, deliberately little distinguished from coerced enslavement, was being used as a standard way of signalling that the world had gone topsy-turvy. Early medieval writers were less worried about poor people as such than about politics: they understood their world in terms that were primarily political, moral and religious, rather than social. The rhetoric of freedom still played an important part in political discourse and ideology, as it had in the Roman period,[46] and it is not surprising that these authors chose to use the vocabulary of loss of legal status as a means of conveying the idea of loss of political influence. Victor and Salvian, who modelled themselves on the Old Testament prophets, also combined this discourse with the biblical theme of care for the poor, widows and orphans.[47] The essential duty of the powerful to protect the powerless was one of the cornerstones of Christian rhetoric, and failure in this respect constituted a potent indictment of any political elite. The enslavement of the poor was taken as the ultimate proof of such failure, and could therefore play an important part in more general moral and political admonishment. It is perhaps unsurprising, then, to find self-sales featuring in such texts as the ultimate embodiment of coercion and exploitation where there

should have been protection and charity. Self-sales may have been seen as an even more damning and intensifying symbol of political failure than other forms of enslavement, since (unlike, for instance, penal slavery) they involved innocents: in stark contrast to laws, Christian polemicists did not adopt a judgmental stance on the actions of self-sellers at all, instead mobilising such cases to provoke remorse in their elite audiences and make them anxious to put things right. That self-sale was expected to be an effective symbol implies that it still retained shock value, suggesting that the Roman tradition of seeing freedom and unfreedom as the most important social divide, the crossing of which was always momentous and sometimes worrying, remained important to these writers. The image of poor people losing their free status to serve a political point and dramatise the loss of political freedom by a disgruntled elite remained a powerful one throughout the early middle ages (it was, for instance, used to striking effect in Wulfstan of York's *Sermo Lupi ad Anglos*).[48] In this sense Christian polemicists adopted a similar point of view to the official line taken by Roman legislators. But as with Roman legislators, this ideological stance led them to present self-sales in a very particular light. I am not about to argue that we should not believe self-sales ever took place (plainly they did, and perhaps even more frequently than is often suspected), but that late antique and early medieval authors' presentation of them as both fundamentally involuntary and characteristic of particular moments of social and political meltdown is highly tendentious, and, not least because of the superficial similarity it creates between Christian and post-Enlightenment views on this topic, has great potential to mislead modern historians.

IV. The Legal and Documentary Evidence

Documentary sources show us a different situation, and a different sort of discourse. Few documents recording self-sales survive from before the eleventh century. This may be down to accidents of survival, if these documents were not kept over the long term. Although such agreements would have affected subsequent generations, preserving the original document may not have been all that important, since in surviving examples of disputes over labour the proof of unfreedom seems to have been established primarily on the basis of family precedent: that is, whether witnesses could confirm that the parents of the accused had performed duties associated with an unfree status. The scarcity of such documents is therefore not *a priori* a sign that the practice was not common. From the eleventh century, voluntary entry into unfreedom is much better documented, thanks to the exceptional survival of the *Book of Serfs* of Marmoutier, the compilation of which signals a new interest on the part of this monastery in documenting the status of dependants more systematically, perhaps as a result of a sudden expansion of its territory.[49] The question is, therefore: what legal and documentary evidence is there for earlier medieval self-sales? Does it show a comparable level of negotiability to that observed by Barthélemy in the *Book of Serfs*, or does it reflect a "harder" definition of unfreedom instead?

The few early medieval laws which mention self-sales validate them in a more straightforward way than Roman law had, and regard them with the same

sense of moral condemnation, presenting the desire to sell oneself as the sign of an inexcusable weakness of character. As the very Romanising Visigothic code neatly puts it, "he who submitted to slavery willingly does not deserve to be free"—though Ervig's recension in the late seventh century added that if they or their family managed to repay the purchase price in full, the self-seller could recover a fully free status as an *ingenuus*, not a freedman, in a radical departure from Roman law.[50] Although this law still seems to assume the presence of a complicit merchant with whom the self-seller would have shared the purchase price, there is no longer any concern to classify such transactions as fraud: this is probably only an echo of the occasional insistence in Roman laws that in theory the buyer was supposed to have thought that they were buying someone who was already a slave. At any rate, no such third party comes up in a seventh-century Visigothic model for a document of self-sale, though it was clearly refer-ring to Roman law (as well as pinpointing its glaring contradictions) when it stated that

> although it is established by the sanction of the laws that no-one may depress their status of their own will, if someone is seen to struggle to support his person as is legitimate through some misery or necessity, and is constricted by his condition, he may have the free power either to better or depress his status as he judges fit. Therefore I deliberated with myself, and I decided to sell my own status (*statum meum*); and your lordship heard this, and agreed to my request ...[51]

Bavarian law offers a similar picture, in less judgmental terms: "even if [a free man] is poor (*pauper*), he must not lose his freedom nor his inheritance, unless he wants to transfer it to someone of his own free will: [if that is the case,] let him have the power to do so."[52] Frankish capitularies deal more often with penal servitude, but also contain occasional references to voluntary self-sale.[53] Pippin III ruled that whereas women whose husbands became unfree could nor-mally have the marriage annulled and marry someone else, the wives of men who sold themselves in times of famine could not, because they had benefited from the sale along with him.[54] Charlemagne, in the *Notitia Italica*, annulled all documents by which people had sold themselves and their family, but this was not intended to undermine the practice of self-sale itself, and he made no attempt to reverse such agreements in Francia.[55] Self-sales are thus presented as less problematic in early medieval laws than they had been in Roman law. Charles the Bald, in the Edict of Pîtres, even tried to encourage those who could afford it to buy self-sellers in times of famine, as an act of charity. Charles, finding little to guide him in Salic law or in previous capitularies, cited Leviticus and a passage of the *Lex Romana Visigothorum* about the sale of chil-dren to stipulate favourable terms on which self-sellers could redeem themselves, and forbidding anyone from selling them abroad: "and if someone says that he does not want to pay for a free man in a time of famine or for another necessity if he is not going to keep him as a slave forever, let him heed what the Lord tells him through his apostle: 'he who has the wealth of the world, and sees his brother is in need, and shuts up his bowels of compassion from him, the love of God dwells not in him' (I John 3:17)."[56]

One curious reference to autodedition is made in a Lombard law from 755, which gave self-givers in particular, as opposed to those entering servitude in other ways, a special legal standing by absolving them from the thirty-year rule (effectively a statute of limitations barring people from claiming their freedom after having served for this length of time), which ensured reversibility for this action:

> If someone out of his goodness (*pro bonitatem suam*) enters the service (*in servitio*) of an official (*iudex*) or of another man, and serves him and his sons or nephews, and it is clearly true that all his relatives were free, and afterwards [the official or other man] wants to detain him in his service (*eum in servitio detenere*), arguing that he has served him and his relatives for thirty years, he cannot hold him by virtue of this possession (*possessio*); because it is impossible, and against God's command, that while all his relatives are free, he alone, who served voluntarily (*voluntariae deservivit*), should be retained in service simply through this possession. But if he was handed over to serve (*ad deserviendum in manus datus fuerit*) on account of theft or for another crime, as the edict prescribes, and this has been proven, he should [continue to] serve …[57]

Lombard laws make no reference to self-sale, which makes it difficult to compare, but what seems absolutely crucial here is that the service should have been freely offered as a gift, lending it a more positive symbolic value—one strongly echoed in documents of autodedition, of which, as we shall see, Italian archives provide some early examples.[58]

Early medieval self-sales are most clearly documented in legal formulae, collections of documentary models surviving from the sixth to the tenth century.[59] These contain models for documents of self-sale, and show people becoming unfree for a number of reasons, all subsumed under the general heading of poverty: by and large, formulae describe self-sellers as unable to support themselves or pay a debt or a fine. The picture, however, is complicated by the presence among these texts of a number of legally speaking highly unorthodox agreements, suggesting a level of negotiability. The way in which some of them are presented, particularly in the formulary of Angers (collated some time between the late sixth and mid-eighth centuries), suggests that people took a very practical, utilitarian view of their free status, and disposed of it almost as they would of any other valuable commodity.[60]

This is nowhere more evident than in the close relationship between self-sales and loan securities, a closeness of which the scribes who compiled formularies were clearly conscious, since they usually present them together. In some instances, people disposed of their status as security much as they might have a field or a vineyard:[61] formulae show a number of people agreeing to become unfree on a temporary or even a part-time basis (agreeing to undertake unfree work for a certain number of days each week), in exchange for a cash loan, on repayment of which they were to recover a fully free status, as if nothing had happened. This brings to mind the law of Erwig in the Visigothic code cited earlier, according to which self-sellers could buy themselves back and recover their full freedom instead of having to become freedmen:[62] these cases would effectively have amounted to the same thing as a loan. This point was no doubt made all the more crucial as the duties of freedmen seem to have begun, in a parallel legal development, to be passed on to subsequent generations. The

evidence of formulae suggests that this level of flexibility also existed in Francia, which may have encouraged people to consider self-sale as an option in the shorter term.[63] The formulary of Angers offers the best evidence for this kind of arrangement, and they may already have been accepted in practice for a long time. Perhaps Victor of Vita had possibilities of this sort in mind when he emphasised that the kind of service people were aspiring to during the famine was "perpetual:" he could have meant to distinguish it from temporary arrangements.[64]

Loan agreements tend to be more explicit than documents of self-sale in setting down terms and conditions, for instance in stipulating a maximum number of days per week in which the debtor had to work for the lender (though it is impossible to be sure whether this number of days would have been substantially lower than that worked by the lender's native unfree dependents), and they may also have left room for more unusual arrangements, as in the case of a man giving up only "half" his freedom in exchange for a loan.[65] Of course it is likely that many of these debtors would have proved unable in the end to repay such loans, in which case the relationship could become a permanent one: many formulae of self-sale mention unrepaid debt (or theft, from which it was not strongly differentiated) as their root cause. It is even possible that some of these debts had never been intended to be repaid, if formulating self-sales as short-term loans made it easier to negotiate terms. Whatever the case, the consequence of such agreements becoming permanent would have been the perpetuation of a number of complex, piecemeal forms of unfree status.

Clearly the broad category of unfreedom could encompass vastly different conditions of life.[66] Early medieval documents, in contrast to the more detailed "new style" of post-1060 charters and *notitiae*, are frustratingly elusive in their treatment of circumstances, but some of these agreements give us enough to see that self-sale was not always a last resort limited only to the very poorest: one text from the formulary of Angers shows us a couple selling themselves, but makes it clear they had owned some landed property outright, which they were now transferring to their new lord.[67] This seems to be echoed in some documents from St. Gall, in which even donors who were making fairly substantial gifts to the monastery evoked the possibility that their heirs might one day become unfree.[68]

Things are not helped by the fact that variations in self-sellers' circumstances are often obscured by the insistence on poverty as a motive (though there are regional exceptions to this: Italian documents, as we shall see, generally lack reference to poverty). But it is not always easy to know what to make of references to hunger and famine: although famine would constitute a plausible scenario for self-sales, it could be mentioned even when the terms of the agreement suggest that the self-seller had more bargaining power than would seem likely if they had been completely destitute. Poverty was cited in documents covering a wide range of outcomes, including some in which the dependant did not even become unfree. The formulae *Cartae Senonicae* nos. 3 and 4, for instance, show us two free people said to be threatened by famine: one of them negotiated for a loan in exchange for labour, and in this instance no mention was made that this labour would even be unfree; the other simply sold himself. This diversity of solutions despite supposedly identical circumstances also comes up in the case of two free men in *Formulae Visigothicae* nos. 32 and 36, both of whom are said to

be poor, and neither of whom is said to have anything to offer except labour: the first sells himself, whereas the second manages to enter a lord's service as a *colonus* instead, getting land in exchange for a tenth of his future produce. We can only speculate as to the reasons for this divergence in outcomes, but what is obvious is that the use of a blanket vocabulary of poverty was masking what must have been very different circumstances. The insistence on poverty was no doubt partly intended to describe the lord's action as a favour, and to emphasise his *pietas*. As Barthélemy has suggested for references to poverty in documents from Marmoutier, it could also have served to reinforce the validity of the transaction: "the alienation of oneself or of one's property was a grave act in the society of that time; in order to stop relatives from disputing its legitimacy, the givers had [to be seen] to have been constrained by poverty and necessity."[69] References to poverty perhaps merely reflected what was expected of this particular style of document. All this gives documentary treatments of self-sale an artificial and implausible air of similarity. Early medieval documents, like literary texts and some laws, participated in an elite discourse which emphasised the value of freedom in very Roman terms; but they also show that people could think it advantageous to give it up in a variety of situations, and not merely when they were at the point of death.

This diversity in social and financial circumstances is mirrored in surviving documents. A number of people seem to have given themselves to the abbey of Farfa in central Italy during the second half of the eighth century, but with significant variations: some documents show greater concern for material support, and suggest actual dependence in practice; others suggest a much looser connection with the monastery. The case of Ubaldinus is an example of the former: he gave himself and his property to Farfa in 772 and agreed to perform service for it (*ut debeam servire*), specifying that he, in return, should obtain clothes and shoes from the monastery "as the other brothers do" (*sicut alii fratres*). He was clearly trying to downplay the distinction between himself and the monks, but the penalty clause made it clear he would have to pay twenty *solidi* if he ever tried to leave.[70] By contrast, when a wealthy widow and her daughter gave themselves and their property to Farfa six years later, they made no mention of service at all, and included no penalty clause: instead they gave a substantial amount of property, including a church.[71] It is difficult to see in what sense these women had "given" themselves to Farfa, or that their lives would have changed much as a result: perhaps they were mainly concerned with securing legal representation. If these are seen as the ends of a scale, there were many variations in between, as in the complicated later case of a man who agreed to become a *servus* of Farfa while giving only half of his moveable property, but not before having handed over a fairly substantial gift of land, including, it seems, a church and a watermill.[72]

Bavaria, another well-documented region, provides some ninth-century examples of what appear to be documents of autodedition, though they do not explicitly mention unfree status. Hammer counts them as evidence that Bavaria was still a "large-scale slave society" in the Carolingian era, placing it in continuity with the Roman world rather than with the central middle ages.[73] A document from 818 shows us a free man named Perahart conveying himself *in servitium* along with his property to Freising in exchange for food and clothing.[74] Bavarian documents, however, also show us some apparently more prosperous

people conveying themselves and their property to religious houses, mirroring the situation observed by Barthélemy in Touraine two hundred years later: one Lantfrid, who gave himself and his property to the diocese of Salzburg, is described as a *nobilis vir*.[75] These more surprising situations have traditionally been explained not in terms of unfree service, but as proto-vassalic relationships (for monasteries there is an additional possible ambiguity with entry as a monk). One example is Hammer's interpretation of a document from Freising which says that a certain Vuldarrich *se ipsum tradidit in servitium* in exchange for a land grant given in return for his being *fideliter in servitio*: because of the use of the word *fideliter*, Hammer took this to be an early example of a feudal relationship ("vassalage, even though that precise term is lacking"), but all servants, whether free or unfree, were after all supposed to be faithful, and all could also receive land grants, as indeed did many of Barthélemy's *servi*, so this interpretation is not decisive.[76] More favourable terms in the agreement do not necessarily imply that a wholly different sort of transaction was taking place. It is true that the common vocabulary of *servitium* at all levels of dependence, including military, political and religious, is bound to create ambiguities. Indeed such ambiguity, particularly in the blurring of the lines between unfree service and religious service, would have been likely to add to the appeal of the former, by lending highly positive connotations to the language of serving and giving. In the case of the Farfa documents, where self-givers seem least prone to comment on their own need, this may even have corresponded to a deliberate feedback loop: new monks (especially, but not exclusively, in documents recording parents' gift of their children as oblates[77]) borrowed from the language of unfree service to heighten the seriousness of their commitment; their own documents were then mimicked in genuine autodeditions in order to absorb the honourability and spiritual value associated with them.

The fact that it is often difficult to tell the difference between free and unfree service in documents may be significant in itself. One text from the Tours formulary, in which a man gave himself to a lord "as a free man", in every other respect presents strong similarities with formulae of self-sale. These resemblances do not mean that this man was not indeed free as a result of this agreement: it simply means that the difference between agreements leading to freedom and those leading to unfreedom was sometimes only a question of degree.[78] Perhaps the neatest encapsulation of this is to be found in a document from Lucca, in which a man ended up giving himself involuntarily, as a result of a scribal error: he had meant only to give his property to a church, but the scribe wrote that he was giving himself as well (once the mistake was discovered the scribe had to write a replacement charter and explained what had happened on the back).[79] The very fact that a scribe could make such a mistake shows that adding oneself on top of one's property as part of a gift was not perceived as lending the transaction a fundamentally different or more traumatic character. All this suggests that self-sales need to be situated on a broader spectrum of agreements involving service and payment: a free status was only one valuable bargaining chip among a range of others. People entering free service were merely those who had been able to negotiate better terms: on which side of the free-unfree divide one ended up presumably depended on each person's bargaining position, though what that was is usually left unsaid. This is still not a rosy

picture, and some people clearly did do bad deals; the important thing is to be aware that these were not the only kind of deal.

It is particularly crucial in this respect to distinguish between the sort of unfreedom that free people could negotiate for and that experienced by people who had been born unfree or who had been enslaved in punishment for a crime. Many formulae of self-sale or even temporary transfer of status insist that the lord would have the right to deal with his new unfree dependants "as with his other *servi*," reinforcing the idea that they would live under the same condition, often with particular reference to the risk of corporal punishment.[80] Some, however, did not: for instance, although other documents in the formulary of Angers include this clause, the couple entering unfreedom with property in tow said nothing of the kind, and neither did the man who pledged half his free status in exchange for a loan. No doubt there could be wide gaps between these self-sellers and the *mancipia originaria* to whom they refer.

It may, however, have been quite a different matter for the children of these self-sellers. These presumably did not have as good a scope for negotiation, and this brought them closer to the situation of those born unfree than their parents had been. Parents may have tried to guard against this, and perhaps we can see an example of this in the only surviving piece of documentary evidence for self-sale from Anglo-Saxon England, a manumission in which a woman freed a group of people "whose heads she took in exchange for food in those evil days."[81] This may have been purely spontaneous, but it could also have been part of the original understanding between them that they would have priority if she decided to make a manumission. The text insists that all their children "born and unborn" would be free, and this may have reflected an expectation that this arrangement should not spill into future generations. Although the sale of individual children seems to have been common, it was a different matter to depress the fortunes of the family as a whole: determining the terms under which the second generation was to live is likely to have created tensions, as is indeed attested in some disputes in Marmoutier.[82] Perhaps each generation had to work this out through disputes and renegotiation, with lords trying to push greater claims, and dependants trying to downplay what they owed,[83] but either way the second generation, simply by virtue of already being unfree, would have been in a weaker position.

V. Conclusion

The discourse about self-sale shows a great deal of continuity from the ancient to the medieval world, although it was filtered differently in the sources. Roman and Byzantine laws seem to have tried to sweep it under the carpet, because this practice was so distinctly at odds with the ideology of protecting freedom. It was the same high value placed on freedom which occasionally made late antique and early medieval Western writers use the image of self-sale in order to express political dissatisfaction, in a series of symbolic rather than descriptive treatments.

Documents to some extent also participated in this rhetoric, but because they represent real arrangements, they sometimes allow us a glimpse into what looks like a very different situation in practice. Whereas religious-political tracts

made their point by presenting self-sellers as passive and oppressed, documentary texts used Christian rhetoric in other ways. Lords were careful to insist that these arrangements did not amount to the oppression of the poor which they knew all *potentes* must avoid, but rather its very opposite, protection: they presented their actions as amounting to alms-giving, allowing them to stake their own claim to the moral high ground. Equally, self-sellers and especially self-givers, particularly when they gave themselves to a religious institution, could also tap into Christian discourse and present their own action as an honourable gift of themselves, in the spirit of Christian virtue.

This third type of evidence prompts two main observations. The first is chronological: the early medieval documentary evidence for self-sales, although relatively scarce, undermines the idea of dramatic peaks in this practice in either the fifth century or the eleventh. The first traditional peak, in the wake of the fall of Rome, is based on literary evidence, but the topic came up in such sources because of a sudden burst of interest linked to political instability, not because self-sales were necessarily happening more often. The second peak, based on a wealth of documentary evidence, has been largely dismissed as the result of better preservation. In fact I would argue that self-sales were happening everywhere, all the time, though they are not always equally visible. The Loire valley, which throughout this period constitutes an island of unusually good documentary preservation, presents us with good evidence for continuity. In this sense I agree with Liebs and Bonnassie that self-sale was widespread; but I do not accept that this means we should think of it simply in terms of the universal cruelty of man to man, or of a permanent social crisis. Losing freedom was not quite the same as what the law-givers and polemicists who decried it claimed.

This brings us to the second main point to be drawn from early medieval documentary sources on self-sales: the issue of negotiability. People who sold themselves were not always passive victims, and could be quite shrewd in bargaining over their freedom. It is particularly frustrating in this respect not to be able to know more about what sort of work self-sellers did, and how different this might have been from the norm for unfree labour. Barthélemy concluded from the Marmoutier autoeditions that self-sellers were not peasants, but people with specialised skills to offer, and there are parallels to this in earlier documents. In one document from Farfa, unusual in its level of detail, a man gave himself specifically in order to work as a miller, keeping half the revenue of the monastery's mill for his trouble, as well as the freedom to dispose of his property after his death.[84] Even for the Roman period, Ramin and Veyne's upwardly mobile agents (*actores*) and estate managers are not unlike Barthélemy's skilled workers and monastery officials.[85] But this was not the only kind of self-seller: many seem simply to have continued to occupy land which they had transferred along with themselves, and if they obtained good terms the arrangement need not even have had a very drastic impact on their lives.[86] Yet another kind of work features in an example from Western Spain, in which a couple gave themselves to a priest on the understanding that they would live and serve in his house "as good people do" (*sicut facent homines bonos*):[87] perhaps the conditions of domestic slavery too could be remodelled to suit self-sellers. Whatever the circumstances, selling or giving oneself was clearly a difficult and momentous decision to make, and no doubt always a gamble; but that is not the same as the total lack of options suggested in much of the historiography. What Barthélemy has called, in relation to freedmen,

a "bricolage" of status, made up of a patchwork of obligations, was also true of earlier times, and of the status of people who chose to enter into slavery.[88]

The existence of self-sales in the Roman world also shows that voluntary self-sale was not incompatible, as Barthélemy thought it was, with a "classical" slave system.[89] Even allowing for a great deal of continuity, it would be absurd to argue that there was *no* change in the structures of unfreedom between late antiquity and the central middle ages: we are still left with the problem of what changed, and when, and how self-sales may have fitted into this process of change. As ever, the profound differences in the types of available source material for the late empire and the early middle ages makes comparison difficult.

One possibility would be to focus on the way in which the sale was made, and how it affected the new dependant's relationship with his *dominus*. In the middle ages, it is clear that all such arrangements were made personally and bilaterally, without the involvement of any third party: one chose a lord and negotiated with him. Many Roman laws, by contrast, seem to assume the sale would have taken place through a complicit third-party seller. Did people in the Roman world really sell themselves in the market-place? If so, there could have been no significant difference between them and people who had been born slaves, and thus no greater room for bargaining.[90] One of the lives included in Palladius's *Lausiac History* tells the story of a serial self-seller, the Egyptian holy man Sarapion, who is said to have sold himself to various people (some Greek actors, a Manichee) in order to convert them and save their souls—after which he was manumitted and could start all over again.[91] Of course it is in the nature of an ascetic to do things others would not, but perhaps it tells us something that this seemed a plausible scenario, even if his was an unusual motive: Sarapion sold himself to particular people, not through a marketplace. The complicit third-party seller of Roman laws may always have been a legal fiction intended to make it easier to count the transaction as fraud, which was paradoxically the only way to ensure its permanence.[92]

It is possible, on the other hand, that entering unfree service in the early middle ages involved joining in a wider community than it had in the Roman world, though it is also possible that this is a trick of the light, as so many of the surviving medieval cases involve people coming under the lordship of a church rather than of an individual. Although many of these transactions were formulated as sales and included a price-tag, it is likely that early medieval people entered such arrangements not only in order to secure cash in times of need, but also to create a new relationship or reframe an existing one. Formulating an arrangement of this kind in terms of a sale allowed the use of the language of full ownership, but this was not always sustained in the rest of the document. Self-sale and autodedition could clearly have very similar practical motivations and outcomes—though there was a difference in symbolic capital, because a gift of oneself, especially to a church (but also, as in the case of the Lombard law cited earlier, to a secular lord), could more easily be presented as a Christian virtue, with attendant spiritual benefits, which explains why autodedition was to become the preferred way of expressing such transactions. Despite the continuing formal insistence on ownership as opposed to a bilateral relationship, one could view unfree people as having been "owned" by their *domini* in a less exclusive sense in the early middle ages than they had been in the Roman world—much as the early medieval world also seems to have developed a less

exclusive understanding of property rights over land, leaving more room for overlap. The variety of conditions and statuses in existence in the early middle ages may have left more room for manoeuvre than in Roman times, and it is particularly important to distinguish between self-sellers and people who had been born unfree in this respect. Then again, perhaps Roman self-sellers had already lived under conditions of life substantially different from those of other slaves; if so, it may be appropriate to extend the notion of "unfreedom" alongside that of "slavery" to the Roman world.

The existence of this practice in societies with such conflicting models of unfreedom, some of which may properly be described as slave societies, as with the Roman empire, while others had a more diffuse understanding of unfreedom, as with eleventh-century France, does at least tell us something about the flexibility of unfree status, and the variety of its consequences in practice. What seems certain is that many people in the early middle ages, and also apparently in the Roman world, had a very instrumentalised view of freedom as an attribute or advantage to be disposed of at will, completely at odds with the totalising, almost fetishizing view of freedom which formed such an important part of the contemporary elite political discourse (and, indeed, is so much like our own). People lower down the social order, and not only at the very bottom, clearly thought about it differently, perhaps because only the highest elite who defined this ideology could afford not to be practical about the possibilities of using freedom as a bargaining chip.

Endnotes

1. *On Liberty*, V, 11. See also Montesquieu, *De l'esprit des lois* XV, 2: "Il n'est pas vrai qu'un homme libre puisse se vendre. Vendre sa qualité de citoyen est un acte d'une telle extravagance, qu'on ne peut pas la supposer dans un homme. Si la liberté a un prix pour celui qui l'achète, elle est sans prix pour celui qui la vend."

2. J. Ramin and P. Veyne, "Droit romain et société: les hommes libres qui passent pour esclaves et l'esclavage volontaire," *Historia* 30:4 (1981), 472–97; reprinted in P. Veyne, *La société romaine* (Paris, 1991), 247–80.

3. Seneca (*De beneficiis*, IV, 13, 3) says a slave-merchant might be seen to be doing a favour to those people whom he sold into slavery: Ramin and Veyne take this to refer to self-sale, though it is not clear that this was indeed what Seneca had in mind. More convincing is Clement's statement in his *Epistle to the Corinthians*, I, 55, that "many [Christians]… have surrendered themselves to slavery, that with the price which they received for themselves, they might provide food for others" (on which see P. Lampe, *Stadrömischen Christen in den ersten beiden Jahrhunderten* (Tübingen, 1987), 68–69; A. Lindemann, *Die Clemensbriefe* (Tübingen, 1992), 155). Petronius, *Satyricon* LVII, 4, describes a man who had sold himself into slavery in order to become a Roman citizen through manumission. The most explicit literary reference to self-sale in the Roman world is perhaps Dio Chrysostom, *Oration* 15.20-23, in a fictional dialogue between a free man and slave, in which the latter argues that "… great numbers of men … who are free-born sell themselves, so that they are slaves by contract, sometimes on no easy terms but the most severe imaginable," tr. J.W. Cohoon (Cambridge, MA, 1939), 162–65.

4. With some exceptions (notably W.V. Harris, "Demography, geography and the sources of Roman slaves," *Journal of Roman Studies* 89 (1999), 62–75, at 73, and earlier J. Crook, *The Law and Life of Rome* (London, 1967), pp. 60–61), historians of the Roman empire

have been reluctant to ascribe much importance to self-sale, perhaps because the evidence is bound to remain inconclusive in quantitative terms, and historians of Roman slavery have been more interested in such quantification than early medievalists. Against the idea that self-sales were widespread, see W. Scheidel, "Quantifying the sources of slaves in the Roman empire," *Journal of Roman Studies* 87 (1997), 159–169; see also W. Scheidel, "The Roman slave supply", in K. Bradley and P. Cartledge eds., *The Cambridge World History of Slavery* vol. 1 (Cambridge, 2011), 287–310, at 300. Even the debate between Harris and Scheidel over the sustainability of the slave population of the empire hinges more on child exposure than adult self-sale; child exposure is also the main emphasis in K. Harper, *Slavery in the Late Roman World, AD 275-425* (Cambridge, 2011), 397. J.A. Glancy, *Slavery in Early Christianity* (Oxford, 2006), 80–5, is rather equivocal on this topic, accepting self-sale must have happened occasionally but using this to reinforce the significance of the distinction between free and unfree.

5. M. Bloch, "Comment et pourquoi finit l'esclavage antique?," *Annales E.S.C.* 2 (1947), 30–44 and 161–70. For the feudal mutationist view, see P. Bonnassie, "Survie et extinction du régime esclavagiste dans l'Occident du haut moyen âge (IVe–XIe s.)," *Cahiers de civilisation médiévale* 28 (1985), 307–343; G. Bois, *La mutation de l'an mil: Lournand, village mâconnais de l'Antiquité au féodalisme* (Paris, 1989); both inspired by G. Duby, *La société aux XIe et XIIe siècles dans la région mâconnaise* (Paris, 1953). For a recent argument in favour of this view by an anglophone scholar, see R.I. Moore, *The First European Revolution c. 970–1215* (Oxford, 2000); by and large, however, even those English-speaking historians attracted to the model of a "feudal revolution" in political terms tend to be less certain of its social consequences: see for instance T.N. Bisson, "The 'feudal revolution'," *Past & Present* 142 (1994), 6–42, at 41–2. For an admirably clear and critical review of the historiography, see W. Davies, "On servile status in the early middle ages," in M.L. Bush ed., *Serfdom and Slavery: Studies in Legal Bondage* (London, 1996), 225–46. On terminology, see also H.-W. Goetz, "Serfdom and the beginnings of a 'seigneurial system' in the Carolingian period: a survey of the evidence," *Early Medieval Europe* 2 (1993), 29–51.

6. A. Salmon ed., *Le livre des serfs de Marmoutier* (Tours, 1894).

7. Barthélemy, *La mutation de l'an mil a-t-elle eu lieu?*, 59.

8. D. Barthélemy, "Les autodéditions en servage à Marmoutier (Touraine) au XIe siècle," in P. Contamine, T. Dutour and B. Schnerb eds., *Commerce, finances et société (XIe-XIVe siècles). Recueil de travaux d'histoire médiévale offerts à M. le Professeur Henri Dubois* (Paris, 1993), 397–415, 415. A similar interpretation of the Marmoutier documents had already been put forward by Richard Southern in *The Making of the Middle Ages* (London, 1953), 96–101: "It was not a special degree of misery which drove these men of Marmoutier into serfdom, but the need which was felt on all hands for a more lasting and intimate relationship between landlord and tenant for the cultivation of the soil, than that provided by the forms of free society" (100); "can it really have been so important as it seems to us whether a man was free or unfree?" (98).

9. Barthélemy, *La mutation de l'an mil a-t-elle eu lieu?*, 166, on Carolingian charters of autodedition: "un servage bien français, bien médiéval du moins."

10. Though see also P. Fouracre, "Marmoutier and its serfs in the eleventh century," *Transactions of the Royal Historical Society* series 6, vol. 15 (2005), 29–49, concentrating more on the dispute documents (see especially 45–48 for evidence of continuity from the Carolingian world); and P. Fouracre, "Marmoutier: *familia* versus family: the relations between monastery and serfs in eleventh-century North-West France," in W. Davies, G. Halsall and A. Reynolds eds., *People and Space in the Middle Ages, 300–1300* (Turnhout, 2006), 255–74.

11. See for instance D. Liebs, "Sklaverei aus Not im germanisch-römischen Recht," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Romanistische Abteilung* 118 (2001), 286–311.

12. *Pauli Sententiae*, V.1.1.

13. W.W. Buckland, *The Roman Law of Slavery* (Cambridge, 1908), 427–433; M. Melluso, *La schiavitù nell'età giustinianea: disciplina giuridica e rilevanze sociale* (Besançon, 2000), 27–29.

14. On knowledge or ignorance of the free status of the person being sold, see for instance, *Digest* 40.12.7.2; 40.12.14-16; 40.12.17; 40.12.22.3. On masters buying free people as slaves without knowing it: *Digest* 41.3.44 prologue; see Ramin and Veyne, "Droit romain et société," 473–4. On free people believing they were slaves as a legal problem, see R. Reggi, *Liber homo bonafide serviens* (Milan, 1958); J.D. Harke, *"Liber homo bona fide serviens* und Vertragsgeltung im klassischen römischen Recht," *Revue internationale des droits de l'Antiquité* 52 (2005), 163–80. On age restrictions: *Codex Theodosianus* 4.8.6; *Codex Justinianus* 7.16.16; *Digest* 4.4.9.4; 40.12.7.1; 40.13.1.1.

15. *Digest* 40.12.7.3 and 40.13.5.

16. *Codex Justinianus* 7.18.1 prologue; *Codex Justinianus* 7.16.5.1; *Digest* 40.12.7 prologue; 40.13.1 prologue; 40.13.3; 40.14.2 prologue. See also n. 14 above.

17. See e.g. *Digest* 40.13.4.

18. Ramin and Veyne, "Droit romain et société," p. 475. There is an exception in the case of soldiers, who faced execution if they sold themselves (*Digest* 48.19.14); the harsher penalty was perhaps meant to ensure that their only duty should be to the Roman state.

19. Justinian, *Institutes* I.3.4 and I.16.1; see also *Digest* 1.5.5.1, 1.5.21 and 28.3.6.5.

20. Ramin and Veyne, "Droit romain et société," 483.

21. *Digest* 40.12.37; see also *Codex Justinianus* 7.16.10, issued by Diocletian and Maximian in 293; from the same emperors, see also *Codex Justinianus* 7.14.8, 7.16.39 and 7.20.2.

22. *Codex Justinianus* 7.16.6.

23. The bibliography on this issue has grown to gigantic proportions, but for arguments over taxation see for instance J.-M. Carrié, "Le 'colonat du bas-empire': un mythe historiographique?," *Opus* 1 (1982), 351–70, and "Un roman des origines: les généalogies du 'colonat du bas-empire'," *Opus* 2 (1983), 205–251; W. Goffart, *Caput and Colonate: Towards a History of Late Roman Taxation* (Toronto, 1974).

24. See above, n. 21.

25. In some ways a sense of legal continuity between the Roman and Byzantine empires is inevitable, since the *Digest* dominates the legal landscape of both. *Digest* 1.5.4 and *Institutes* I.3 are thus also commonly cited as evidence for Byzantium; on self-sale in Byzantium, see Y. Rotman, *Les esclaves et l'esclavage: De la Méditerranée antique à la Méditerranée médiévale* (Paris, 2004), 238–41.

26. P. Noailles and A. Dain eds., *Les novelles de Léon VI le Sage* (Paris, 1944), no. 59, pp. 220–23; Rotman, *Les esclaves et l'esclavage*, 241. In a different law (no. 100), Leo made an exception for free people who wanted to marry an unfree person whose master refused to part with their servant: for this purpose only he allowed them to sell themselves to the master of their prospective spouse. This law, however, has less to do with regulating self-sales than with an attempt to prevent mixed-status marriages, since it relies on the idea that both spouses had to be of the same condition.

27. *Basilicorum libri LX*, eds. H.J. Scheltema, D. Holwerda, N. van der Wal, 17 vols. (Groningen, 1953–88), at p. 2117; Noailles and Dain, *Novelles*, p. 220, n. 3. *Digest* 5.5.1 (= *Institutes* 1.3.4).

28. There is also some evidence for self-sales in early Islamic legal texts: Irene Schneider, in a recent article, has convincingly shown that self-sale, autodedition and entry into unfreedom more generally were also a controversial issue for early Islamic jurists, with regional variation in attitudes. Autodeditions thus seem to have been generally accepted in Iraq, but there is little evidence for them elsewhere: I. Schneider, "Freedom and slavery in early Islamic time (1st/7th and 2nd/8th centuries)," *Al-Qantara* 28:2 (2007), 353–382, at 367–8 and 378.

29. For examples, see below, 9–11. Lothar I clearly had concerns of this kind in mind, however, when he ruled that if a man handed himself into service *ingeniose*, all his duties to the state were to pass on to the man who received him (MGH *Capitularia regum Francorum*, ed. A. Boretius, no. 165 (a. 825), cap. 10, vol. 1, 331; see also no. 273 (a. 864), cap. 28, vol. 2, 322).

30. Victor of Vita, *Historia persecutionis Africanae provinciae*, ed. M. Petschenig, Corpus Scriptorum Ecclesiasticorum Latinorum VII (Vienna, 1881), at III, 58, 101.

31. Gregory of Tours, *Histories* VII, 45 (ed. B. Krusch and W. Levison, MGH *Scriptores rerum Merovingicarum* I, 1 (Hanover, 1951), 365). Cited by Bonnassie, "Survie et extinction," 328; Liebs, "Sklaverei aus Not," 296.

32. Sagittarius, a supporter of Mummolus, had admittedly been the wrong kind of bishop: Gregory berated him earlier in the *Histories* for his distinctly unepiscopal conduct, accusing him and his brother, also a bishop, of taking part in military expeditions, arming themselves "like laymen" and "killing many men with their own hands," as well as of murder, assault, adultery, and sending an armed mob to attack another bishop while the latter was celebrating his birthday (*Histories* IV, 42 and V, 20 and 27); but the killing of any bishop, however bad, would presumably still have been shocking to Gregory. Indeed, Sagittarius's death is the first time that Gregory mentions him without criticism, and although he had recounted Sagittarius's expulsion from his see in V, 27, he still refers to him as *episcopus* in this episode (VII, 39). On Gregory's sophistication as a writer, see especially M. Heinzelmann, *Gregory of Tours: History and Society in the Sixth Century*, tr. C. Carroll (Cambridge, 2001).

33. Gregory of Tours, *Histories* VII, 41; VII, 44; VII, 42; VII, 46; VII, 47. The story of Sichar and Chramnesind was made famous by J.M. Wallace-Hadrill, "The bloodfeud of the Franks," in J.M. Wallace-Hadrill, *The Long-Haired Kings* (London, 1962), 121–147 (on which see I.N. Wood, "'The bloodfeud of the Franks': a historiographical legend," *Early Medieval Europe* 14 (2006), 489–504).

34. C. Wickham, *Framing the Early Middle Ages* (Oxford, 2005), 62–64.

35. *De gubernatione Dei* V, 43, ed. G. Lagarrigue, *Salvien de Marseille: Œuvres*, 2 vols. (Paris, 1971–75), vol. 2.

36. *De gubernatione Dei* V, 38–45. On the implausibility of Salvian's claim that these people were actually being turned away from their property, see A. Rio, "High and low: ties of dependence in the Frankish kingdoms," *Transactions of the Royal Historical Society* series 6, vol. 18 (2008), 43–68, at 51–52.

37. *De gubernatione Dei* V, 45; this simile was echoed in the title of a famous article by C.R. Whittaker ("Circe's pigs: from slavery to serfdom in the later Roman world," in M.I. Finley ed., *Classical Slavery*, Slavery and Abolition 8 (1987), 89–107).

38. *De gubernatione Dei* V, 22; V, 24: *spoliati, afflicti, necati … ius Romanae libertatis amiserant*; V, 26.

39. *… multi eorum, et non obscuri natalibus editi et liberaliter instituti …* (*De gubernatione Dei* V, 21); *plerique … et honesti et nobiles* (V, 23).

40. R. Van Dam, *Leadership and Community in Late Antique Gaul* (Berkeley/Los Angeles, 1985), 42–44.

41. *… adquiescimus pauperes vestrae divites voluntati* (*De gubernatione Dei* V, 31). He also exclaims, in one telling passage: "Who, in the presence of a rich man, has not been rated and made to feel like a poor man?" (*De gubernatione Dei* IV, 20).

42. On *pauper* as "weak" rather than "poor," see the ground-breaking article by K. Bosl, "*Potens* und *pauper*: begriffsgeschichtliche Studien zur gesellschaftlichen Differenzierung im frühen Mittelalter und zum "Pauperismus" des Hochmittelalters," in A. Bergengrün and L. Deike eds., *Alteuropa und die moderne Gesellschaft. Festschrift für Otto Brunner* (Göttingen, 1963), 60–87, reprinted in K. Bosl, *Frühformen der Gesellschaft im Mittelalterlichen Europa* (Munich/Vienna, 1964), 106–134. See also the magisterial study by Peter Brown, *Poverty and Leadership in the Later Roman Empire* (Hanover NH, 2002), especially 88. Rosemary Morris has identified a comparable semantic shift in the Greek world ("The powerful and the poor in tenth-century Byzantium: law and reality," *Past and Present* 73 (1976): 3–27).

43. Ephesians 6:5.

44. *De gubernatione Dei* IV, 14; IV, 16; IV, 24–6.

45. See for instance the story of Brachio in Gregory of Tours's *Vita Patrum*, XII, 2; also the story of Sarapion in the *Lausiac History*, below, 17. Perhaps the most famous case is the Byzantine *Life of Saint Andrew the Fool*, ed. and tr. L. Rydén (Uppsala, 1995).

46. On the discourse of liberty deployed in Anglo-Saxon documents, see J. Crick, "*Pristina libertas*: liberty and the Anglo-Saxons revisited," *Transactions of the Royal Historical Society* 14 (2004): 47–71.

47. E.g. Isaiah 10:1–2; Ezekiel 22:7; Lamentations 5:2–3. The classic Old Testament case of indentured labour is Jacob (Genesis 29–31).

48. Wulfstan, *Sermo Lupi ad Anglos*, ed. D. Bethurum, *The Homilies of Wulfstan* (Oxford, 1957); translation D. Whitelock, *English Historical Documents* vol. 1 (c. 500–1042), 2nd edn. (London, 1979), no. 240, 928–34. See D. Pelteret, *Slavery in Early Mediaeval England* (Woodbridge, 1995), 95–101. On the political background and for the suggestion that the *Sermo Lupi* was written during the raids of Thorkell's army in 1009–12, see S. Keynes, "An abbot, an archbishop, and the viking raids of 1006–7 and 1009–12," *Anglo-Saxon England* 36 (2007), 151–220.

49. Fouracre, "Marmoutier and its serfs in the eleventh century," 36; see above, 2.

50. *Lex Visigothorum* V, 4, 10, ed. K. Zeumer, MGH *Leges* I, 1 (Hanover, 1902), pp. 220–1 (Erwig's addition possibly alluding to Leviticus 25:39–41); contrast *Digest* 1.5.21.

51. *Formulae Visigothicae* no. 32 (ed. K. Zeumer, *Formulae Merowingici et Karolini Aevi*, MGH Leges V [Hanover, 1886], 589). On this text, see P.C. Díaz, "Sumisión voluntaria: estatus degradado e indiferencia de estatus en la *Hispania* visigoda," in *Studia Historica: Historia Antigua* 25 (2007): 507–24, interpreting it as the establishment of a "light" subjection and a bond of fidelity.

52. *Lex Baiwariorum* VII, 5, ed. E. von Schwind, MGH Leges V, 2 (Hanover, 1926), 352.

53. Liebs, "Sklaverei aus Not," 309–10.

54. *Capitularia* vol. 1, p. 40, no. 16, cap. 6 (*a.* 758–768). The 895 council of Tribur was faced with a similar problem when it was asked whether a man who made himself unfree (*servum se fecerit*) should then divorce his free wife, or, if not, whether she too had to become unfree: the council ruled the couple should not divorce but that the woman should retain her freedom (eds. A. Boretius and V. Krause, MGH *Capitularia regum Francorum* vol. 2, 247, no. 252 *canones extravagantes* cap. 2). See also no. 158 (a. 822–23), cap. 1, ruling that if a man became unfree his wife and children were to retain their freedom, but any future wife would become unfree (vol. 1, 318). No. 142 (a. 819), cap. 6 merely confirmed for free men who voluntarily entered unfreedom the valid-ity of any earlier transactions and the freedom of children already born (vol. 1, 293).

55. *Capitularia* no. 88, vol. 1, 187 (*a.* 776 or 781). R. McKitterick, *Charlemagne: The Formation of a European Identity* (Cambridge, 2008), 112–3, sees this as an attempt to win over the Italian population to Carolingian rule.

56. *Capitularia* no. 273, cap. 34 (vol. 2, 325–327); Leviticus 25:39–41; cf. Exodus 21:2; Deuteronomy 15:12; *Lex Romana Visigothorum*, ed. G. Hänel, Nov. Valent. III, 11, 290–2.

57. Aistulf 22, in *Leges Langobardorum*, ed. F. Bluhme, MGH Leges in Folio IV (Hanover, 1868), 204.

58. See below, 13–14.

59. On self-sale in formularies, see Liebs, "Sklaverei aus Not," 295–309. For a different interpretation, see A. Rio, "Freedom and unfreedom in early medieval Francia: the evi-dence of the legal formularies," *Past & Present* 193 (2006), 7–40, 27–32.

60. For examples of voluntary self-sale, see *Formulae Andecavenses* nos. 17, 19 and 25; *Formulae Turonenses* no. 10 (= *Collectio Flaviniacensis* no. 17). As a result of a loan or debt: *Formulae Andecavenses* nos. 18 and 38; Marculf II, 27; *Cartae Senonicae* nos. 4 and 24. Penal slavery (though note that unpaid debt could also be expressed as theft): *Formulae Andecavenses* nos. 2 and 3; *Formulae Arvernenses* no. 5; Marculf II, 28 (= *Collectio Flaviniacensis* no. 100); *Formulae Salicae Bignonianae* no. 14; *Formularum Pithoei Fragmenta* no. 75 (= *Formulae Salicae Bignonianae* no. 27); all in Zeumer, *Formulae*. For Spain, see *Formulae Visigothicae* no. 32, and also perhaps no. 45, in the same volume. For a discussion and translation of the Angers formulary, see A. Rio, *The Formularies of Angers and Marculf: Two Merovingian Legal Handbooks* (Liverpool, 2008); on formularies as a source, see A. Rio, *Legal Practice and the Written Word in the Early Middle Ages: Frankish Formulae, c. 500–1000* (Cambridge, 2009).

61. Compare *Formulae Andecavenses* no. 22.

62. See above, n. 50.

63. A Merovingian council also mentions that free people who became unfree could redeem themselves and recover a fully free status without becoming freedmen: *Concilia aevi Merowingici*, ed. F. Maassen (Hanover, 1893), 195.

64. See above, n. 30.

65. *Formulae Andecavenses* no. 38.

66. Davies, "On servile status in the early middle ages".

67. *Formulae Andecavenses* no. 25; see Rio, "High and low," 51.

68. W. Hartung, "Adel, Erbrecht, Schenkung: die strukturellen Ursachen der frühmittelalterlichen Besitzübertragen an die Kirche," in F. Seibt ed.,

Gesellschaftsgeschichte: Festschrift für Karl Bosl zum 80. Geburstag (Munich, 1988), vol. 1, 417–38, at pp. 433–34, on H. Wartmann ed., *Urkundenbuch der Abtei St Gallen*, vol. 1 (Zurich, 1863), nos. 203, 181, 240, 281 and 346.

69. See Barthélemy, *La société dans le comté de Vendôme*, 300: "… l'aliénation de soi ou de son patrimoine est un acte grave dans la société de ce temps; pour que des parents n'en contestent pas la légitimité, il faut que la pauvreté, la nécessité aient contraint les donateurs. On doit donc les souligner, et c'est fait depuis très longtemps, dans les formulaires du haut Moyen-Age. En d'autres termes, ces allusions renseignent autant et plus sur 'l'atmosphère mentale' de toute une époque que sur les 'conditions de vie' à l'échelle d'une année ou d'une décennie."

70. I. Giorgi and U. Balzani eds., *Il Regesto di Farfa*, vol. 2 (Rome, 1879), no. 81, 77.

71. *Regesto di Farfa* vol. 2, no. 119 (*a.* 778), 102–03 (see also no. 92, *a.* 775, 85–86).

72. *Regesto di Farfa*, vol. 3 (Rome, 1883), no. 452 (*a.* 1004), 165.

73. C.I. Hammer, *A Large-Scale Slave Society of the Early Middle Ages: Slaves and their Families in Early Medieval Bavaria* (Ashgate, 2002), 52.

74. *Die Traditionen des Hochstifts Freising*, vol. 1, ed. T. Bitterauf, Quellen und Erörterungen zur bayerischen Geschichte, neue Folge Bd. 4 (Munich, 1905), no. 404, 348–49.

75. *Breves Notitiae* XIV, 7, in *Salzburger Urkundenbuch* vol. 1: *Traditionskodizes*, ed. W. Hauthaler (Salzburg, 1910), 37 (for a more recent edition, see F. Losek, "Notitia Arnonis und Breves Notitiae. Die Salzburger Güterverzeichnisse aus der Zeit um 800: Sprachlich-historische Einleitung, Text und Übersetzung," *Mitteilungen der Gesellschaft für Salzburger Landeskunde* 130 (1990), 5–192); Hammer, *A Large-Scale Slave Society*, 127. This is significant even allowing for the possibility that the word *nobilis* was applied more liberally in Bavaria than elsewhere in the Frankish kingdoms (C.I. Hammer, "Land sales in eighth- and ninth-century Bavaria: legal, economic and social aspects," *Early Medieval Europe* 6 (1997), 47–76, at 72, n. 75).

76. *Traditionen des Hochstifts Freising* no. 257, 230–231; Hammer, *A Large-Scale Slave Society*, 52. On land grants to unfree dependants, see Rio, "High and low," 53–55.

77. See M. de Jong, *In Samuel's Image: Child Oblation in the Early Medieval West* (Leiden, 1996).

78. I have tried to argue this elsewhere; see Rio, "High and low." *Formulae Turonenses* no. 43; J.-P. Devroey, *Puissants et misérables: Système social et monde paysan dans l'Europe des Francs (VIe–IXe siècles)*, Classe des Lettres series 3, vol. 40 (Académie royale de Belgique, 2006), 164–65. For an important discussion of comparable issues in medieval Scotland, see A. Taylor, "*Homo ligius and unfreedom in medieval Scotland*", in M. Hammond ed., *The Paradox of Medieval Scotland, 1094–1286* (Woodbridge, forthcoming).

79. *Codice Diplomatico Longobardo*, ed. L. Schiaparelli, vol. 2 (Rome, 1933), no. 251, dated 5 April 771, 331. This was an easy mistake to make, since most (intentional) auto-deditions from the Lucca archive are extremely similar in wording to simple donations of property, only adding a *me ipsum* or *me ipsum persona mea* before the usual list of assets: see for instance no. 157, 86–8, a curious case in which a married woman gave herself and her house to a church, while retaining it in usufruct until her death and that of her husband; no. 193, 181–3, in which a man gave himself with the consent of his father, and stressed he should be treated like any other unfree servant (*comodo unus de aliis seruis ipsius eclesie*); no. 200, 198–9, in which two men gave themselves and their property to a church, but with no greater consequence than having to pay one *solidus* each year; nos.

259, 354–6 and 266, 370–1, dealing with clerics giving themselves and their property to the churches in which they were to serve, arguably a special case; or no. 269, 375–7.

80. E.g. *Formulae Andecavenses* no. 19; *Formulae Marculfi* II, 27; *Formulae Turonenses* no. 10.

81. This text, dating from around 1050, is in the Durham *Liber Vitae* (BL Cotton Domit. A. vii, at fol. 43), ed. W. de Gray Birch, *Cartularium Saxonicum*, 3 vols. (London, 1885–93), vol. 3, 358, no. 1254 (= *Manumission* §6.1 in Pelteret, *Slavery*); for a translation, see Whitelock, *English Historical Documents* vol. 1, no. 150, 610–611.

82. Discussed by Fouracre, "Marmoutier and its serfs in the eleventh century," 38: "Entry into serfdom might be seen as a career move for some, but it seems that it could be regarded as a disability in the coming generations, even when the original enserfment had been voluntary … Whatever immediate advantages of giving oneself as a serf to the monastery, it seems clear that they might be outweighed by the future disadvantages."

83. Barthélemy, "Autodéditions," 411–412.

84. *Regesto di Farfa* vol. 2, no. 145 (*a.* 788), 122.

85. *Digest* 28.3.6.5; *Codex Justinianus* 7.16.10; *Codex Theodosianus* 4.8.6.1. On self-sale as a means of upward social mobility, see Ramin and Veyne, "Droit romain et société," pp. 493–497; also P. Garnsey, *Ideas of Slavery from Aristotle to Augustine* (Cambridge, 1996), 5.

86. Etienne Renard has identified some *mancipia* in the polyptych of St-Bertin apparently living under a different regime from that of the monastery's other dependants, and suggests (albeit with some reticence) they or their parents may have been self-givers: E. Renard, "Lectures et relectures d'un polyptyque carolingien (Saint-Bertin, 844–859)," *Revue d'histoire ecclésiastique* 94 (1999), 373–435, at 422–24.

87. *Portugaliae Monumenta Historica a saeculo octavo post Christum usque ad quintumdecimum: Diplomata et Chartae*, ed. A.H. de Carvalho e Araujo and J. da Silva Mendes Leal (Lisbon, 1867–73), vol. 1, 40, no. 70 (from 956). I am very grateful to Wendy Davies for pointing me to this text.

88. Barthélemy, *La mutation de l'an mil a-t-elle eu lieu?*, 135.

89. Barthélemy, *La mutation de l'an mil a-t-elle eu lieu?*, 135: "Ajoutons que, dans son principe même, un esclavage est de naissance ou par captivité. Une servitude volontaire ou consentie en un acte d'asservissement n'en est pas un!"

90. The passage from Seneca cited by Ramin and Veyne (*De beneficiis*, IV, 13, 3) supposes the existence of a merchant, but this text is ambiguous, and it is not in fact completely clear that it does refer to self-sale.

91. Palladius, *Lausiac History* 37, tr. R.T. Meyer (London, 1965). I am grateful to Richard Duncan-Jones for alerting me to this example. There is another case of a devout self-seller in Leontius of Neapolis's *Life of John of Cyprus*, ch. 21, in which a customs officer named Peter sells himself to give the money to the poor—with less happy consequences, as he is beaten by the other slaves of the household: *Vie de Syméon le Fou et Vie de Jean de Chypre*, eds. A-J. Festugière and L. Rydén (Paris, 1974).

92. Though note that this complicit vendor is also found in the writings of Rabīʿ, a jurist in late eighth- or early ninth-century Basra: Schneider, "Freedom and slavery in early Islamic time," 367.