Institutions, Norms and Practices

In Research Area C, the process of negotiating asymmetrical dependencies takes center stage. Dependency is created at the crossroads of norms and related institutions and practices. In this context, the central fields of study are legislation and legal practice, establishing norms and social practice, as well as literacy and orality.

The interaction between institutions, norms and practices must be conceived as a two-way movement: top-down, i.e. flowing from institutions to practices (for example, when institutions create norms that are – or are not – implemented into practices), and bottom-up (for example, when practices produce norms/regularities and these become 'institutionalized'). The objective of this third research area is to confront current slavery and dependency research with an institutional approach that brings together institutional economics and practice theory and combines it with new debates on legal pluralism (Senn/Gschwend/Pahud de Mortanges 2006; Scott/Hébrard 2012).

Over the last few years, a strong legalistic approach to slavery and asymmetrical dependency has been productively challenged, in particular by Brazilian research on modern Latin-American slavery and by Mediterranean studies on the 'pre-modern' era. Under the heading of second slavery or hidden Atlantic, scholars examined the unfree living conditions of the emancipados, recaptives and kuli in the post-emancipatory colonial societies of Latin America, all of which had long remained invisible due to the predominant Western Abolitionist discourse (Chalhoub 1990 and 2012; Scott/Hébrard 2012; Zeuske 2013: 27-96, Zeuske 2018a).

A large number of previously unnoticed traditions relating to enslavement practices in Muslim and Christian societies in the Mediterranean from the fourteenth to the eighteenth centuries has been discovered (Hanß 2013; Hanß/Schiel 2014). Unfree conditions in other times and spaces – in addition to the classical slaveholder societies of antiquity and the European colonial empires – as well as diverse practices of enslavement beyond the legal institution of slavery have increasingly come into focus in recent years (Clarence-Smith 2003; Lovejoy/Falola 2003; Campbell 2004; Cottias/Stella/Vincent 2006; Mann 2012; Campbell/Stanziani 2013; Witzenrath 2015; Bulach/Schiel 2015; Conermann 2017). In other words, there is currently a shift within research towards acknowledging the historical heterogeneity of the phenomenon of slavery. Especially those forms of asymmetrical dependencies where religious justifications, a supposed agreement of the persons involved, symbolic payments, a signed contract, or a document of manumission render a categorization in terms of the common characteristics of slavery impossible have gained more attention.

Thus, the object of research is no longer slavery as an "institution" (Patterson 1982, but see more recently Patterson 2017a, b) or as "organized unfreedom" (Osterhammel 2000), but rather, as Joseph C. Miller has suggested, "slaving" as a historical strategy and enslavement as a human experience. According to Miller, the dynamics of slaving ought to be analyzed as both a product and a strategy of change itself, of time and timing (Miller 2012: 1-2; 18). Instead of assuming a dichotomy between the powerful masters and powerless slaves, the objective is to analyze – from an expressly historical perspective – the contexts of both sides' agency, asymmetrical dependency and mutual impact (Miller 2008; Miller 2012).

This productive revision and extension of our previous understanding of 'slavery' needs to be made productive for the study of all other forms of asymmetrical dependency and economic exploitation. Different forms of asymmetrical dependencies occur and may be observed in historical societies, e.g. in terms of debt and credit, gifts and gratitude, service obligations and enforced labor visible throughout history. In a society built on differences of power and access to resources, plausible interpretations should explain all contingent and systematic differences among the members of this society (the contingency of life trajectories, the unequal distribution of wealth, differences in terms of social recognition).

Religious institutions may provide such interpretations and will therefore be studied in the context of this research area. Their power largely rests on claims to expert knowledge with regard to metaphysical entities and concepts that are situated beyond the societies in which this power is exercised. The monopoly of this kind of knowledge may produce asymmetrical dependencies between elites endowed with religious knowledge and other members of society. Every societal creation of structure is based on cognitive and normative expectations, containing correct or incorrect perceptions about the world's structure, as well as expectations of how the world should be structured. The normative manner in which these expectations are phrased signals an unwillingness to make any changes.

Non-Western societies are a particularly rich field for research on the convergence between the histories of dependency and law, as legal pluralism was an important characteristic of such societies (Benton/Ross 2013). The same is true for pre-modern Europe. Medieval Europe was characterized by a 'multi-sovereignty' system in which each peasant served three, four, or even more masters: an ecclesiastical lord, a manorial lord, a lord of the court, of the land, of the market, and so on. In this plurality of authorities, the governmental, canonical, legal and biblical discourses on servility, slavery and related phenomena could appear everywhere in variously changing but interconnected facets (Kuchenbuch in: Bulach/Schiel 2015: 163-164).

Justifications for personal un/freedom and un/rightful enslavement in Roman law and the Bible coexisted, overlapping in written or orally performed customary law, competing with or contradicting each other and entering new relationships with other conceptions of order (Mäkinen/Korkman 2006; Teuscher 2007). A similarly complex relationship existed between political legislation and the sharia in predominantly Muslim societies. Thus, in the Mongol Empire with its pre-Islamic legal traditions and normative conceptions, practices of enslavement might take very different shapes than in the Mamluk, Persian or Mughal Empires. In a dialogue between current slavery studies and the 'New Legal History' (Allain 2012; Scott 2011, 2016; de la Fuente 2010; de la Fuente/Gross 2010; Duve 2014), the concepts of justice, power and authority must be imagined in a much more pluralistic and complex way.

Goals

Based on this very broad understanding of justice and authority, the first step in this research area, again, is to take into account the wealth of institutional regulations and normative concepts in their historical variety. Statements on differences in terms of social status and on social hierarchies and dependencies will be examined in capitularies and codes of law as much as in

loose collections of customary-law settlements, mirrors for princes and other instructional sources. Sacred texts, religious treatises and dogmatic literature as well as records of religious courts and secular jurisdiction will be examined for their normative conceptions of servitude, dependency and unfreedom.

A second step will focus on the mutual effects between processes of institutionalizing and the establishment of norms relating to social asymmetries on the one hand, and social practices of slaving and subjugation on the other. These processes of negotiating social power and status relations (Kemper 2011) will be analyzed on the macro-, meso- and micro-levels. Key questions include the following: What were the effects of legislation by key authoritarian institutions on the legal practices of regional and local decision-making? How did the social interactions of individuals affect the small- and large-scale organization of justice, norms and social order? What was the ratio in the mixture between politics and religion on different levels, and what were the consequences of a change in the legal status of persons for their social behavior?

The answers to these questions will then, in a third step, be positioned within a transculturally comparative perspective. The interdisciplinary exchange across different times, societies and cultures will serve as an ideal starting point for a comparison across space and time, and the study of transregional similarities and differences, entanglements and disentanglements in the regulation of social power and status relations.