

Book XVI. How the Laws of Domestic Slavery Bear a Relation to the Nature of the Climate

1. Of domestic Servitude. Slaves are established for the family; but they are not a part of it. Thus I distinguish their servitude from that which the women in some countries suffer, and which I shall properly call domestic servitude.

2. That in the Countries of the South there is a natural Inequality between the two Sexes. Women, in hot climates, are marriageable at eight, nine, or ten years of age; [1] thus, in those countries, infancy and marriage generally go together. They are old at twenty: their reason therefore never accompanies their beauty. When beauty demands the empire, the want of reason forbids the claim; when reason is obtained, beauty is no more. These women ought then to be in a state of dependence; for reason cannot procure in old age that empire which even youth and beauty could not give. It is therefore extremely natural that in these places a man, when no law opposes it, should leave one wife to take another, and that polygamy should be introduced.

In temperate climates, where the charms of women are best preserved, where they arrive later at maturity, and have children at a more advanced season of life, the old age of their husbands in some degree follows theirs; and as they have more reason and knowledge at the time of marriage, if it be only on account of their having continued longer in life, it must naturally introduce a kind of equality between the two sexes; and, in consequence of this, the law of having only one wife.

In cold countries the almost necessary custom of drinking strong liquors establishes intemperance amongst men. Women, who in this respect have a natural restraint, because they are always on the defensive, have therefore the advantage of reason over them.

Nature, which has distinguished men by their reason and bodily strength, has set no other bounds to their power than those of this strength and reason. It has given charms to women, and ordained that their ascendancy over man shall end with these charms: but in hot countries, these are found only at the beginning, and never in the progress of life.

Thus the law which permits only one wife is physically conformable to the climate of Europe, and not to that of Asia. This is the reason why Mahometanism was so easily established in Asia, and with such difficulty extended in Europe; why Christianity is maintained in Europe, and has been destroyed in Asia; and, in fine, why the Mahometans have made such progress in China, and the Christians so little. Human reasons, however, are subordinate to that Supreme Cause who does whatever He pleases, and renders everything subservient to His will.

Some particular reasons induced Valentinian[2] to permit polygamy in the empire. That law, so improper for our climates, was abrogated by Theodosius, Arcadius, and Honorius.[3]

3. That a Plurality of Wives greatly depends on the Means of supporting them. Though in countries where polygamy is once established the number of wives is principally determined by the opulence of the husband, yet it cannot be said that opulence established polygamy in those states, since poverty may produce the same effect, as I shall prove when I come to speak of the savages.

Polygamy, in powerful nations, is less a luxury in itself than the occasion of great luxury. In hot climates they have few wants, and it costs little to maintain a wife and children;[4] they may therefore have a great number of wives.

4. That the Law of Polygamy is an affair that depends on Calculation. According to the calculations made in several parts of Europe, there are here born more boys than girls;[5] on the contrary, by the accounts we have of Asia, there are there born more girls than boys.[6] The law

which in Europe allows only one wife, and that in Asia which permits many, have therefore a certain relation to the climate.

In the cold climates of Asia there are born, as in Europe, more males than females; and hence, say the Lamas, [7] is derived the reason of that law which amongst them permits a woman to have many husbands. [8]

But it is difficult for me to believe that there are many countries where the disproportion can be great enough for any exigency to justify the introducing either the law in favour of many wives or that of many husbands. This would only imply that a majority of women, or even a majority of men, is more conformable to nature in certain countries than in others.

I confess that if what history tells us be true, that at Bantam there are ten women to one man, [9] this must be a case particularly favourable to polygamy.

In all this I only give their reasons, but do not justify their customs.

5. The Reason of a Law of Malabar. In the tribe of the Naires, on the coast of Malabar, the men can have only one wife, while a woman, on the contrary, may have many husbands. [10] The origin of this custom is not I believe difficult to discover. The Naires are the tribe of nobles, who are the soldiers of all those nations. In Europe soldiers are forbidden to marry; in Malabar, where the climate requires greater indulgence, they are satisfied with rendering marriage as little burdensome to them as possible: they give one wife amongst many men, which consequently diminishes the attachment to a family, and the cares of housekeeping, and leaves them in the free possession of a military spirit.

6. Of Polygamy considered in itself. With regard to polygamy in general, independently of the circumstances which may render it tolerable, it is not of the least service to mankind, nor to either of the two sexes,

whether it be that which abuses or that which is abused. Neither is it of service to the children; for one of its greatest inconveniences is, that the father and mother cannot have the same affection for their offspring; a father cannot love twenty children with the same tenderness as a mother can love two. It is much worse when a wife has many husbands; for then paternal love only is held by this opinion, that a father may believe, if he will, or that others may believe, that certain children belong to him.

They say that the Emperor of Morocco has women of all colours, white, black, and tawny, in his seraglio. But the wretch has scarcely need of a single colour.

Besides, the possession of so many wives does not always prevent their entertaining desires for those of others; [11] it is with lust as with avarice, whose thirst increases by the acquisition of treasure.

In the reign of Justinian, many philosophers, displeased with the constraint of Christianity, retired into Persia. What struck them the most, says Agathias, [12] was that polygamy was permitted amongst men who did not even abstain from adultery.

May I not say that a plurality of wives leads to that passion which nature disallows? for one depravation always draws on another. I remember that in the revolution which happened at Constantinople, when Sultan Achmet was deposed, history says that the people, having plundered the Kiaya's house, found not a single woman; they tell us that at Algiers, [13] in the greatest part of their seraglios, they have none at all.

7. Of an Equality of Treatment in case of many Wives. From the law which permitted a plurality of wives followed that of an equal behaviour to each. Mahomet, who allowed of four, would have everything, as provisions, dress, and conjugal duty, equally divided between them. This

law is also in force in the Maldivian isles, [14] where they are at liberty to marry three wives.

The law of Moses [15] even declares that if any one has married his son to a slave, and this son should afterwards espouse a free woman, her food, her raiment, and her duty of marriage shall he not diminish. They might give more to the new wife, but the first was not to have less than she had before.

8. Of the Separation of Women from Men. The prodigious number of wives possessed by those who live in rich and voluptuous countries is a consequence of the law of polygamy. Their separation from men, and their close confinement, naturally follow from the greatness of this number. Domestic order renders this necessary; thus an insolvent debtor seeks to conceal himself from the pursuit of his creditors. There are climates where the impulses of nature have such force that morality has almost none. If a man be left with a woman, the temptation and the fall will be the same thing; the attack certain, the resistance none. In these countries, instead of precepts, they have recourse to bolts and bars.

One of the Chinese classic authors considers the man as a prodigy of virtue who, finding a woman alone in a distant apartment, can forbear making use of force. [16]

9. Of the Connection between domestic and political Government. In a republic the condition of citizens is moderate, equal, mild, and agreeable; everything partakes of the benefit of public liberty. An empire over the women cannot, among them, be so well exerted; and where the climate demands this empire, it is most agreeable to a monarchical government. This is one of the reasons why it has ever been difficult to establish a popular government in the East.

On the contrary, the slavery of women is perfectly conformable to the genius of a despotic government, which delights in treating all with

severity. Thus at all times have we seen in Asia domestic slavery and despotic government walk hand in hand with an equal pace.

In a government which requires, above all things, that a particular regard be paid to its tranquillity, and where the extreme subordination calls for peace, it is absolutely necessary to shut up the women; for their intrigues would prove fatal to their husbands. A government which has not time to examine into the conduct of its subjects views them with a suspicious eye, only because they appear and suffer themselves to be known.

Let us only suppose that the levity of mind, the indiscretions, the tastes and caprices of our women, attended by their passions of a higher and a lower kind, with all their active fire, and in that full liberty with which they appear amongst us, were conveyed into an eastern government, where would be the father of a family who could enjoy a moment's repose? The men would be everywhere suspected, everywhere enemies; the state would be overturned, and the kingdom overflowed with rivers of blood.

10. The Principle on which the Morals of the East are founded. In the case of a multiplicity of wives, the more a family ceases to be united, the more ought the laws to reunite its detached parts in a common centre; and the greater the diversity of interests, the more necessary is it for the laws to bring them back to a common interest.

This is more particularly done by confinement. The women should not only be separated from the men by the walls of the house, but they ought also to be separated in the same enclosure, in such a manner that each may have a distinct household in the same family. Hence each derives all that relates to the practice of morality, modesty, chastity, reserve, silence, peace, dependence, respect, and love; and, in short, a general direction of her thoughts to that which, in its own nature, is a thing of the greatest importance, a single and entire attachment to her

family.

Women have naturally so many duties to fulfil -- duties which are peculiarly theirs -- that they cannot be sufficiently excluded from everything capable of inspiring other ideas; from everything that goes by the name of amusements; and from everything which we call business.

We find the manners more pure in the several parts of the East, in proportion as the confinement of women is more strictly observed. In great kingdoms there are necessarily great lords. The greater their wealth, the more enlarged is their ability of keeping their wives in an exact confinement, and of preventing them from entering again into society. Hence it proceeds that in the empires of Turkey, Persia, of the Mogul, China, and Japan, the manners of their wives are admirable.

But the case is not the same in India, where a multitude of islands and the situation of the land have divided the country into an infinite number of petty states, which from causes that we have not here room to mention are rendered despotic.

There are none there but wretches, some pillaging and others pillaged. Their grandees have very moderate fortunes, and those whom they call rich have only a bare subsistence. The confinement of their women cannot therefore be very strict; nor can they make use of any great precautions to keep them within due bounds; hence it proceeds that the corruption of their manners is scarcely to be conceived.

We may there see to what an extreme the vices of a climate indulged in full liberty will carry licentiousness. It is there that nature has a force and modesty a weakness, which exceeds all comprehension. At Patan[17] the wanton desires of the women are so outrageous, that the men are obliged to make use of a certain apparel to shelter them from their designs.[18] According to Mr. Smith, [19] things are not better conducted in the petty kingdoms of Guinea. In these countries the two

sexes lose even those laws which properly belong to each.

11. Of domestic Slavery independently of Polygamy. It is not only a plurality of wives which in certain places of the East requires their confinement, but also the climate itself. Those who consider the horrible crimes, the treachery, the dark villainies, the poisonings, the assassinations, which the liberty of women has occasioned at Goa and in the Portuguese settlements in the Indies, where religion permits only one wife; and who compare them with the innocence and purity of manners of the women of Turkey, Persia, Hindostan, China, and Japan, will clearly see that it is frequently as necessary to separate them from the men, when they have but one, as when they have many.

These are things which ought to be decided by the climate. What purpose would it answer to shut up women in our northern countries, where their manners are naturally good; where all their passions are calm; and where love rules over the heart with so regular and gentle an empire that the least degree of prudence is sufficient to conduct it?

It is a happiness to live in those climates which permit such freedom of converse, where that sex which has most charms seems to embellish society, and where wives, reserving themselves for the pleasures of one, contribute to the amusement of all.

12. Of natural Modesty. All nations are equally agreed in fixing contempt and ignominy on the incontinence of women. Nature has dictated this to all. She has established the attack, and she has established too the resistance; and having implanted desires in both, she has given to the one boldness, and to the other shame. To individuals she has granted a long succession of years to attend to their preservation: but to continue the species, she has granted only a moment.

It is then far from being true that to be incontinent is to follow the laws of nature; on the contrary, it is a violation of these laws, which



can be observed only by behaving with modesty and discretion.

Besides, it is natural for intelligent beings to feel their imperfections. Nature has, therefore, fixed shame in our minds -- a shame of our imperfections.

When, therefore, the physical power of certain climates violates the natural law of the two sexes, and that of intelligent beings, it belongs to the legislature to make civil laws, with a view to opposing the nature of the climate and re-establishing the primitive laws.

13. Of Jealousy. With respect to nations, we ought to distinguish between the passion of jealousy and a jealousy arising from customs, manners, and laws. The one is a hot raging fever; the other, cold, but sometimes terrible, may be joined with indifference and contempt.

The one, an abuse of love, derives its source from love itself. The other depends only on manners, on the customs of a nation, on the laws of the country, and sometimes even on religion.[20]

It is generally the effect of the physical power of the climate; and, at the same time, the remedy of this physical power.

14. Of the Eastern Manner of domestic Government. Wives are changed so often in the East that they cannot have the power of domestic government. This care is, therefore, committed to the eunuchs, whom they entrust with their keys and the management of their families. "In Persia," says Sir John Chardin, "married women are furnished with clothes as they want them, after the manner of children." Thus that care which seems so well to become them, that care which everywhere else is the first of their concern, does not at all regard them.

15. Of Divorce and Repudiation. There is this difference between a divorce and a repudiation, that the former is made by mutual consent,

arising from a mutual antipathy; while the latter is formed by the will, and for the advantage of one of the two parties, independently of the will and advantage of the other.

The necessity there is sometimes for women to repudiate, and the difficulty there always is in doing it, render that law very tyrannical which gives this right to men without granting it to women. A husband is the master of the house; he has a thousand ways of confining his wife to her duty, or of bringing her back to it; so that in his hands it seems as if repudiation could be only a fresh abuse of power. But a wife who repudiates only makes use of a dreadful kind of remedy. It is always a great misfortune for her to go in search of a second husband, when she has lost the most part of her attractions with another. One of the advantages attending the charms of youth in the female sex is that in an advanced age the husband is led to complacency and love by the remembrance of past pleasures.

It is then a general rule that in all countries where the laws have given to men the power of repudiating, they ought also to grant it to women. Nay, in climates where women live in domestic slavery, one would think that the law ought to favour women with the right of repudiation, and husbands only with that of divorce.

When wives are confined in a seraglio, the husband ought not to repudiate on account of an opposition of manners; it is the husband's fault if their manners are incompatible.

Repudiation on account of the barrenness of the woman ought never to take place except where there is only one wife:[21] when there are many, this is of no importance to the husband.

A law of the Maldivians permitted them to take again a wife whom they had repudiated.[22] A law of Mexico[23] forbade their being reunited under pain of death. The law of Mexico was more rational than that of

the Maldivians: at the time even of the dissolution, it attended to the perpetuity of marriage; instead of this, the law of the Maldivians seemed equally to sport with marriage and repudiation.

The law of Mexico admitted only of divorce. This was a particular reason for their not permitting those who were voluntarily separated to be ever reunited. Repudiation seems chiefly to proceed from a hastiness of temper, and from the dictates of passion; while divorce appears to be an affair of deliberation.

Divorces are frequently of great political use: but as to the civil utility, they are established only for the advantage of the husband and wife, and are not always favourable to their children.

16. Of Repudiation and Divorce amongst the Romans. Romulus permitted a husband to repudiate his wife, if she had committed adultery, prepared poison, or procured false keys. He did not grant to women the right of repudiating their husbands. Plutarch[24] calls this a law extremely severe.

As the Athenian law[25] gave the power of repudiation to the wife as well as to the husband, and as this right was obtained by the women among the primitive Romans, notwithstanding the law of Romulus, it is evident that this institution was one of those which the deputies of Rome brought from Athens, and which were inserted in the laws of the Twelve Tables.

Cicero says that the reasons of repudiation sprang from the law of the Twelve Tables.[26] We cannot then doubt but that this law increased the number of the reasons for repudiation established by Romulus.

The power of divorce was also an appointment, or at least a consequence, of the law of the Twelve Tables. For from the moment that the wife or the husband had separately the right of repudiation, there was a much

stronger reason for their having the power of quitting each other by mutual consent.

The law did not require that they should lay open the causes of divorce[27] In the nature of the thing, the reasons for repudiation should be given, while those for a divorce are unnecessary; because, whatever causes the law may admit as sufficient to break a marriage, a mutual antipathy must be stronger than them all.

The following fact, mentioned by Dionysius Halicarnassus, [28] Valerius Maximus, [29] and Aulus Gellius, [30] does not appear to me to have the least degree of probability: though they had at Rome, say they, the power of repudiating a wife, yet they had so much respect for the auspices that nobody for the space of five hundred and twenty years ever made[31] use of this right, till Carvilius Ruga repudiated his, because of her sterility. We need only be sensible of the nature of the human mind to perceive how very extraordinary it must be for a law to grant such right to a whole nation, and yet for nobody to make use of it. Coriolanus, setting out on his exile, advised his[32] wife to marry a man more happy than himself. We have just been seeing that the law of the Twelve Tables and the manners of the Romans greatly extended the law of Romulus. But to what purpose were these extensions if they never made use of a power to repudiate? Besides, if the citizens had such a respect for the auspices that they would never repudiate, how came the legislators of Rome to have less than they? And how came the laws incessantly to corrupt their manners?

All that is surprising in the fact in question will soon disappear, only by comparing two passages in Plutarch. The regal law[33] permitted a husband to repudiate in the three cases already mentioned, and "it enjoined," says Plutarch, [34] "that he who repudiated in any other case should be obliged to give the half of his substance to his wife, and that the other half should be consecrated to Ceres." They might then repudiate in all cases, if they were but willing to submit to the

penalty. Nobody had done this before Carvilius Ruga, [35] who, as Plutarch says in another place, [36] "put away his wife for her sterility two hundred and thirty years after Romulus." That is, she was repudiated seventy-one years before the law of the Twelve Tables, which extended both the power and causes of repudiation.

The authors I have cited say that Carvilius Ruga loved his wife, but that the censors made him take an oath to put her away, because of her barrenness, to the end that he might give children to the republic; and that this rendered him odious to the people. We must know the genius and temper of the Romans before we can discover the true cause of the hatred they had conceived against Carvilius. He did not fall into disgrace with the people for repudiating his wife; this was an affair that did not at all concern them. But Carvilius had taken an oath to the censors, that by reason of the sterility of his wife he would repudiate her to give children to the republic. This was a yoke which the people saw the censors were going to put upon them. I shall discover, in the prosecution of this work, [37] the repugnance which they always felt to regulations of the like kind. But whence can such a contradiction between those authors arise? It is because Plutarch examined into a fact, and the others have recounted a prodigy.

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1. "Mahomet married Cadhisja at five, and took her to his bed at eight years old. In the hot countries of Arabia and the Indies, girls are marriageable at eight years of age, and are brought to bed the year after." -- Prideaux, *Life of Mahomet*. We see women in the kingdom of Algiers pregnant at nine, ten, and eleven years of age. -- Laugier de Tassis, *History of the Kingdom of Algiers*, p. 61.

2. See Jornandes, *De Regno et tempor. success.*, and the ecclesiastic historians.

3. See Leg. 7. Cod., De Judæis et Cælicolis, and Nov. 18, cap. v.
4. In Ceylon a man may live on ten sols a month; they eat nothing there but rice and fish. Collection of Voyages that Contributed to the Establishment of the East India Company, ii, part 1.
5. Dr. Arbuthnot finds that in England the number of boys exceeds that of girls; but people have been to blame to conclude that the case is the same in all climates.
6. See Kempfer, who relates that upon numbering the people of Meaco there were found 182,072 males, and 223,573 females.
7. Father Du Halde, History of China, iv, p. 4.
8. Albuzeir-el-hassen, one of the Mahometan Arabs who, in the ninth century, went into India and China, thought this custom a prostitution. And indeed nothing could be more contrary to the ideas of a Mahometan.
9. Collection of Voyages that Contributed to the Establishment of the East India Company, i.
10. See Francis Pirard, 27. Edifying Letters, coll. iii, x, on the Malleami on the coast of Malabar. This is considered as an abuse of the military profession, as a woman, says Pirard, of the tribe of the Bramins never would marry many husbands.
11. This is the reason why women in the East are so carefully concealed.
12. Life and Actions of Justinian, p. 403.
13. Laugier de Tassis, History of the Kingdom of Algiers.
14. See Pirard, Voyages, 12.

15. Exod., 21. 10, 11.

16. "It is an admirable touch-stone, to find by oneself a treasure, and to know the right owner; or to see a beautiful woman in a lonely apartment; or to hear the cries of an enemy, who must perish without our assistance." -- Translation of a Chinese piece of morality, which may be seen in Du Halde, iii, p. 151.

17. Collection of Voyages that Contributed to the Establishment of the East India Company, ii, part II, p. 196.

18. In the Maldivian isles the fathers marry their daughters at ten and eleven years of age, because it is a great sin, say they, to suffer them to endure the want of a husband. See Pirard, 12. At Bantam, as soon as a girl is twelve or thirteen years old, she must be married, if they would not have her lead a debauched life. Collection of Voyages that Contributed to the Establishment of the East India Company, p. 348.

19. Voyage to Guinea, part II, p. 192. "When the women happen to meet with a man, they lay hold of him, and threaten to make a complaint to their husbands if he slight their addresses. They steal into a man's bed, and wake him; and if he refuses to comply with their desires, they threaten to suffer themselves to be caught in flagranti."

20. Mahomet desired his followers to watch their wives; a certain Iman, when he was dying, said the same thing; and Confucius preached the same doctrine.

21. It does not follow hence that repudiation on account of sterility should be permitted amongst Christians.

22. They took them again preferably to any other, because in this case there was less expense. -- Pirard, Travels.

23. Solis, *History of the Conquest of Mexico*, p. 499.
24. Romulus.
25. This was a law of Solon.
26. *Mimam res suas sibi habere jussit, ex duodecim tabulis causam addidit.* -- Philipp, ii. 69.
27. Justinian altered this, Nov. 117, cap. x.
28. Book ii.
29. Book ii. 4.
30. Book iv. 3.
31. According to Dionysius Halicarnassus and Valerius Maximus; and five hundred and twenty-three, according to Aulus Gellius. Neither did they agree in placing this under the same consuls.
32. See the Speech of Veturia in Dionysius Halicarnassus, viii.
33. Plutarch, Romulus.
34. Ibid.
35. Indeed sterility is not a cause mentioned by the law of Romulus: but to all appearance he was not subject to a confiscation of his effects, since he followed the orders of the censors.
36. In his comparison between Theseus and Romulus.
37. Book xxiii, 21.