Freedom is a Woman’s Song: 
A Critical Analysis of Moses I. Finley’s Remarks on Slavery and Freedom

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Moses I. Finley maintains that “freedom is not a useful category” for discussing societies in which one form of servitude shades into another.¹ According to him, this category is misleading because its scholarly use often suggests that social status is either free or unfree; such usage hinders a more nuanced interpretation of the social location of individuals within ancient societies. Areas “between” slavery and freedom exist, often shade into one another and are not adequately captured by the antinomy between freedom and slavery. The use of a continuum model to represent the social distance between free and unfree gradations in status is problematic as well, seeing as it is “too smooth.”² It fails to distinguish between those who possess traits from both poles or cannot be neatly placed in the middle. Finley’s analysis calls for scholarship to surpass the antinomy between freedom and slavery, yet he does not offer a way of talking about status without using it. It is in fact accentuated with different meanings in different historical contexts. I will argue that Finley’s analysis is limited by two major problems. First, he ignores the distinction between written and unwritten ancient law, and second, he does not interrogate or figure the differential status of women into his analysis. Both are indeed crucial for understanding the status of freedom in ancient societies. Finley suggests that because freedom and slavery is now a useless binary with too many exceptions “it is pointless to ask where one draws the line between the free and the unfree.”³ Looking closer at ancient laws and the status of women, I suggest by contrast that the concept “freedom” has yet to exhaust its usefulness to scholarship. The first section of this paper will summarize Finley’s key arguments, addressing the category of freedom, and incorporate them into a subtler interpretation of ancient law. I will then turn to accounts of women in Greek

² Ibid.
³ Ibid.
tragedy for an explanation of how gender is integral to differential status. I will conclude by arguing that, considering the social situation of ancient women, freedom is not a useless category.

Finley’s Problem and the Development of Ancient Law

Finley is chiefly concerned with problems arising from scholarship that lends currency to the antinomy between slavery and freedom in expositions of the status of ancient peoples. Applications of such scholarship prove misleading as they overgeneralize the social conditions that prevailed in the ancient world. To remedy this scholastic problem, Finley suggests that “various combinations [of status] must be weighed and judged in terms of the structure of the individual society under examination.” That is, it is fruitless to impose unity on and draw comparisons across different societies without first understanding the respective conditions of each. In this section, focusing on the conditions of ancient Greece, I hope to draw out some of the relevant difficulties surrounding Finley’s analysis by scrutinizing his problematic in relation to discrepancies between written and unwritten ancient law.

In Athens, a non-citizen could not feasibly own property, so slaves there had retained little desire to be manumitted as this was likely to impose upon them the status of non-citizen. Further, a non-citizen could not marry a citizen, and slave children were also not freed even if their slave parent(s) were freed. Upon manumission, slaves who became non-citizens were likely to face new hardships. As such, it is inaccurate to refer to any of these cases in any strict categorical sense. If the category “free” is taken to mean someone who evades harm by virtue of her status, then none of these cases apply seeing as all of them bear some sort of familial or financial burden that is grounded in social positioning.

Outsiders, who could very well be neighbours of “similar stock and culture” were often labelled as barbarians by the Greeks. This disparity in status seems to rest on the sole fact of their being outsiders rather than on any type of racial bias. Finley states that the social shift to a free-insider and a slave-outsider respectively, in both Athens and Rome, cannot be properly explained because “the decisive changes occurred precisely in the centuries for which we lack

4. Ibid.
5. Ibid., 240.
6. Ibid., 246.
documentation.” This explanation is lacking, since even if documents were found, unless interrogated with respect to marginalized group perspectives, they would circumvent a more holistic and accurate depiction of social reality with regard to status. An instance of the perils associated with neglecting social positions is Finley’s uncritical acceptance of a unity between written and unwritten law, which has the effect of disguising pertinent social facts about “slave” statuses.

A law-centred investigation of status in the ancient world ought to take stock of the complexity of law. For instance, while some laws were written, others were not. This distinction especially pertains to ancient Greece, where written laws were referred to as nomos and unwritten laws or customs were called nomima. It was not until the second half of the fifth century that written law became a distinct category. One can easily imagine how troublesome it is for scholars to ascertain which laws apply to each specific status; laws could be broken, challenged and ignored depending on circumstances and all the more often with respect to dictums that remained unwritten. As will later be discussed, central themes in Greek tragedy deeply resonate with the conflict between different interpretations of law and justice. Finley does not indicate whether his explanation of the divergences in status outside the aforementioned antinomy alludes to nomos or nomima, which renders his investigation quite difficult to navigate at times. By treating ancient laws as definitive evidence, he takes their accuracy for granted, disregarding the contradictory forms they assume in society. Consequently, his analysis falls prey to misrepresentation.

Finley appraises legal codes such as those of the Gortynians’ of Crete favorably as proof of certain claims and further espouses documentation of the Ancient East as the optimal evidence for status comparison. While accepting historical investigation as his method of inquiry, Finley seems to neglect the historical context of documentation itself. He fails to articulate in what way comparing laws across different cultures can help illuminate the specificities of

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7. Ibid., 247.
11. Ibid., 236.
status in a given society. His analysis would benefit from the adoption of his own advice with respect to evidence, namely, that it ought to be weighed within and against its social context. Finley proposes—though does not pursue—a re-examination of Greek and Roman myth in hope that this would tease out some of the confusion surrounding status. I concur with this proposal and will now explore it in greater detail. Such an inquiry, to my mind, would adequately address the developing and conflicted nature of status in society since it stresses social encounters, ideas and language; these can in turn provide insights into the self-contradictory expressions, written and unwritten, of ancient law.

Greek Tragedy, the Developing State and Status

Where Finley’s analysis begs for amplification is his remark on the differences between the politics of the Near East, which are a function of religion, on the one hand, and Greece and Rome, where religion was a function of political organization, on the other.12 Serving the gods was not as much of a duty in ancient Greek and Roman life as it was in the ancient Near East. Finley notes this disparity but still suggests that documents of the East may aid in understanding statuses in ancient Greece and Rome, his civilizations of primary concern, when this reading would only further confuse social realities. This is especially true given that ancient Greece was at times undergoing a transition from customary laws, or nomima, considered divine, and nomos man-made (of the state).13 Greek tragedy exposes the tensions between these laws, perhaps most clearly in Sophocles’ Antigone. In this play the character Antigone must struggle between the divine custom of burying the dead and the mortal edict of Creon who condemns the proper burial. Her task illuminates the disparity between law and other prevailing consciousnesses of the time.14 Written law was popularized during the turn to democracy in Athens, when it became a check to inequality and arbitrariness in the execution of rules and a means to ensure fairness.15 Finley’s interpretation of the conflict between political and religious organization of the state does not account for language or its bearing on socio-political development, which is

12. Ibid., 246.
13. Patterson, Freedom in the Making of Western Culture, 121.
14. The very name Antigone means “one who is of the opposite opinion” (anti=opposite, gnomi=opinion).
15. Thomas, Literacy and Orality in Ancient Greece, 145.
integral to deciphering social patterns. Growing literacy and the presence of a more robust civic class were tied to the birth of the ideology of democracy in ancient Greece. This ideology required the formation of language and laws that were lacking in the religious organization of the time. The consequences of the linguistic tide on social status are not to be found in the appraisal of law documents. It is in Greek tragedy that discussions of the developing civic language emerge enmeshed in social implications.

The tragedy offers deeper insight into the nature of the social distance between members of society at the time, especially between men and women. Finley impoverishes his analysis of status by excluding women, for surely they were treated differently than men. To ask what makes one man’s status different from another man’s is at the same to raise the question: what distinguishes men’s status from that of women? Orlando Patterson, for his part, provides key insights into the social position of women in ancient Greece using Greek tragedy.

With the development of democracy and the turn to large-scale slavery, women in Athens were increasingly relegated to the home as their presence in other spheres of society became redundant. A citizen woman’s function was to provide children to her husband, and she was given little choice regarding who she married. Freedwomen, on the other hand, had more options in their relations with men and could also become part of the economy, yet were denied procreation of free children.\textsuperscript{16} Finley employs these contrasts to demonstrate the existence of statuses between slavery and freedom. Was the citizen woman, who had been forced into the home to produce children, less free than the non-citizen woman, particularly a freedwoman, who could run her own business and become an active part of society? The ancient poet Hesoid’s writings on women initially seem charitable towards such ideas that women were able to attain sufficient freedoms. Patterson suggests, however, that these writings are overtly misogynistic and remain merely examples of men’s retaliation against women’s freedoms, demonstrating in the process that women \textit{did} enjoy certain freedoms, but were resented for this. Hesoid provides no satisfactory account of how, by the end of the 6\textsuperscript{th} century, women found themselves in subjection, and thus he and other male poets perhaps only further highlight the discontentment characterizing the relations between men and women in ancient Greece.\textsuperscript{17}

Language incorporated into Greek tragedies is demonstrative of social

\textsuperscript{16} Finley, \textit{Between Slavery and Freedom}, 240.

\textsuperscript{17} Patterson, \textit{Freedom in the Making of Western Culture}, 63.
prettensions evaded by the formal language of ancient law. Tragic stories invoke “man’s place in language” through dialogue and struggle.18 Finley’s linguistic analysis pivots around his preoccupation with ancient scholars’ inability to execute proper translations and the lack of terms available to describe status. While this analysis carries important implications, it must be acknowledged that terms should be analysed with respect to the embodied contexts in which they arose.19 Bodies of men and women were in different social and political locations and thus spoke differently about their worlds. The Janus-faced experiences of women are caught up in tragedy’s dramatic dialogue: “The tragedies produced in the city seem to draw on the vocabulary, issues and power struggles, of that developing civic language.”20 Such dialogue depicts a social rupture between women, on the one hand, and the state and men on the other. But a woman faces her struggle from a position of being enslaved inside her own body—enslavement that is seemingly her only contribution to the state—condemned from the moment she was born:

Oh light of day!
I still can cry the light
In that little space of life I have to live
Before I die upon Achilles’ tomb.21

A common theme of tragedy appears in this excerpt from Antigone. This little space she has to live in is the house she cannot escape, the lack of education she receives and her general lack of social mobility. Her little space, this body, is the vessel of material rebellion that carries with it all the contradictions between nomo and nomima as it navigates between man-made codes, representative of the sovereign state, and her own laws, those of the family. Antigone equates her marriage with death and slavery, and has been socially dead for a long time.22 Creon, who represents the state and the male virtues associated with freedom, is opposed by his daughter, she who seeks to restore the kin-based nomima. Antigone represents the social distance between men and women, even family

18. Ibid., 122.
21. Ibid., 120.
22. Ibid., 127.
members of the same class. Her actions unmask the developing shift in ancient society and intimates how this change would affect life for women without political power: “This not only defies the patrilineal principle of Athens, but flies in the face of the most important sociological basis of the democratic state: the Cleisthenian shift from kin-based phratry to localized deme.”23 The shift from phratry to deme meant women were no longer even rulers of their kin, that everything would be under the state.

“Freedom Is a Woman’s Song”

Finley does not define the terms freedom and slavery precisely because the object of his investigation is to expose their instability. For the purposes of this paper, I suggest that all that is meant by the term “slave” is the “other” of society, in contradistinction to someone who benefits from a socially inclusive position. Citizenship is the closest to inclusivity in a democratic society, as it entrenches the capacity to mold society. Women, even as citizens, were unable to politically shape society because the extent of their civic duty usually consisted in three unsavory roles: wife, prostitute or concubine. They were property of the state inasmuch as they were always in men’s possession. Though there are exceptions to this and entrepreneurial women did exist in varying numbers, they still faced struggles from which men were exempt. Politics was the most valued activity in society, and women found themselves outside of this realm; their bodies served as their main contribution to society. Men, even male slaves, owing to their classification as “naturally” smarter and brawner relative to women, were regarded as the sole bearers of the capacity to transcend limitations. Finley ignores this inequality by stating that men are “bundles of claims, privileges, immunities, liabilities and obligations with respect to others. A man’s [emphasis my own] status is defined by the total of these elements which he possesses or which he has (or has not) the potential of acquiring.”24 Both actual and potential social mobility are considered by Finley, yet he neglects the fact that men’s particular status could be transcended whereas women, the political and social outsiders, lacked equivalent claims to the transformation of society and their place within it.

Women did not merely lack claims to positions of mobility, they were always in a position of inferiority. According to both nomos and nomima, women,

23. Ibid., 128.
24. Finley, Between Slavery and Freedom, 247.
Unlike men, could never dominate others. Patterson argues that slave-women’s conception of freedom differed from that of male slaves, who in fact sought to attain mastery over others. Freedom in this sense was the positive freedom to enslave others. Conversely, women wanted to return to their natality, their birth, because beyond this threshold they found only subpar existence. This is nowhere more evident than in tragedy, which treats death as ultimate salvation. Antigone is “God’s child and God she was. We are born to death. Yet even in death you will have your fame.” Patterson concedes that any slave who has seriously thought about his or her freedom would consider this divine renatalization. Frantz Fanon recognizes, specifically in the section “Concerning Violence” in the *Wretched of the Earth*, the necessary psychological yearning of those who are dominated to become masters. Finley likewise stresses this psychology by adding that chattel slaves, who were the most disenfranchised, nevertheless desired to become masters or reclaim ownership of their lands and as such had no interest in abolishing the institution of slavery. Women were not unique in their desire for rebirth and freedom, for males faced hardships as well; but women were up against greater odds. Her social resistance through acts subversive of state patriarchy created a new space for consciousness and a conception of freedom hitherto unavailable to men, who possessed greater social mobility since birth. This differential consciousness of freedom arises from her spatio-material and embodied perceptions of what it means to be marginalized and excluded from formative society.

Ancient women, regardless of status, were essentially outsiders. It follows that, analysis of women’s social role should be included in any investigation of status because the antinomy between slavery and freedom has as its corollary, slave-outsider and free-insider, in the societies scrutinized in this paper. If “outsider” denotes woman, and “insider” denotes an actual and/or potentially mobile male, it becomes clear that women were neither free nor insiders. Antigone is essentially a “political criminal” and thus exposes Athenian democracy’s “complete exclusion of women from civic life.” Some women, such

26. Ibid., 132.
27. Frantz Fanon, *The Wretched of the Earth* (New York: Grove Press, 1963), 35-95.
29. Patterson, *Freedom in the Making of Western Culture*, 129.
as aristocrats, indeed transgressed their bundles of claims and limitations. The majority of ancient Greek women, however, could not be freed from male guardianship, be it in the form of kyrios, her husband, or her spaces of domestication. For Aristotle “the condition of the free man is that he does not live under the restraint of another.” Though tragedy is not entirely reflective of social reality, it nevertheless offers valuable information on the social and political enslavement of women through conflicting metaphors of death, oppression, life and nature. For women slaves, even higher society members like Antigone, “death is the double negation that leads to social rebirth, renatalization, reconnectedness.” Being dead—socially and politically—is the necessary precondition for birth or emancipation.

The traditional category of freedom is fruitless for Finley not only because of its confusing expressions within society and inconsistent application, which I hope to have illuminated, but also because by excluding women from his account he ignores those for whom the category is most useful. If freedom is redefined to include freedom from the unique oppressive living conditions faced by women, new meanings and applications may be discovered for the slavery-freedom antinomy. The confusion regarding labeling by way of status in ancient Greece is summed up by Diogenes who declares that “status does not matter.” It does not matter for men because it is actually only another way of explaining their general labor conditions. Put another way, men possessed different statuses because of the labor requirements needed to sustain and develop society. No third abstract thing united men with their labor or “slave” status, such as “race.” Contrarily, women’s labor was invariably under the auspices of men, united with a third abstract thing that secured her status in society—her very womanhood. It is clear then that what does matter in regards to status is gender, since “freedom is a woman’s song.”

Bibliography


31. Patterson, *Freedom in the Making of Western Culture*, 130.
32. Finley, *Between Slavery and Freedom*, 244.
33. Patterson, *Freedom in the Making of Western Culture*, x.