INTRODUCTION

That Justice is a blind goddess
Is a thing to which we black are wise:
Her bandage hides two festering sores
That once perhaps were eyes.

~ "Justice" by Langston Hughes

In Clark County, Kentucky, on January 23, 1812, Peggy Daniel, the wife of Captain James Daniel, was viciously attacked in their home by Charlotte, their enslaved woman. Peggy was holding the couple's eight-month-old infant when Charlotte hit her with a block of wood. She then pushed her mistress – or female slave-owner – and her baby headfirst into the fire blazing in the fireplace. According to the press, Peggy used "extraordinary exertions" to lift herself out of the fire, but each time, Charlotte pushed her back into it until she "expired in excruciating tortures." After the murder, Charlotte tried to cover the crime by running to a neighbor's home in a panic, telling them that Peggy was "unwell" and needed their assistance. The neighbor got dressed and followed her back to the Daniel home. Charlotte, running ahead, rushed into the house, and came back out with the Daniels' baby – with its clothing still burning, exclaiming that her mistress had fallen into the fire. The papers reported that although the infant was badly burned, it survived; but Peggy's body was "burnt in the most shocking manner." Because she had gone into the fire headfirst, her head and breast were completely incinerated. One of her arms was nearly burned into

https://doi.org/10.1017/9781009276818.001 Published online by Cambridge University Press

two pieces and the other reportedly was "an entire crisp."[1] As shocking as it was, Charlotte's resistance reveals that enslaved women were not always willing to resist slavery covertly or nonviolently. Charlotte is, in fact, part of a large number of enslaved women who exercised lethal slave resistance in the United States.

Charlotte confessed to the murder and was tried, convicted, and sentenced to death in Winchester, Kentucky, in February 1812. When asked by the judge if she had any reason to object to her death sentence, Charlotte, trying to save her own life, claimed to be "quick with child,"– or pregnant, a condition that would have automatically stayed her execution in Kentucky. In response to her claim, the judge impaneled a jury of twelve women to determine whether Charlotte was indeed pregnant. That jury concluded she was not, so she was promptly hanged five days later on February 28, 1812.[2] Many of the enslaved women who, like Charlotte, made the decision to kill their owners suffered the same fate – a death sentence. This book is an effort to tell the stories of these women, particularly why they made the decision to use murder as the ultimate form of resistance to slavery.

Although violent resistance to slavery was not the preferred form among enslaved women, the fact that it happened at all – and despite the constant surveillance and repression women endured – is what makes these actions remarkable. This book is concerned with those moments. Few historians have made this kind of resistance the subject of monographs. Melton A. McLaurin's *Celia, A Slave* and my own book, *Driven Toward Madness: The Fugitive Slave Margaret Garner and Tragedy on the Ohio* and other articles about individual women who used violence to resist slavery are rare exceptions.[3] Without stories like the ones in this book, we are left with an incomplete, softened, or watered-down understanding of Black women's resistance to slavery. We must enrich and deepen the historiography by adding additional layers and complexity to enslaved women's resistance.

It is hard to know with certainty how many enslaved women murdered their enslavers in the United States before 1865. According to David V. Baker, nearly 200 enslaved women were executed in the United States from 1681 to 1865. Most of those were executed for murder, attempted murder, and conspiracy to murder, whites.[4] However, Baker's estimate may be too low. Local authorities

suppressed news stories about these incidents because publicizing such crimes could seriously threaten the social, racial, and gender order.[5] Even Charlotte's story was barely mentioned in the newspapers. Another consideration for the low estimate is the fact that in the colonial and early national eras – before the erection of separate judicial processes for enslaved people – owners resorted to their own brand of punishment – or sale. Moreover, because several southern states offered justices the option of transporting convicted enslaved murderers to another region or country as punishment, counting the executions alone misses an entire group of women who were sold and transported for their crimes. In addition to the historical, social, and cultural barriers to obtaining the exact number of enslaved women who murdered their owners or overseers, the archive has been lost, damaged or destroyed. Many trial records about these capital cases have been lost to fire, water, and degradation, especially in the earlier eras. Other records have been simply misplaced or misfiled. Using Baker's baseline number to extrapolate, between 1681 and 1865, hundreds, possibly more than a *thousand,* enslaved women committed, or plotted to commit, deadly violence against their owners. Even with that extrapolated estimate, it must be emphasized that compared to other demographic groups, enslaved Black women were the *least* violent people in American society during the age of slavery.

When enslaved women did sometimes murder their owners, it was not simply murder. It should be understood as slave resistance. When enslaved women did commit murder in the colonial era, 92 percent of their victims were white.[6] In his study on enslaved women and capital crime in antebellum Georgia, Glenn McNair found that enslaved women targeted their enslavers or their agents for murder, including their wives and children, or overseers. They were less likely to seriously injure or harm other African Americans. He found that a higher percentage of enslaved women than enslaved men murdered their owners. According to him, enslaved men who murdered acted out of impulse or momentary anger; women, he insists, used a higher degree of premeditation, which made them more effective resistors ultimately.[7]

Up until now, most historians of women's history have insisted that enslaved women rarely chose armed, lethal, or overt forms of resistance. Stephanie M. H. Camp, for example, emphasized

that they rejected explicit or confrontational violence in favor of covert, non-confrontational acts of "everyday resistance," which include insolence, dissembling, disobedience, feigned illness, absenteeism, work slowdowns, temporarily running away, and poisoning food. Women also resisted slavery by pretending to be pregnant or claiming they suffered from debilitating menstrual issues that interfered with their work.[8] Everyday resistance also included appropriating additional food, clothing, hair bows, or other luxury items from their unsuspecting owners.[9] This form of resistance yielded many personal benefits, including reduced workloads, additional time off, or reassignment to different tasks. Despite the varied and creative ways enslaved women practiced everyday resistance, historians have categorized it as nonthreatening and less likely to undermine or challenge the social and racial order the way a slave revolt would. Consequently, women's everyday slave resistance rarely ended in their executions, which meant it was the safer option.

Not only has women's resistance to slavery been exclusively understood as this softer, everyday variety but it also has been mischaracterized as it relates to collective and organized resistance. Historians have categorized slave revolt and uprisings as the preserve of men, leaving the impression that women rarely participated in collective, organized, violent acts of resistance. Women's participation within the histories of the major slave rebellions in the United States is not generally examined; when they *are* mentioned in these texts, they are relegated to the sidelines as mere witnesses or wives of the main organizers of these plots. Historians insist that the exclusion and marginalization of women was a conscious and deliberate decision made by the rebels themselves who did not recruit women to join the frontlines or leadership corps. For example, Douglas R. Egerton insists that Gabriel "chose no women" for the inner circle of his 1800 Richmond plot. Historian James Sidbury, trying to explain why they chose no women in the same plot, suggests that the "conspirators may not have trusted Black women." Yet Gabriel's wife knew about the plot, so they clearly trusted her. Sidbury concludes that women are missing from these plots because they were "planned in the masculine sphere." Historian Edward A. Pearson contends that "Gullah" Jack, one of the organizers of Denmark Vesey's plot in Charleston in 1822, "excluded enslaved women" from the rituals. These historians do acknowledge that enslaved

https://doi.org/10.1017/9781009276818.001 Published online by Cambridge University Press

women "knew of the plots," but they portray that knowledge as accidental, or even incidental. For example, the one-time James Sidbury mentions Gabriel's wife Nanny in his book, he states that she "tried" to recruit one man for the insurrection, but adds nothing else, so we are left assuming she failed in that endeavor. Pearson claims that enslaved women in Charleston "inadvertently learned" of Denmark Vesey's plan. Women, he concludes, had a "shadowy presence" in the plot. If we take these scholars at their word, then it would seem that enslaved women hardly ever participated in revolts or, when they did, played marginal, chance, or auxiliary roles. Consequently, slave revolts have been painted as the domain of men, and as uniquely revolutionary and decidedly masculine social movements.[10]

A few recent articles and books are challenging these long-standing beliefs about women's roles in slave revolts. In *Surviving Southampton: African American Women Resistance in Nat Turner's Community*, historian Vanessa M. Holden offers a new way of seeing women's roles within the history of major slave revolts. Revisiting Nat Turner's rebellion, she illuminates sites, sources, and strategies of resistance previously overlooked by historians. By so doing, Holden brings women, children, and free Blacks into sharper focus. She asserts that women's gender roles often enhanced the ways they could assist – and do so undetected. For example, their greater mobility on the specific farms involved in that rebellion led them to play a significant role in "geographies of evasion and resistance." Holden discusses how women contributed to Nat Turner's rebellion by passing information, providing shelter and sustenance, helping rebels evade authorities, hiding weapons, and even physically restraining whites.[11] The merit of Holden's book is that it reveals countless ways women assisted and collaborated in planning and executing rebellions. *Brooding Over Bloody Revenge* also examines collective, violent uprisings, but posits that those led by women functioned differently than the slave revolts with which we are most familiar.

Rebecca Hall's brilliant 2010 article "Not Killing Me Softly: African American Women, Slave Revolts, and Historical Constructions of Racialized Gender," and her recent gripping graphic novel *Wake: The Hidden History of Women-Led Slave Revolts* "engenders" a problematic historiography on slave revolt

https://doi.org/10.1017/9781009276818.001 Published online by Cambridge University Press

that assumes women did not lead or substantively participate in them. In order to widen the lens to illuminate women who did, Hall defines revolt as "any violent, coordinated act of resistance that kills or attempts to kill slave owners or their agents." Her definition plus historian Eugene D. Genovese's concept of "simple revolt," which is waged "against unbearable exploitation or ... the overstepping of traditional arrangements" are useful.[12] I use a combination of Hall's and Genovese's definitions to shape the contours of how I use revolt here: organized, coordinated, violent, or lethal acts of resistance that are motivated by unbearable exploitation or injustice. This definition aptly describes the actions of the women in this book.

Like the women in McNair's study, the enslaved women in *Brooding Over Bloody Revenge* carefully premeditated and planned the deaths of their owners. These women decided when and how their owners would die, chose and secured the weapons to be used, recruited accomplices, and plotted how to evade suspicion after the murder. Because of the high degree of planning, they were remarkably efficient at completing the act, even if they eventually ended up being caught. The careful planning debunks any assumptions that these women acted out of impulse or were unjustly enraged.

This book does aim to challenge the field, but that is not the only objective here. I have been led to answer a pressing and recurring question: what factors led some enslaved women to resort to deadly slave resistance? Were they motivated by similar grievances as enslaved men who planned slave revolts or insurrections? Women who murdered their owners did not have a global grievance against slavery itself – at least not one they articulated. They did not strive to end slavery or murder slaveowners en masse unjustly. None of the women discussed in this book killed to secure personal or collective freedom from bondage, not one. Because protection and justice for enslaved women were elusive through traditional moral and legal channels, the only form available to them is what they seized with their own hands – a type of personal justice. Some may question whether revenge *is* justice. According to philosopher Friedrich Nietzsche, "revenge therefore belongs ... within the domain of justice."[13] Personal justice, or revenge – which philosopher Francis Bacon termed "wild justice" – is a means of restoring dignity to the

victim of the initial act. Retaliatory justice is pursued outside of legal systems or jurisprudence proved to be the only kind of justice available to enslaved women. Regardless, retaliatory violence is a morally legitimate response to the injustice within slavery.

The historical record includes the names of enslaved women who grabbed their own personal justice in response to wrongs done to them by their owners. Women who exercised this form of justice did so in response to beatings, abusive language, sexual assault, heavy workloads, threats of being sold away from loved ones, and being denied food, time off, and holidays. The primary way in which women's lethal resistance is different from other forms is that personal revenge and judgment were wrapped into it – a bloody indictment of their owners' cruelty and their unwillingness to take the abuse any longer.

It is always nearly impossible to chart the life experiences of individual enslaved women who could not read or write. Usually, historians can only find scraps of evidence about them – numbers, dates, possibly a name, but rarely their voices or opinions, so it can be a challenging task to write about them. The white people who owned them typically are much more discoverable in the historical record. The irony of the research for this book is that these particular enslaved women are more discoverable in the archive than even the white people who owned them – about whom I could barely find their full names, ages, or other pertinent biographical information. Enslaved women who practiced deadly resistance are identified and described in official court proceedings, newspapers, and private papers. Judicial officials, ministers, and reporters made great efforts to document their verbal testimonies, confessions, and modes of execution; they even elicited the reasons these women resorted to lethal force. In other words, it is because of their lethal slave resistance that these particular Black women's voices were recorded and preserved in the archive.

The archival evidence used in this book is hardly new: court records of the women's murder trials have been used previously by other historians, but not in a full-throated examination of Black women's violent resistance to slavery. The confessions of these women and their accomplices are an essential primary source that far too few historians of women's history have examined. Found in newspapers, trial records, and coroner's inquest records, these confessions

https://doi.org/10.1017/9781009276818.001 Published online by Cambridge University Press

amplify Black women's voices, illuminate their motivations, and outline their plans. Corroborating evidence in the Journals of the House of Burgesses, compensatory slave petitions, and transcripts from courts of oyer and terminer (meaning to "hear and determine"), state supreme court records, newspapers, and slave execution databases illuminate how pervasive this kind of resistance was among enslaved women throughout the history of slavery.

The women in this book labored in a variety of circumstances from rural to urban, field to house, as chattel and term slaves, and hires. Just as important as their location, era, or type of bondage, are the weapons they used. They used a diversity of "arms" – rat poison, arsenic, fire, water, axes, rusty nails, fence posts, and even a featherbed, reflecting the fact that they weaponized *any* household and farm item they had at their disposal, when needed. Some committed face-to-face murders, while others caught their owners unaware – while they were sleeping or eating. *Brooding Over Bloody Revenge* spans the entire slave era – from the colonial to the early national and antebellum eras; it examines women's overt, lethal slave resistance in the colonies of Massachusetts and North Carolina, the eastern antislavery states of Pennsylvania and New York, the Upper South states of Kentucky and Virginia, and Texas in the southwest.

These women's criminal cases offer a treasure trove of information about them as women and enslaved people, society, the judicial systems, and the very meaning of justice. Enslaved women's sense of injustice (and justice) has rarely been examined.[14] In this book, enslaved women's ideas about justice are juxtaposed against how justice was defined by white local leaders and how it was codified and enforced within the judicial systems. Those clashing and conflicting ideas about justice are revealing. These resisters are presented in their specific, local contexts because they were bound by local slave and criminal codes and judicial systems, which varied across time and space. Some states even erected separate laws, judicial systems, and processes for enslaved people. Hence, this book will examine multiple legal contexts.

My argument is simple: enslaved women did, in fact, resist slavery with deadly violence and when they did, their own ideas about injustice were a central motivation. It is no surprise that injustice would be at the center of my argument because as Eugene

D. Genovese declares in his seminal text, "Violent confrontation with injustice lay at the core of any revolt against slavery."[15] I agree. The enslaved women who committed thoughtful, "coordinated, confrontational, acts of violent resistance" did so within these smaller, local, plots of revenge against their own owners.[16]

I examine enslaved women's lethal resistance within a framework of a Black feminist practice of justice. I term it a Black *feminist* practice of justice (as opposed to simply a Black practice of justice) not because these enslaved women were Black feminists themselves – they were not; but because this theory is rooted in the tenets of Black feminist thought. First and foremost, Black feminist thought prioritizes Black women's voices and lived experiences, which deepens our understanding of, and appreciation for, them as historical agents. Secondly, this theory appreciates that Black women's relationships to their families and communities reign supreme and dictate much of what they feel and do. In other words, Black feminist thought is a community-centered perspective. A significant feature of Black feminist thought is intersectionality, or the idea that the racial, gender, and class/status oppressions that determine Black women's lived experiences and relationship to power are interlinked and intersectional. Black feminist thought seeks collective psychological liberation as a goal. Finally, it insists on respecting Black women's – and Black people's – humanity.

A Black feminist practice of justice emerges from a Black feminist *philosophy* of justice. Enslaved women's philosophy of justice was practical and boiled down to a sense of fairness, decency, justness, and humane treatment. A Black feminist practice of justice has, at its roots, a basic understanding that justice must be centered on the idea of fairness and the humane treatment of all people, regardless of race or status. Any failure to honor that basic premise is itself an act of injustice. Chattel slavery is the biggest example, but other smaller acts of inhumanity also are evidence of injustice, such as sexual assault, denying people adequate food as a form of punishment or disrespectful name-calling of women in front of their children.

Like all Black feminist theoretical approaches, a Black feminist practice of justice is formed from Black women's lived experiences. It prioritizes their perspectives and values, which, in turn, shape the tenets of this theory. Such a theory takes into account

how the intersectionality of their oppression – as women, African Americans, and enslaved people – made them *less likely* to obtain legitimate forms of justice in response to abuse, mistreatment, and suffering and, consequently, *more likely* to seize it with their own hands.

This philosophy insists that the American judicial system was constructed within the context of slavery, and never made justice or redress for Black women a goal. It appreciates that they had few legitimate advocates *or* defenders within that system or in society in general. It is in that context that Black women's own brand of retributive justice is born. The irony is that the enslaved women who practiced retributive justice often were condemned and doomed to death sentences, which had retribution as a primary goal.[17]

People would be remiss to conclude that Black women who waged lethal resistance to slavery were irrational, acting purely on emotions. To the contrary, one of the core features of a Black feminist practice of justice is its rationality and forethought. Enslaved women who used lethal violence against their owners were neither impulsive nor irrational; they carefully planned every detail of the murders they committed. Those who marshalled their own justice in the pages that follow had very personal and compelling reasons for murdering their owners, which they usually articulated. They planned these crimes for days, weeks, months, even years in advance. In the course of plotting, they recruited other hands when needed, delegated responsibilities, decided which weapon would be used and who would wield it; they also predetermined the day and time of the fatal attack, and orchestrated fairly sophisticated plans to escape or avoid suspicion afterwards. Some even came up with complex plans to avoid or delay their executions, as Charlotte did. The plots these women masterminded and organized should be considered intellectual acts.

Retaliatory violence must be understood against the backdrop of the injustice the women experienced at the hands of their owners and within social, religious, and legal systems. It must be understood against the backdrop of how their owners treated them. In that vein, these Black women's ideas of justice were local and homegrown. They did not believe it was wrong to do harm to evil people who had hurt them or their families. To the contrary, for them, doing so was a kind of justice. Deadly violence, within a Black

feminist practice of justice, is not the first or even second option to deal with unjust peoples or systems; it is often the *last* resort when other options to alleviate injustice, unfairness, abuse, and suffering have been exhausted. Every woman featured in this study tried other forms of resistance before they resorted to lethal violence, including talking back, running away, asking to be sold, or physically assaulting their owners. They used deadly violence only *after* other forms of resistance to obtain relief had been exhausted. For the women featured in this book, lethal violence was their *last* best option.

On first glimpse, it may seem that the enslaved women in this book exercised little restraint in how they murdered their owners. The bludgeonings they delivered often seem out of proportion when compared to the abuse their owners unleashed. These critiques invoke the ancient concept of "just deserts" (pronounced like desserts) – or people getting the punishment they deserve, which is a cornerstone of how judicial systems try to obtain justice. More commonly recognized as "an eye for an eye," the law of "just deserts" can be found in the Hammurabi Code, biblical law, Islamic law, and philosophy.[18] More importantly, the concept of "just deserts" laid the foundation for the construction of the American prison system and sentencing guidelines. A cardinal rule of retributive punishment is the belief that it should be proportionate to the offense. Justice is served and a moral debt is paid when the offender gets his or her (proportionate) "just deserts."[19] Despite its centrality to modern religion and the legal dispensing of justice, the principle was abandoned when it came to punishing the enslaved, who endured punishments that far exceeded their alleged misconduct. In fact, some of the punishments were so disproportionate and incongruous to the misdeed that they fall into the realm of the sadistic. For example, a 1729 Maryland statute outlined that if an enslaved person was convicted of burning homes, the punishment entailed having "the right hand cut off, to be hanged in the usual manner, the head severed from the body, the body divided into four quarters, and the head and quarters set up in the most public places in the county . . ." In South Carolina, enslaved people were hanged for petty larceny. In other instances, ears were nailed to posts for perjury and other lesser offenses.[20] So it is in *that* violent context that a critique about the proportionality of Black on white violence seems disingenuous.

https://doi.org/10.1017/9781009276818.001 Published online by Cambridge University Press

A Black feminist practice of justice insists that the proportionality of revenge is best determined by the victims of the unjust acts. They are the only ones who can say when that moral debt has been paid. Many of the women featured in this book offered not even an ounce of mercy to their owners as they murdered them. Within the context of chattel slavery, no level of retribution was too much against slaveowners and others who denied African American women their humanity and rights to freedom and dignity.

A core principle of retributive justice is that it is wrong to punish the innocent. In addition to challenging the dominant standard of proportionality, a Black feminist practice of justice also considers complicity in dispensing "just deserts." All those who advance or benefit from injustice and oppression are complicit agents and parties to it. To the enslaved women in this book, every member of their owner's family was complicit in their abuse and denied humanity; there were no innocents or faultless among them – not even infants, women, or young children. Understanding *this* premise from this perspective helps to better understand the stories in the following pages.

Finally, the women who used lethal violence to resist slavery were always fully aware of the consequences of their actions. Plotting the death of, or killing, a slaveowner would result in certain execution in every corner of the nation, across time. The fact that these women persisted in their plans in spite of that danger demonstrates that they were willing to die pursuing their version of justice. It meant so much to them that they were willing to take the risk of laying down their lives to obtain it. I do not contend that *all* enslaved women who murdered their owners used this Black feminist practice of justice, but that the women in these pages did.

In the end, did these women get the satisfaction they sought through lethal resistance to slavery? Yes. Because, as Frantz Fanon asserted in his seminal text, *The Wretched of the Earth,* violence itself can be cathartic.[21] Violence certainly restored these women's self-respect and insulted dignity and rebalanced the scales of justice. By the dawn of their executions, they had found peace – a peace they likely never had while enslaved. And because spiritual freedom follows peace, perhaps they also found freedom as they stepped onto the gallows.

It is impossible to fully understand a Black feminist practice of justice without understanding it in its proper historical and legal

context. In the age of slavery, the formal, legal channel to obtain justice – otherwise known as the judicial system – catered to white Americans exclusively. Neither the Constitution nor legislation, courts, sheriffs, justices, or judges regularly extended justice or protections to Black people – enslaved or free. For Black Americans, "justice" flowed in only one direction – to punish them for various violations of the racial and social order; and it rarely flowed to protect *them* from injustice.

Slaveowners and overseers acted as the embodiments of the judicial system and the front line for meting out punishments on their farms and plantations. They made plantation "laws" or rules that enslaved people had to follow, acted as corrections officers, judge, jury, punisher, and sometimes executioner for every infraction. The exceptions to this internal disciplinary system were in the cases of large conspiracies or rebellions or if the crime involved the death of a white person.[22] Then, enslaved people would be subjected to the formal judicial system. State laws and local statutes governing enslaved people – also called the slave code[23] – exacted rigid control and surveillance over them, and maintained their enslavement, social inferiority, and political impotence. Designed to deter bad behavior and resistance, slave codes tended to be exceedingly punitive for even minor offenses. For example, Virginia made smuggling tobacco, stealing hogs, and receiving a stolen horse crimes punishable by death. By the antebellum era, Virginia, had sixty-eight capital (death-sentence) offenses for enslaved people, including counterfeiting, burglary, arson, administering poison to a horse, and having ten pieces of coin in their possession. Antebellum South Carolina had thirty-six capital offenses for enslaved people, including larceny in the amount of $1.07 or higher. For a conviction on that or other capital offenses, they would be executed and denied the benefit of clergy[24] beforehand. In the nineteenth century, North Carolina had forty capital offenses for enslaved people, including "resisting owner by force," "running away" and "not returning home immediately." Enslaved people could be put to death in Georgia for arson or attempted arson, "grievously wounding, maiming, or bruising" a white person, or circulating "incendiary" documents.[25] The punitive tendencies of the system were not much better for *free* Blacks who, in antebellum Virginia, could be sold into slavery if convicted of minor offenses, including debt. In Virginia, North Carolina, and

other southern states, slaveowners would be reimbursed if their enslaved people were executed by the state, illustrating that even as the judicial system failed to offer protections, privileges, or rights to Blacks, it protected – perhaps even *overprotected* – the economic interests of slaveowners.[26]

Although rooted in English common and statutory law, the American judicial system was built on the ideas of justice enshrined in the Magna Carta of 1215. Among the most important rights outlined in that document are the rights to petition, habeas corpus, trial by jury, and "due process." The Magna Carta outlines due process as the guarantee that no person will be deprived of life, liberty, or property without a fair hearing of the matter in court and before a jury of their peers. These essential rights are outlined or enshrined in America's founding documents. For example, the right to a trial by jury is one of the grievances the American colonists articulated in the Declaration of Independence. As it related to Black Americans, the entire judicial system was polluted by systemic unfairness, from the investigation stage of criminal cases to sentencing and execution.

Even before the trial stage, enslaved people accused of capital crimes endured several layers of an unfair judicial system. One glaring example is the investigation stage, or coroner's inquest process. In cases of murder, sudden, or suspicious deaths, the coroner's main job duty was to hold inquests, or investigations, to determine the cause of death. In some colonies/states, county coroners were responsible for doing the detective work in murder cases, which included examining the crime scene to discover the means and circumstances of the murder, as well as the identity of the culpable party. Coroners had the power to impanel a jury composed of white, free, male property holders to help with these death investigations by gathering evidence, identifying and questioning witnesses, and analyzing the crime scene. In slave states, inquest jurors tended to be slaveowners. The stark power imbalance meant that when being interrogated by slaveholding inquest jurors, Black witnesses or suspects may not have been forthcoming or willing to disclose damning details that might get them or their loved ones implicated in the crime. The power imbalance also meant that many enslaved people were often pressured to "confess" or implicate other enslaved people who might or might not have been involved. The irony is that

enslaved people were interrogated by these coroners' investigations, but often prohibited from testifying in their own trials later.

Another example of injustice in the legal system happened outside of it – at the hands of white clergy. After their arrests and confinements, enslaved people were visited in their jail cells by local white clergy. These ministers ostensibly were there to share scriptures, pray for the souls of the enslaved people, and prepare them for their execution and afterlife. They pressed convicted slaves to "repent," but also managed to obtain their confessions.[27] The specific tactics white clergy used to elicit confessions are unknown, but more than likely they included manipulation of the Bible, pressure, guilt, berating, and convenient scriptures about hellfire and eternal damnation. Apparently, the ministers' tactics were very effective because they commonly got enslaved people not only to confess to horrific murders but also to provide detailed summaries of how and why they killed. Regardless of the era or geographical location, these confessions follow a similar pattern: a short autobiography, admission of the crime *and* sin, proclamations of regret, and pleas for forgiveness. Because most of the confessants could not read or write, it is not clear how much of these confessions actually were the authentic, verbatim words of the accused, or embellished constructions created by the clergy. After obtaining these confessions, ministers turned them over to officials who used them as evidence in trials. Many of them ended up in local newspapers. By manipulating enslaved detainees, clergy effectively functioned as agents of the judicial system, working against the interests of the enslaved.

A small percentage of other "confessions" were extorted by slaveowners. A teenaged Cloe was threatened with both a beating and hanging to elicit a confession for the death of her owners' children in 1801. In 1842, slaveowners suspected several enslaved people of plotting an insurrection in Purysburgh, South Carolina. In order to obtain their confessions, they stripped their people naked and ordered them to lie face down. The accused were then "cut first lengthwise and then crosswise [lashed across their backs] till [*sic*] they made confessions of guilt." The beatings were so brutal that it was reported that Billy and Elsy, two of the accused, were so "badly cut" that they "could not bear" to continue receiving the lash. In yet another case, Elizabeth and Ned were beaten with a rope to extort a confession for killing the young son of Elizabeth's owner. According to legal

https://doi.org/10.1017/9781009276818.001 Published online by Cambridge University Press

historian Thomas D. Morris, slave confessions actually were quite rare; he found only fifteen in his research on eighteenth-century Virginia. Because of the use of beatings, threats, and torture to extract confessions, Morris cautions against taking them at face value or accepting them as truth.[28] But looking at confessions another way reveals that there was no long-term incentive to confess to a murder because doing so would result in a certain execution. Given that threat, they are more reliable than not.

Enslaved people accused of capital crimes were tried in slave courts, courts of oyer and terminer, or other local criminal courts and defended by court-appointed attorneys. Apparently, the primary reason they received legal counsel was to project a semblance of justice to society, and because enslaved people were considered too valuable to be executed without the appearance of due process to placate their owners.[29] Some slave states did not even pretend to have fair judicial systems: for example, North Carolina did not give accused enslaved people access to legal counsel, juries, or clergy.[30] Without due process, accused enslaved North Carolinians could expect death sentences for all capital charges. Even when defense attorneys were provided in other parts of the South, they rarely made much of an effort to defend their clients. They took a perfunctory approach to their work: many did not bother to build a strong defense – or a defense at all – and offered no alternative theories of the case to counter that of the prosecution. Some defense attorneys did not even bother to cross-examine white witnesses; they accepted their words as truth – even in the face of obvious lies.

The structure of the slave courts or courts of oyer and terminer varied by colony/state. A common formulation is that five justices of the peace presided over the trials – many of whom were slaveowners. Virginia's courts of oyer and terminer were structured in this way. In eighteenth-century North Carolina, a special tribunal comprising three or more justices of the peace plus three other slaveholding freeholders presided over the trials of accused enslaved people. These courts were subjected to the will and financial interests of the slaveholding class, who determined which enslaved people would stand trial for capital cases and whether they would be executed. According to one historian, slaveowners "shape[d] events in the courtroom almost as they pleased

and ... acquiesced more readily in the role of the state in the punishment of serious crime."[31] Similar to the coroner's inquest juries, the power and racial imbalance between slave-owning justices and enslaved defendants tipped the scales of justice away from enslaved people. Those brought before these courts faced justices who were often the neighbors or friends of their dead owners. To compound the situation, these "justices" were poorly prepared to execute their duties, "unlearned in the law, susceptible to local pressures and prejudices, and capable of committing grave legal errors." According to prominent jurist and legal scholar A. Leon Higginbotham, Jr., "slaves were doubly damned: not only were they deprived of trial by jury, but, in addition, they were tried by ... inept and unlearned [justices]."[32] In other words, enslaved people faced justices who were incompetent, biased, or ignorant of laws and legal processes. This gross incompetence all but *guaranteed* a miscarriage of justice in these courts.

The procedural rights embedded within the American judicial system are designed to eliminate or minimize injustice. Yet enslaved people accused of crimes were denied many procedural rights granted to white defendants, including arrest warrants, indictments that matched the crime, bail, and writs of habeas corpus. In addition, enslaved people were denied the most basic right of all – a trial by a jury of their peers. Instead, cases were decided by justices in many states. Both slave *and* free states prohibited Blacks from serving on juries through most of the slave era. In fact, it was not until 1860 that the first African Americans were impaneled to serve on juries in the United States.[33] Without a doubt, their exclusion from juries made it difficult for Black defendants to obtain justice. Moreover, laws in most states prohibited Black people – free or enslaved – from testifying against whites in court.[34] There are a few instances in which enslaved people were allowed to testify in their own trials; but that was entirely up to the whims of local justices. Unable to benefit from critical eyewitness testimony, even well-meaning court-appointed defense attorneys could not build a case good enough to exonerate the accused, even the innocent. Consequently, defense attorneys had no choice but to rely on white witnesses who were largely prejudiced against the defendant by the time of the trial. Many of the witnesses in this book were neighboring slaveowners.

https://doi.org/10.1017/9781009276818.001 Published online by Cambridge University Press

In the colonial and most of the antebellum eras, capital trials for enslaved people generally were one-sided affairs with all witnesses testifying for the prosecution. Not surprisingly, enslaved defendants were convicted on the slimmest of "evidence." Much of what was presented by the prosecution at these trials was based on the accused's temperament, hearsay, "suspicious behavior," past acts of resistance, or previously articulated wishes for another owner. Evidence that would have been insufficient to convict a white person in a regular court returned convictions for enslaved defendants. Enslaved people were effectively prohibited from pleading self-defense in capital cases. Because slaveowners had the right to severely discipline and even abuse their enslaved people if they wished, self-defense claims of enslaved people had no merit in the eyes of the court. However, even abuse had its limits; after the American Revolution slave codes often prohibited owners from murdering their enslaved people. Some southern states implicitly granted enslaved people the right to use deadly force to protect their lives from a life-threatening attack, but self-defense arguments usually failed in southern courts – especially because enslaved people were generally prohibited from striking or injuring white people. In other instances, judges and justices failed to admit damning evidence against the white victim, thus eroding all hopes of a successful self-defense argument. For example, during the 1855 trial of Celia, who murdered her owner, Robert Newsom, in Callaway County, Missouri, after years of rape, the judge refused to allow evidence about Newsom's previous threats on Celia's life and ordered the jury to disregard damning testimony about him from a white witness.[35]

Once a case ended in a guilty verdict, enslaved people were not guaranteed the right to an appeal in the full sense, even in the face of gross procedural errors. Appeals are an important element of due process because they open the possibility of a second trial that can lead to an acquittal. Without this avenue, defense attorneys sometimes tried to reduce the worst charges for enslaved people, thereby eliminating the looming threat of a death sentence. Slaveowners reserved the right to pursue an appeal on behalf of their enslaved people who were convicted of capital crimes, but enslaved defendants could not pursue appeals themselves. Newer slave states tended to offer more procedural fairness than the older ones. For example, Texas,

Arkansas, Missouri (Missouri only allowed appeals for enslaved people convicted of murder), Mississippi, Tennessee and Alabama all offered enslaved people the opportunity for appeals, whereas, Virginia, North Carolina, South Carolina, Maryland, and Georgia did not until the nineteenth century. Neither Louisiana nor Virginia had any provisions for appeals in cases involving enslaved people until 1865, the year slavery ended – despite an 1844 Louisiana Supreme Court decision that affirmed that enslaved people had the right of appeal. Similarly, Delaware and Maryland did not allow even one appeal for a capital case before 1865. In Kentucky, enslaved people had the rights to trial by jury and appeal on the books, but the state did not rule on an appeal for one until 1859. South Carolina allowed slave appeals after 1839, but such cases, instead of being sent to the full state supreme court, were heard by just one justice. In terms of sentencing, enslaved people convicted of capital crimes would be executed or sold and transported abroad, which was a type of erasure or disappearing. In Virginia, all five justices had to agree to a death sentence for it to be implemented.[36] Because death cases had to be sent to the governor for examination in Virginia, executive review left open the possibility of clemency. Hence, executive review functioned as a type of appeal that often provided the only hope for a reprieve an enslaved person had in Virginia.

The only component of the judicial system that *did* work for enslaved people was the right to a speedy trial.[37] But even that was handled unjustly. In capital cases, enslaved people charged with murder were convicted and executed within days. Historians Marvin Michael Kay and Lorin Cary found that in eighteenth-century North Carolina, an enslaved person's trial, conviction, and punishment often occurred on the same day.[38] Although this pace was not typical, many were summarily executed within days of the trial and conviction. According to legal scholar Stuart Banner, the speediness of slave murder trials was intended to ensure that the public desire for retribution was quickly satisfied while the memory of the crime was still fresh.[39]

The American judicial system did not work when enslaved people were *defendants;* and justice was even more elusive when they were *victims*. Physical and sexual assault, maiming, and injuring enslaved people were not treated as prosecutable crimes through

https://doi.org/10.1017/9781009276818.001 Published online by Cambridge University Press

most of the slave era.[40] No group was more vulnerable to the injustice of the judicial system than Black women. The intersection of patriarchy, white supremacy, and wealth meant that slaveowners wielded all society's power and held the keys to the judicial system – especially because they served as county judges, magistrates, and local and state legislators. Hence, with their intersectional oppression as enslaved persons and women, they were exponentially disempowered and disregarded by the system and, in fact, made vulnerable to the crushing impact of powerlessness and denied personhood and citizenship. For enslaved people, the United States judicial system was a burlesque.

As a disclaimer, this book is concerned with enslaved women who actually plotted and carried out revolts that centered on killing their owners then admitted it. A qualification for inclusion in this book is overwhelming evidence that the women did, in fact, kill or attempt to kill their owners or their owners' families. I also chose women who articulated a reason for using lethal resistance. Another qualification for inclusion is premeditation, organization, and a careful plan to avoid suspicion. This book is organized around several case studies and an interpretative framework for how historians of enslaved women's history might approach the work that lies ahead. Consequently, it is not an exhaustive catalogue of *every* instance when this type of resistance appears in the historical record. It simply provides a blueprint for how we may begin to do this research. Because this is an understudied topic, the secondary sources that would normally contextualize this resistance by women are few and far between. Hence, these stories are contextually situated within local histories and legal contexts as well as the stories of other women who waged lethal resistance using the same means. The following chapters are not the same length and nor should they be: they reflect the fullness or scarcity of the archive across time and space.

As a warning, the pages that follow depict graphic violence that is extraordinarily gruesome. The reader must remember that slavery was a violent institution; slaveowners could be brutal and sadistic. Enslaved women's retaliatory violence is a direct product of, and response to, slavery and the violence required to sustain it. That cannot be stressed enough. Even more troubling than the carnage

these women left in their wake is the sadistic, inhumane, and appallingly tortuous state-sponsored execution of these women – who were mothers, daughters, and grandmothers. This final act of state violence committed against Black women underscores the savagery of the violence that defined these women's lives and deaths in the age of slavery.

https://doi.org/10.1017/9781009276818.001 Published online by Cambridge University Press