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ARTICLE

Granville Sharp's Ancient Constitution: Legal Argument and Antislavery Thought

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This article examines the role of legal argument in late eighteenth-century antislavery thought by subjecting Granville Sharp's legal writing to detailed scrutiny. Much scholarship on law and antislavery in the British context justifiably focuses on the meaning of Lord Mansfield's 1772 ruling in *Somerset's Case*. Adopting a different approach, this article reads Sharp's antislavery jurisprudence expansively, as an effort to fashion legal and political ideals. In so doing, it shows that Sharp's legal writing was part of a broader project aimed at associating antislavery with a particular conception of national identity. Examining Sharp's wide-ranging analysis of statute and common law, the article further argues that Sharp developed a form of natural-rights constitutionalism, melding the radical cause of abolition with the notion of tradition. Finally, the article explains how Sharp's jurisprudence promoted an ideologically important vision of abolitionism as a distinctively modern form of progress. In short, the article argues that Sharp's legal writing should be read not only in relation to *Somerset* but also as a means of understanding the character of antislavery thought and its relation to wider currents in eighteenth-century radicalism.

Legal argument played a central role in the eighteenth-century rise of antislavery in Britain. Before the formation of the Society for Effecting the Abolition of the Slave Trade, prominent antislavery critics cast doubt on the legality of slavery, making law and justice a crucial site of early debate. John Wesley's seminal tract, *Thoughts upon Slavery*, suggested that legal justifications for enslavement were false, and argued, more broadly, that slavery contravened "natural Justice."[1] Maurice Morgann, author of the first abolition plan published in Britain, introduced his work by arguing that slavery was incompatible with "the laws of England, and the genius of our constitution."[2] Perhaps no figure, however, exemplified the conjuncture between law and antislavery more than Granville Sharp, the prolific writer and advocate who would later become the society's first chairman.

[1]John Wesley, *Thoughts upon Slavery* (London, 1774), 31.

[2]Maurice Morgann, *A Plan for the Abolition of Slavery in the West Indies* (London, 1772), iii.

By all accounts, Sharp's engagement with slavery and the law began with a chance encounter. In 1765, Sharp found in the streets of London a badly beaten enslaved man named Jonathan Strong.[3] As Sharp's nineteenth-century biographer explained with admiration, Sharp sheltered Strong and nursed him back to health.[4] Strong's putative owner, David Lisle, sold Strong nonetheless and proceeded to sue Sharp for interfering with his property.[5]

The experience led Sharp, who had no previous legal training, to study English law "with unremitting diligence."[6] At King's Bench, Lisle relied primarily on an opinion issued in 1729 by Philip Yorke and Charles Talbot, the Attorney General and Solicitor General respectively, which stated that those enslaved in the colonies would remain enslaved in England.[7] Over the course of the next ten years, Sharp went to great lengths to disprove this view. In 1769, he published *A Representation of the Injustice and Dangerous Tendency of Tolerating Slavery*, which outlined his legal and moral arguments against slavery in detail.[8] Four subsequent tracts published in 1776 developed the religious foundations of Sharp's conception of legality, while joining his antislavery position with a set of radical arguments concerning representation and legitimacy.[9]

Sharp is a familiar figure in the scholarly literature on British antislavery, but his legal writing is too often read as a mere preliminary to Lord Mansfield's judgment in *Somerset's Case*, the most famous English trial involving slavery, decided at King's Bench in 1772. In such scholarship, persistent emphasis on *Somerset* illuminates the many intricacies of the case, as well as its implications for English law, but leaves aside other questions surrounding the conceptual relationship between law and antislavery. This article takes a different approach. Rather than focusing on *Somerset*, it reads Granville Sharp's antislavery jurisprudence expansively, as an effort to construct legal and political ideals. As a legal thinker, Sharp developed a kind of natural-rights constitutionalism, which appealed to the common law while simultaneously making

[3]E. C. P. Lascelles, *Granville Sharp and the Freedom of Slaves in England* (London, 1928), 17.

[4]Prince Hoare, *Memoirs of Granville Sharp, Esq., composed from his own manuscripts, and other authentic documents in the possession of his family and of the African Institution* (London, 1820), 32.

[5]Lascelles, *Granville Sharp*, 18–22; F. O. Shyllon, *Black Slaves in Britain* (London, 1974), 21.

[6]Hoare, *Memoirs of Granville Sharp*, 37.

[7]I discuss the Yorke and Talbot opinion in greater detail below. As Lord Hardwicke, Yorke would later become Lord Chancellor. And as Lord Chancellor, he would affirm the view expressed in his early opinion in multiple cases involving enslaved people brought to England. See David Brion Davis, *The Problem of Slavery in the Age of Revolution, 1770–1823* (Ithaca, 1975), 479.

[8]Granville Sharp, *A Representation of the Injustice and Dangerous Tendency of Tolerating Slavery; or of Admitting the Least Claim of Private Property in the Persons of Men, in England* (London, 1769).

[9]Granville Sharp, *The Law of Liberty, or Royal Law, by which All Mankind Will Certainly Be Judged! Earnestly Recommended to the Serious Consideration of all Slaveholders and Slavedealers* (London, 1776); Sharp, *The Just Limitation of Slavery in the Laws of God, compared with the unbounded Claims of the African Traders and British American Slaveholders* (London, 1776); Sharp, *The Law of Retribution; Or, a Serious Warning to Great Britain and Her Colonies, Founded on Unquestionable Examples of God's Temporal Vengeance Against Tyrants, Slave-holders, and Oppressors* (London, 1776); Sharp, *The Law of Passive Obedience; or, Christian Submission to Personal Injuries; Wherein Is Shewn, That the Several Texts of Scripture, Which Command the Entire Submission of Servants and Slaves to Their Masters, Cannot Authorize the Latter to Exact an Involuntary Servitude, nor, in the Least Degree, Justify the Claims of Modern Slaveholders* (London, 1776).

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claims on the basis of natural law. In so doing, Sharp sought to develop a vision of antislavery that extended beyond the courts. His legal writing associated antislavery with Englishness in an effort to establish an antislavery national identity and localize the threat of slavery for a domestic audience. It mustered common-law tradition in support of the radical cause of abolition. And it portrayed antislavery as a distinctively modern form of progress. Law, in short, was an important source of antislavery argument. For Sharp, overlapping notions of legality served as a basis for developing a politics of abolition.

A close reading of the abolitionist politics that emerges in Sharp's late eighteenth-century legal writing supplements existing scholarship on Sharp in two ways. First, it turns attention from the legal meaning of *Somerset*, the ultimate explanatory end of much writing, toward a broader analysis of the relationship between law and legality on the one hand, and antislavery politics on the other. Second, it offers a fresh perspective on the content of Sharp's thought and the extent to which his antislavery took shape in dialogue with parallel currents in English radicalism. Christopher Brown has demonstrated the importance of religion (and, more specifically, of divine justice and retribution) to Sharp's abolitionism, and has emphasized Sharp's crucial framing of slavery as a sin for which Britons bore collective responsibility.[10] Dana Rabin has shown how Sharp and *Somerset's Case* inscribed a racially exclusive distinction between English liberty and colonial tyranny.[11] Like these works, this article is concerned with dissecting the ideological underpinnings of Sharp's advocacy. Widely recognized as Britain's "first abolitionist," Sharp nonetheless deserves further scrutiny.[12] Reinterpreting the technical and symbolic content of Sharp's legal arguments gives us a fuller understanding of the importance and function of law in his broader antislavery project. Taking such legal reasoning seriously, this article ultimately argues that the function of Sharp's antislavery jurisprudence was political, not simply legal, and that Sharp used and innovatively reinterpreted legal concepts to fashion an antislavery identity and frame abolition as a distinctly modern, yet restorative, cause.

Lawyering *Somerset*

Though Sharp's antislavery jurisprudence extended beyond the case, it is helpful to begin with *Somerset* to establish the context in which Sharp's legal writing originated. Like Jonathan Strong, James Somerset was an enslaved man transported from the colonies (in this case Virginia) to England. Somerset's owner, Stewart, then planned to send James to Jamaica to be sold. When Somerset refused, Stewart detained him

[10]Christopher Leslie Brown, *Moral Capital: Foundations of British Abolitionism* (Chapel Hill, 2006), esp. 93–101, 155–206.

[11]Dana Rabin, "'In a Country of Liberty?' Slavery, Villeinage and the Making of Whiteness in the Somerset Case (1772)," *History Workshop Journal* 72 (2011), 5–29; Dana Rabin, *Britain and Its Internal Others, 1770–1800* (Manchester, 2017), Ch. 2.

[12]As several scholars have noted, there is no modern biography of Sharp. Brown, *Moral Capital*, 171 n. 18; Michelle Faubert, "Granville Sharp's Manuscrip Letter to the Admiralty on the *Zong* Massacre: A New Discovery in the British Library," *Slavery and Abolition* 38/1 (2017), 178–95, at 191 n. 4.

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forcibly in a ship in the Thames.[13] With Sharp's help, Somerset brought a habeas action against Stewart.[14] After the parties refused to settle, Lord Mansfield famously ruled in favor of Somerset, declaring "the black must be discharged."[15] Contemporaries sympathetic to the antislavery cause read Mansfield's judgment expansively. According to the *Middlesex Journal*, to cite one example, the case stood for the proposition that slavery was incompatible with English law, and that "every slave brought into this county ought to be free."[16]

Modern scholars, on the whole, have argued that Mansfield's holding was in fact narrower. As David Brion Davis emphasized, Mansfield refused to declare that slavery was illegal in the abstract.[17] Instead, after the parties failed to settle, he addressed two narrower issues: first, whether the rights of an enslaved person brought to England would be governed by colonial or English law; and second, whether, under the laws of England, a slave-owner could forcibly detain his human property. Mansfield ruled in Somerset's favor on both accounts, but, according to Davis, did nothing to "undermine[] colonial slave law."[18] James Oldham concluded similarly that the case did not declare slaveholding illegal, even in England, and Ruth Paley found that *Somerset* was a limited precedent that subsequent litigants could and did evade.[19] George van Cleve and Daniel Hulsebosch later solidified this perspective, further emphasizing that Mansfield's holding addressed conflict of laws and unlawful detention, not slavery itself.[20]

Yet in spite of this consensus, recent work has cast *Somerset* newly as a radical break. Though their aims and arguments differ, Holly Brewer and John Blanton have both refigured the case by reading it as the culmination of longer-term legal battles fought

[13] George van Cleve, "*Somerset's Case* and Its Antecedents in Imperial Perspective," *Law and History Review* 24/3 (2006), 601–45, at 601.

[14] *Somerset* v. *Stewart*, 98 English Reports 499 (King's Bench, 1772).

[15] Ibid., 510. Several contemporary transcriptions reported this famous last line as "the man must be discharged." See Shyllon, *Black Slaves*, 110.

[16] *Middlesex Journal*, 23 June 1772, n.p. On expansive readings of the *Somerset* decision see Seymour Drescher, *Abolition: A History of Slavery and Antislavery* (New York, 2009), 102–3; Julius Scott, *The Common Wind: Afro-American Currents in the Age of the Haitian Revolution* (London, 2018), 87; James Walvin, *The Zong: A Massacre, the Law, and the End of Slavery* (New Haven, 2011), 133–5.

[17] Davis, *The Problem of Slavery in the Age of Revolution*, 497–501.

[18] Ibid., 501.

[19] James Oldham, "New Light on Mansfield and Slavery," *Journal of British Studies* 27/1 (1988), 45–68; Ruth Paley, "After *Somerset*: Mansfield, Slavery and the Law in England, 1772–1830," in Norma Landau, ed., *Law, Crime and English Society, 1660–1830* (Cambridge, 2002), 165–84.

[20] Van Cleve, "*Somerset's Case* and Its Antecedents"; Daniel J. Hulsebosch, "Nothing but Liberty: *Somerset's Case* and the British Empire," *Law and History Review* 24/3 (2006), 647–64. See also Drescher, *Abolition*, 100–1. On the importance of procedure to both legal strategy and Mansfield's holding in the case see Sarah Winter, "From Procedural Law to the 'Rights of Humanity': Habeas Corpus, *Ex Parte* Somerset (1771–72), and the Movement toward Collective Representation in Early British Antislavery Cases," in Edward Cavanagh, ed., *Empire and Legal Thought: Ideas and Institutions from Antiquity to Modernity* (Leiden, 2020), 388–424. Other key works on *Somerset* include James Oldham, *English Common Law in the Age of Mansfield* (Durham, NC, 2004), 305–23; Rabin, "In a Country of Liberty?"; William M. Wiecek, "*Somerset*: Lord Mansfield and the Legitimacy of Slavery in the Anglo-American World," *University of Chicago Law Review* 42/1 (1974), 86–146. Important legal materials related to *Somerset's Case* have been published in Andrew Lyall, ed., *Granville Sharp's Cases on Slavery* (London, 2017).

over the seventeenth and eighteenth centuries. Brewer argues that the Stuart monarchs used English courts (more specifically, judges appointed at the pleasure of the monarch) to develop a common law of slavery in support of the concomitant growth of the transatlantic slave trade.[21] Highlighting the 1677 decision in *Butts* v. *Penny*, Brewer concludes that King's Bench reinterpreted the feudal law of villeinage to sanction the holding of absolute property in man in the context of slave trading.[22] From this perspective, *Somerset* appears as a definite refutation, not a narrow avoidance, of larger questions. Blanton, meanwhile, traces an even longer historical trajectory of pro- and antislavery legal conflict.[23] He reads *Penny* as a rejection of antislavery conceptions of English law dating back to the Interregnum, but then argues that a series of cases decided by Chief Justice Holt following the Glorious Revolution refused to recognize a right to property in man.[24] Following this longer history of alternating pro- and antislavery legal decisions, *Somerset* appears in Blanton's telling as a revindication, against the Stuart courts, of "what generations of English antislavery thinkers had advocated."[25]

In addition to reigniting debate over *Somerset*, these works suggest new avenues for understanding the context in which Sharp wrote. In particular, they allow us to examine the extent to which Sharp's arguments both reprised earlier forms of antislavery and departed from such precedents in advocating for abolition. In writing the *Representation* in 1769, Sharp took aim at a set of eighteenth-century precedents that had cast aside Holt's antislavery rulings. Key among these was the aforementioned Yorke and Talbot opinion, which purported to insulate slaveholders from multiple lines of potential legal attack. The opinion held, first, that an enslaved person brought from the West Indies to Britain "doth not become free," and that English law would not abridge slave-property rights derived from colonial law. Deflecting arguments from religion, it also maintained that baptism would not "bestow freedom" or "make any alteration in his [the slave's] temporal condition in these Kingdoms." Finally, with particular relevance to those who, like Somerset, were transported from the colonies to England, the opinion stipulated clearly, "the Master may legally compel him [the enslaved] to return again to the plantations."[26] Rendered informally in 1729, the opinion's precedential value was reinforced in later cases like *Pearne* v. *Lisle*, which Yorke, then Lord Chancellor Hardwicke, decided in 1749.[27]

Against these precedents, the *Representation* was in significant part the work of a cause lawyer. Sharp's aim was not to build a theory of antislavery from the ground up; it was instead to muster a range of legal arguments, synthesizing from various sources

[21]Holly Brewer, "Creating a Common Law of Slavery for England and Its New World Empire," *Law and History Review* 39/4 (2021), 765–834.

[22]Ibid., 768–9, 787–809.

[23]John N. Blanton, "This Species of Property: Slavery and the Properties of Subjecthood in Anglo-American Law and Politics, 1619–1783" (Ph.D. thesis, CUNY Graduate Center, 2016).

[24]Ibid., Ch. 4.

[25]Ibid., 508.

[26]Opinion of Yorke and Talbot, 14 Jan. 1729, cited in Lascelles, *Granville Sharp*, 21. On the Yorke–Talbot opinion see also Travis Glasson, "'Baptism Doth Not Bestow Freedom': Missionary Anglicanism, Slavery, and the Yorke–Talbot Opinion, 1701–30," *William and Mary Quarterly* 67/2 (2010), 279–318.

[27]Blanton, "This Species of Property," 388–98.

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and principles, to dismantle the Yorke–Talbot position. In other words, Sharp argued as a lawyer, not as a philosopher, and his claims were shaped by the past framing of the legal questions surrounding those like Jonathan Strong, whose presence in England raised questions over the extent to which English law either sanctioned or prohibited the holding of property in man.

We see this first in Sharp's reading of English statutes, which he consistently interpreted as conveying expansive rights of subjecthood across boundaries of race and nationality. Citing a Henrician statute, Sharp argued that foreigners in Britain were "bounden by and unto the Laws and Statutes of th[e] realm."[28] As Sharp emphasized, the law referred broadly to "*every alien and stranger*," making "no distinction of *bond or free; neither of colours or complexions*, whether of *black, brown, or white*."[29] The result, in Sharp's view, was that foreigners on English soil, including those held in slavery, were entitled to the protections of English law, just as they were subject to its obligations. Not simply a marker of subservience, subjecthood was more than citizenship without rights for Sharp. Instead, it was a ground for demanding both "obedience and protection," as Hannah Weiss Muller has explained in another context.[30]

Sharp drew from the Habeas Corpus Act a similar conclusion regarding the applicability of English legal protections to foreign subjects. There, too, he was quick to emphasize that the law contained "no distinctions of *natural-born, naturalized, denizen, or alien subjects*, nor of *white* or *black*."[31] Such silence was purposeful, in Sharp's view. Given the law's wide applicability, Sharp argued that "*every man, woman, or child*" residing in England, whether enslaved or free, should receive the Act's protections and remain "absolutely secure in his or her *personal liberty*."[32] This argument, of course, was accepted in 1772, inasmuch as Mansfield allowed Somerset to state a habeas claim.[33]

Embedded within these statutory claims was a territorial concept of subjecthood, bounded by geography but universally applicable within England and Wales. Alluding implicitly if not explicitly to the seventeenth-century decision known as *Calvin's Case*, Sharp viewed both statutes as reflecting a broader common-law principle—a "*binding* or *obligation* … properly expressed by the English word *Ligeance*."[34] Sharp's innovation, here and elsewhere, was to read antislavery purposes into English legal tradition. Thus the failure of the habeas statute to make exception for slaves was not a mere accident, but rather evidence of the impossibility of restricting subjecthood along lines of race and status.[35] Abstracted from questions of land tenure and inheritance, the notion

[28]Sharp, *Representation*, 21. The statute Sharp cites is 32 Hen. viii. ch. xvi. sec. ix.

[29]Sharp, *Representation*, 21. Throughout, italics in Sharp's writing are original, not added.

[30]Hannah Weiss Muller, *Subjects and Sovereign: Bonds of Belonging in the Eighteenth-Century British Empire* (Oxford, 2017), 9.

[31]Sharp, *Representation*, 23.

[32]Ibid.

[33]On Sharp's reading of the Habeas Corpus Act see also Paul D. Halliday, *Habeas Corpus: From England to Empire* (Cambridge, MA, 2010), 211–12.

[34]Sharp, *Representation*, 21; *Calvin's Case*, 77 English Reports 377 (King's Bench, 1608). On *Calvin's Case* see Polly J. Price, "Natural Law and Birthright Citizenship in Calvin's Case," *Yale Journal of Law and Humanities* 9/1 (1997), 73–129; Muller, *Subjects and Sovereign*, 18–33.

[35]See Sharp, *Representation*, 35–41.

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of ligeance served a new purpose.[36] For Sharp, the rights and duties of subjecthood depended on territorial presence rather than personal status.

The implications of this view were far-reaching. Upon arrival in England, slaves necessarily became subjects, according to Sharp. As subjects, they were entitled to the "King's protection" and the protections of English law.[37] In addition, subjecthood served as a means of undermining private claims to slave property. Casting all subjects as "*the King's property* in the *relative sense*," Sharp argued that private rights necessarily fall in the face of personal rights associated with subjecthood.[38] Three years later, this argument met specific legal needs in *Somerset* as counsel sought to prove that an African-born foreign subject should nonetheless be afforded habeas protections.

We similarly see Sharp arguing strategically, in the face of specific legal questions, in his analysis of villeinage, a medieval relation akin to serfdom that bound peasants either to a lord or to a manor.[39] In cases like *Somerset*, pro-slavery advocates cited villeinage as historical evidence of legal slavery in England to claim that modern slaveholding did not contravene English law. In the *Representation*, Sharp strenuously sought to distinguish villeinage, claiming it was "entirely obsolete," so that it could not serve as precedent in cases involving enslaved Africans.[40] As John Blanton has shown, Sharp effectively reprised Chief Justice Holt's rejection of villeinage as precedent in cases decided between 1697 and 1702.[41] But a lack of novelty is in one sense the point: Sharp's argument was shaped by the specific legal need to undermine the precedents used to justify slaveholding in the present, not abstractly but in court.[42]

Slavery, freedom, and national identity

Yet as clearly immersed in these legal arguments as Sharp was, the *Representation* also served broader political purposes. Throughout the *Representation* and in subsequent

[36]In the American constitutional context, this notion (ligeance, or allegiance) would later serve as part of the US Supreme Court's rationale for upholding birthright citizenship under the Fourteenth Amendment. See *Wong Kim Ark*, 169 U.S. 649 (1898). On Coke's view of allegiance see Muller, *Subjects and Sovereign*, 24–8.

[37]Sharp, *Representation*, 19.

[38]Ibid.

[39]For a contemporary discussion see Henry de Bracton, *On the Laws and Customs of England*, 5 vols., trans. Samuel E. Thorne (Cambridge, MA., 1968), 2: 30–31. For a modern scholarly discussion, see Johann P. Sommerville, "English and Roman Liberty in the Monarchical Republic of Early Stuart England," in John F. McDiarmid, ed., *The Monarchical Republic of Early Modern England: Essays in Response to Patrick Collinson* (Burlington, 2007), 201–17, at 212–14; Rabin, *Britain and Its Internal Others*, 81–2.

[40]Sharp, *Representation*, 121. The use of villeinage by advocates involved in *Somerset's Case* plays a large role in Dana Rabin's argument that the case coded freedom as distinctively white and British. See Rabin, *Britain and Its Internal Others*, 73–4, 86–93.

[41]Blanton, "This Species of Property," 290–314.

[42]For a fascinating additional example, see Sharp's personal copy of Edward Long's *Candid reflections upon the judgment lately awarded by the Court of King's Bench … on what is commonly called the Negroe-cause, by a planter* (London, 1772), 3–13, Beinecke Library Ntg45 G5 772L, Yale University. Sharp's marginalia responding to Long's pamphlet further argue that "the planter cannot justly avail himself of the comparison between the *ancient villenage* and modern slavery," at 3.

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tracts, Sharp drew on overlapping concepts of legality to construct a politics of abolition. In claiming that slavery was incompatible with English law, Sharp fashioned ideals that were political and not limited to the specifically legal questions raised by Strong and Somerset. This was the case in four overlapping ways. The first was Sharp's persistent effort to align antislavery with a sense of Englishness. Sharp's legal arguments served a more general assertion that slavery was a "foreign" threat to English liberty. This was an aspirational, normative representation, which ignored Britain's long involvement with the transatlantic slave trade. But it was central to the antislavery movement and to the emergence of abolitionism as a distinct strand of antislavery.[43] By associating abolition with a particular conception of national identity, Sharp strove to legitimate the cause and underscore its urgency.

In the *Representation*, Sharp's seemingly technical arguments over statutory interpretation simultaneously served these broader political ends. Take, for example, the fact that no English statute appeared to address the issue of slavery directly. In *Somerset*, Stewart's lawyers would seize on this silence as evidence that slave-owners could bring enslaved people to England without imperiling their property rights.[44] Sharp's explanation, by contrast, was that slavery was never mentioned because it was "an innovation entirely foreign to the spirit and intention of the laws now in force."[45] Rhetorically, this argument was about more than statutory interpretation. Indeed, Sharp's point served to promote a broader antislavery theme: the idea that slavery was "foreign." In his portrayal, slavery appeared as a strange and unnatural disruption, unknown to English law.

Sharp similarly suggested that slavery was foreign to the common law, further emphasizing the idea that the practice was un-English. "Neither at common law," he argued, could a master claim ownership over a slave, "for Slavery being an innovation entirely foreign to the spirit and intention of the present laws … there is *no law* to justify proceedings, nor sufficient precedents to authorize judgment."[46] Again the narrow point was that slaveholders lacked common-law precedent. But the broader assertion was that slavery was a foreign "innovation" in violation of the law's general "spirit." Ultimately, Sharp's claim concerned legal and national identity rather than technical legal meaning.

Sharp was not the first to propose an antislavery spirit in characterizing English legal tradition.[47] But Sharp's effort to fashion an antislavery identity took shape in a wider political context in which claims to both the "nation" and the "people" took on new importance. The middle decades of the eighteenth century witnessed the expansion of an increasingly national print culture, linking London to cities and urban towns across England. This development galvanized extra-parliamentary debate and the growth of

[43]On the distinction between antislavery (opposition, broadly and in many forms, to chattel slavery as then practiced) and abolitionism (the specific demand for outlawing the slave trade and then slavery itself), see Thomas C. Holt, "Explaining Abolition," *Journal of Social History* 24/2 (1990), 371–78; Brown, *Moral Capital*, 17–18.

[44]*Somerset* v. *Stewart*, 98 English Reports at 506–7 (Dunning).

[45]Sharp, *Representation*, 39.

[46]Ibid., 40.

[47]Blanton, "This Species of Property," 221, 280, 313, 489, 508–9.

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urban radical protest aimed at the Walpole ministry and, eventually, parliamentary reform. In this context, national identity was a site of contestation. As Linda Colley has shown, armed conflict with a religious and national other—France—consolidated a patriotic and distinctly Protestant British identity over the course of the century.[48] But within the domestic polity, the period simultaneously saw ongoing conflict over the extent and nature of the political nation. Here, as Kathleen Wilson has argued, speaking for "the people" was newly tied to questions of political legitimacy.[49]

In this context, we should see Sharp, like Wilkite and other radicals, as invoking national identity to challenge a prevailing structure of authority and to legitimate reform. Still emphasizing the foreignness of slavery, Sharp proceeded to draw a stark distinction between the "happy constitution" of England and the "tyrannical constitution" of the colonies.[50] Slavery was a distinctly colonial perversion, in this view, and a betrayal of authentic, English traditions. Sharp's construction of identity thus formed in opposition to a seemingly foreign other.[51] In turn, the specter of colonial tyranny served to reinforce Sharp's assertions about the incompatibility of Englishness and slavery. Seeing liberty and tyranny as inherently opposed, Sharp argued that slavery in the Americas had resulted in a betrayal of English constitutional principles. There the "*many-headed monster of tyranny*" had "entirely subvert[ed] our most excellent constitution." After all, "liberty and slavery are so opposite each other, that they cannot subsist in the same community."[52] For Sharp, slavery was a foreign tyranny—a "monster" necessarily opposed to the spirit of English law.

This was, of course, an ideological representation—an assertion with political force but equally significant historical blindness. Britain had been a major slaving power since the seventeenth century, and, during the eighteenth, British ships carried more than 2.5 million enslaved Africans across the Atlantic.[53] In the British slave colonies, laws sanctioned by the Crown supported the plantation system. Colonial slavery, meanwhile, was hardly separate from metropolitan development. Britons consumed plantation sugar, coffee, and cotton.[54] The wealth produced through slave labor benefited not only plantation owners but a wide range of industries—shipping, insurance, banking—as well as individual investors in Britain.[55] In addition, Sharp's rhetorical

[48]Linda Colley, *Britons: Forging the Nation 1707–1837*, rev. edn (New Haven, 2003).

[49]Kathleen Wilson, *The Sense of the People: Politics, Culture and Imperialism in England, 1715–1785* (Cambridge, 1995).

[50]Sharp, *Representation*, 38, 48.

[51]Relatedly, Colley, *Britons*, 6; Peter Sahlins, *Boundaries: The Making of France and Spain in the Pyrenees* (Berkeley, 1989), 271.

[52]Sharp, *Representation*, 82.

[53]Slave Voyages, Trans-Atlantic Slave Trade Database, at www.slavevoyages.org/assessment/estimates (accessed 10 Jan. 2025). Exact figure given for enslaved Africans carried on British ships to all destinations (not just British colonies) is 2,545,298.

[54]Sidney Mintz, *Sweetness and Power: The Place of Sugar in Modern History* (New York, 1985), 74–150.

[55]See, among others, Nicholas Draper, "The City of London and Slavery: Evidence from the First Dock Companies, 1795–1800," *Economic History Review* 61/2 (2008), 432–66; Draper, *The Price of Emancipation: Slave-Ownership, Compensation and British Society at the End of Slavery* (Cambridge, 2010); Catherine Hall, Nicholas Draper, Keith McClelland, Katie Donington, and Rachel Lang, *Legacies of British Slave-Ownership: Colonial Slavery and the Formation of Victorian Britain* (Cambridge, 2014); Joseph E. Inikori, *Africans and*

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dichotomy between English liberty and colonial tyranny may have ridden upon public anxieties concerning miscegenation and racial impurity. Sharp worried in the *Representation* that an "unnatural increase of black subjects" threatened the "public good."[56] As Dana Rabin has argued, the real and growing presence of London's black population led others in this period to disclaim the arrival of enslaved people from the colonies for fear of racial and moral corruption.[57]

However abstracted from these realities, Sharp's purpose in opposing English liberty with colonial slavery was to associate the common-law tradition with the cause of antislavery. Indeed, Sharp's aim was not merely to condemn the American colonies, but rather to suggest that slavery threatened to corrupt free English institutions. Sharp therefore emphasized not only the cruelty of slavery but also its wider effects on society. In short, Sharp argued that slavery degraded masters as well as servants, subverting freedom in the broadest sense. "Every petty planter, who avails himself of the service of Slaves," he wrote, "is an arbitrary monarch, or rather a lawless Basha in his own territories, notwithstanding that imaginary freedom of the province, wherein he resides."[58] In this manner, slavery introduced "the horrid crime of tyranny" into supposedly free colonial states.[59]

Sharp's emphasis on moral corruption and binary opposition between tyranny and liberty reflected wider currents in eighteenth-century radical thought. By the 1770s, in the buildup to the American Revolution, English radicals made corruption a key theme. This was not a narrow corruption in the sense of bribery, but a broader narrative of political decay, of threats to essential liberties on both sides of the Atlantic, and of an "imminent danger of degenerating into tyranny."[60] Sharp participated directly in disseminating this notion, as a campaigner for parliamentary reform and a founding member of the Society for Constitutional Information.[61] Sharp's political radicalism will be discussed in greater detail later in the article. But here it helps contextualize his understanding of "tyranny," and his insistence that slaveholding threatened to corrupt

the Industrial Revolution in England: A Study in International Trade and Economic Development (Cambridge, 2002); Robin Pearson and David Richardson, "Insuring the Transatlantic Slave Trade," *Journal of Economic History* 79/2 (2019), 417–46.

[56]Sharp, *Representation*, 75. See also Brown, *Moral Capital*, 94–6.

[57]Rabin, "In a Country of Liberty," 7–10 (analyzing claims to this effect published in the *Gentleman's Magazine* and by John Fielding), 18 (explaining that Serjeant Davy similarly argued that Parliament should "prevent the abominable Number of Negroes being brought here by those West Indian Planters"). On London's late eighteenth-century black population see ibid., 7; Norma Myers, *Reconstructing the Black Past: Blacks in Britain, 1780–1830* (London, 1996); Kathleen Chater, *Researching Untold Histories: Black People in England and Wales during the Period of the British Slave Trade, c. 1660–1807* (Manchester, 2009).

[58]Sharp, *Representation*, 82.

[59]Ibid., 80.

[60]Colin Bonwick, *English Radicals and the American Revolution* (Chapel Hill, 1977), 4. See also James E. Bradley, *Religion, Revolution, and English Radicalism* (Cambridge, 1990), 147–8; John Brewer, *Party Ideology and Popular Politics at the Accession of George III* (Cambridge, 1976), 241–61; Wilson, *The Sense of the People*, 251–84.

[61]Bonwick, *English Radicals*, 5, 7; J. R. Oldfield, *Popular Politics and British Anti-slavery: The Mobilisation of Public Opinion against the Slave Trade, 1787–1807* (Manchester, 1995), 42; George Bernard Owers, "Common Law Jurisprudence and Ancient Constitutionalism in the Radical Thought of John Cartwright, Granville Sharp, and Capel Lofft," *Historical Journal* 58/1 (2015), 51–73; Wilson, *The Sense of the People*, 260.

"free" English institutions. In the *Representation*, for instance, Sharp reproduced slave advertisements published casually in New York newspapers to emphasize the danger of moral corruption. "Such a shameless prostitution and infringement on the common and natural rights of mankind," Sharp declared, "may entitle the province where they were published, to the name of New Barbary, rather than of New York!"[62] In an even broader sense, he argued that the tyranny of slavery threatened the liberty of the community as a whole. "No person can be safe," he averred, "if wicked and designing men have it in their power, under the pretence of private property as a Slave, to throw a man clandestinely without a warrant into gaol."[63] As readers after 1772 would have realized, this was the kind of power at issue in *Somerset's Case*. Sharp's purpose was not to condemn the American North in its entirety; he was, after all, in league with American antislavery activists like Anthony Benezet, and supportive of American claims for greater political representation. Instead, he figured the North as a warning by comparison—threatened, like Britain itself, by the corrupting influence of holding and trading human property.

As Christopher Brown has argued, Sharp's arguments here resembled Edmund Burke's heated criticisms of the East India Company during the Hastings trial.[64] Sharp's slaveholder as "Basha" paralleled Burke's East Indian "nabob," the Company ruler trained (and corrupted) in the ways of "oriental despotism." In both cases, the basic fear was that arbitrary power cultivated in the colonies would return to Britain and subvert British liberty. While Sharp emphasized the violence and arbitrary power inherent in slaveholding, others expressed a related distaste for the perceived sexual depravity of slave societies; as Brooke Newman has shown, metropolitan satirists figured interracial sex as a corrupting force that threatened the "integrity of British lineages" in both a racial and a moral sense.[65]

For our purposes, the salient point regarding Sharp's argument about political and social corruption concerns the task facing antislavery advocates in the late eighteenth century. One of the antislavery movement's key challenges was engaging a domestic audience far away from colonial plantations. The problem of empathy was met partly through print—words and images designed to communicate the horrors of the trade.[66]

[62]Sharp, *Representation*, 87. Sharp elided the fact that advertisements for "runaway slaves" (as well as soldiers and indentured servants) also appeared in British newspapers during the eighteenth century. See John W. Cairns, "Runaway Announcements and Narratives of the Enslaved," in Nicholas Brownlee, ed., *The Edinburgh History of the British and Irish Press*, vol. 1, *Beginnings and Consolidation, 1640–1800* (Edinburgh, 2023), 564–74; Simon P. Newman, "Freedom-Seeking Slaves in England and Scotland, 1700–1780," *English Historical Review* 134/570 (2019), 1136–68.

[63]Sharp, *Representation*, 90.

[64]Brown, *Moral Capital*, 200–6. On Burke and the Hastings trial see Nicholas B. Dirks, *The Scandal of Empire: India and the Creation of Imperial Britain* (Cambridge, MA, 2006), 1–131.

[65]Brooke N. Newman, *A Dark Inheritance: Blood, Race, and Sex in Colonial Jamaica* (New Haven, 2018), 204–28, at 222.

[66]On the visual and material cultures of British antislavery see Martha Cutter, *The Illustrated Slave: Empathy, Graphic Narrative, and the Visual Culture of the Transatlantic Abolition Movement, 1800–1852* (Athens, GA, 2017); Oldfield, *Popular Politics and British Anti-slavery*, Ch. 6; Marcus Rediker, *The Slave Ship: A Human History* (New York, 2007), 308–42; Marcus Wood, *The Horrible Gift of Freedom: Atlantic Slavery and the Representation of Emancipation* (Athens, GA, 2010), 35–89.

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But it was also addressed, strategically, by casting antislavery issues in terms of domestic moral norms—involving gender and family life in particular.[67]

Sharp prefigured these strategies, which developed more fully towards the end of the eighteenth century and into the nineteenth. The *Representation* takes up the conceptual task of localizing the threat of slavery. By portraying slavery as a threat to English liberty, Sharp transformed the problem from a remote abstraction into a domestic imperative. This was a constant theme in his advocacy, as we will see. Turning from the American North, he called forth an image of slavery in England. "[T]he practice of Slave-holding is now only in its infancy amongst us," he wrote.

> But if such practices are permitted much longer with impunity, *the evil will take root; precedent and custom will too soon be pleaded in its behalf*; and as Slavery becomes more familiar in our eyes, mercenary and selfish men may take it into their heads, to employ their Slaves (not merely in domestick affairs as at present, but) in husbandry; so that they may think it worth their while to breed them like cattle on their estates, as they do even in the North American colonies, though the children of Slaves, born there, are as much the King's natural born subjects as the free natives of England.[68]

Here, the duality of the tract's title is particularly revealing. The book explains, in great detail and with fervor, the "Injustice" of slavery. But it also emphasizes the "Dangerous Tendency" of "admitting the Least Claim of Private Property in the Persons of Men, in England." If Sharp's personal involvement with Strong explained his particular concern for the plight of those enslaved in the colonies and brought to England, his persistent emphasis on the problem of slavery in England amplified a related but distinct focus. Part of Sharp's conceptual task was to prove that slavery mattered to Britons. He did so by persistently declaring direct moral responsibility for colonial slavery, but also by suggesting, equally persistently, that slavery posed a threat to Englishness itself. The problem of slavery was thus cast as a problem of national identity. Antislavery, in turn, became not only a means of ending injustice but also of defending English institutions and values against the threat of foreign corruption.

Natural rights and the ancient constitution

A second key feature of the abolitionist politics that Sharp built on legal foundations depended on invocations of natural law. While Sharp made statutory arguments against slaveholding in England, he also made the broader argument that liberty was a natural right inherent in the condition of humanness. Sharp shared this focus with other antislavery thinkers who used natural law to cast doubt on the validity of man-made laws sanctioning slavery.[69] But Sharp's assertions regarding natural rights frequently

[67] Brycchan Carey, *British Abolitionism and the Rhetoric of Sensibility* (New York, 2005), Chs. 3–4; Oldfield, *Popular Politics and British Anti-slavery*, 134–41; Helen Thomas, *Romanticism and Slave Narratives: Transatlantic Testimonies* (Cambridge, 2000), 157–271.

[68] Sharp, *Representation*, 92.

[69] John Wesley's *Thoughts upon Slavery*, which, as discussed previously, portrayed colonial slave law as inconsistent with "natural justice," was a prominent early example. Wesley, *Thoughts upon Slavery*, 31.

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appeared alongside complementary assertions regarding the common-law tradition. Indeed, Sharp's antislavery appeals depended heavily on a particular appraisal of the rights and privileges associated by many common-law thinkers with the "ancient constitution." This was in part a legal strategy: an effort to array as many arguments as possible to dismantle the Yorke and Talbot position. But as with Sharp's portrayal of Englishness, his synthesis of natural and common law also served as a basis for developing a broader politics of abolition. Connecting antislavery to a key theme in eighteenth-century radical thought, Sharp pursued a kind of natural-rights constitutionalism.[70] In so doing, he figured abolition as both radical and traditional; he refashioned tradition in the service of a radical cause.

These dynamics first appeared in the *Representation*, where a set of broad assertions regarding the relation between personal rights and humanness bolstered Sharp's claims about subjecthood. Most prominently, Sharp argued that liberty was a universally applicable natural right. "True justice makes no respect of persons," he wrote, "and can never deny to any one that blessing to which all mankind have an undoubted right, their *natural liberty*."[71] Sharp's language (the use of the word "blessing" in particular) points to the religious underpinnings of his understanding of natural law—a subject to which I will return later. But the important point here is that Sharp's view of liberty was grounded in the condition of humanness. From the beginning of the *Representation*, Sharp argued that enslaved men and women were "*free* born; of human, not base, parents," and therefore entitled to "*natural liberty*."[72] As subjects but also as humans, then, the enslaved were entitled to liberty protections. They could not legally be treated as "mere *things*."[73]

Yet just as he referred to "*natural liberty*" and appealed to the "common and natural rights of mankind," Sharp simultaneously portrayed tradition as the source of such rights.[74] He did so by reading natural rights into the common law. He was at pains to show that, if slavery was inherently wrong, it was also "plainly *contrary* to the laws and constitution of this kingdom."[75] On this reading, the constitution was more than a bill of rights. In addition to long-established political guarantees and restrictions on the state, it also encompassed abstract moral principles. Sharp thus proclaimed the golden rule, "the principle of '*doing as one would be done by*,'" as "the very basis of the English

[70]On the melding of natural law and ancient constitutionalism in late eighteenth- and early nineteenth-century thought see J. C. D. Clark, *The Language of Liberty: Political Discourse and Social Dynamics in the Anglo-American World, 1660–1832* (Cambridge, 1993), 2–4, 46–140; James A. Epstein, *Radical Expression: Political Language, Ritual, and Symbol in England, 1790–1850* (Oxford, 1994); Josh Gibson, "The Chartists and the Constitution: Revisiting British Popular Constitutionalism," *Journal of British Studies* 56/1 (2017), 70–90; Owers, "Common Law Jurisprudence and Ancient Constitutionalism"; James Vernon, "Notes towards an Introduction," in Vernon, ed., *Re-reading the Constitution: New Narratives in the Political History of England's Long Nineteenth Century* (Cambridge, 1996), 1–21.

[71]Sharp, *Representation*, 38.

[72]Ibid., 14.

[73]Ibid., 13.

[74]Ibid., 38, 40.

[75]Ibid., 40–41.

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constitution."[76] For Sharp, there was no neat division between constitutional tradition, reason and religion.

Such synthesis remained present as Sharp's legal thinking and public advocacy developed following his encounter with Jonathan Strong and the publication of the *Representation*. In 1771, shortly before *Somerset* went to trial, Sharp's attention turned to a similar conflict involving Thomas Lewis, an African man seized in London at the behest of his putative owner, Robert Stapylton. Sharp initiated a habeas action and sought an arrest warrant on grounds of assault for Lewis's captors.[77] Writing privately, Sharp constructed a legal argument that Lewis's natural right to liberty necessarily outweighed any possible property interest held by Stapylton in accordance with positive colonial law. However high the monetary value of such an interest, Lewis, according to Sharp, held a "superior Right and Title to his own Person," based on "a claim of natural property in himself."[78] Blending this natural-law argument with the authority of the common law, Sharp then argued that English law necessarily recognized Lewis's "superior Right"—"surely his Liberty to him is inestimable; at least the English law presumes that it is so."[79] This melding functioned to answer a particular legal issue, raised by Lewis's ordeal, concerning the relationship between individual liberty and private property. Yet it also served a broader purpose, turning from the particular to the general, in aligning inherent personal rights with the moral standing of the nation. Treating natural liberty as an animating force within the common law led Sharp to assert that the case concerned not narrow private interests but rather a shared public injury. If the court allowed Stapylton to assert his right over human property in England, "the publick would be materially injured as well in honour as in Morals and National Safety."[80] By subverting the natural-law essence of the common law, slavery imperiled "this free Christian Country" and constituted a public wrong (or "*publicum malum*" in Latin, as Sharp wrote).[81]

These arguments Sharp reprised publicly in a substantive *Appendix* to his original *Representation*, published in 1772.[82] Again, Sharp drew an inherent, natural right to liberty into the common law. The "Law *doth no wrong*," he contended, in favoring the "*superior*, because *a natural interest*" of the enslaved over the slaveholder's "*lesser* claim of *estimable* property."[83] Referring to such a slaveholder as an "imaginary proprietor," Sharp argued that "every claim of *Property* is absolutely *unjust in* itself … if it interferes,

[76]Ibid., 103.

[77]The case was transferred to King's Bench, where it was heard by Lord Mansfield in February 1771. See Oldham, "New Light on Mansfield," 49–53; James Oldham, *The Mansfield Manuscripts and the Growth of English Law in the Eighteenth Century*, 2 vols. (Chapel Hill, 1992), 2: 1242–3.

[78]New-York Historical Society, Granville Sharp Collection, 1768–1803, Granville Sharp, "The King agt. Stapleton & Ors.," 3.

[79]Ibid.

[80]Ibid., 5.

[81]Ibid.

[82]Granville Sharp, *An Appendix to the Representation, (Printed in the Year 1769,) of the Injustice and Dangerous Tendency of Tolerating Slavery, or of Admitting the least Claim of Private Property in the Persons of Men in England* (London, 1772). For an insightful reading of the *Appendix* see Winter, "From Procedural Law to the 'Rights of Humanity'," 412–13.

[83]Sharp, *An Appendix to the Representation*, 9.

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or is inconsistent with that *natural* and *equitable* claim to *personal security*."[84] Natural rights to liberty "the law of this kingdom hath *always favoured*."[85] Any contrary claim to human property was in Sharp's view necessarily inconsistent with "the Maxims of the Common Law"; to grant a right to slavery in England was "to stab the constitutional freedom of two ancient Kingdoms at one blow."[86] As Sarah Winter has explained, two of Somerset's attorneys similarly invoked natural-law principles "as conjoined to English law."[87]

How should we understand Sharp's natural-rights constitutionalism? Conceptually, Sharp's jurisprudence recalled an older, medieval tradition of common-law thought that viewed reason and custom as overlapping sources of law. Like Sharp, Glanvill portrayed "the laws and customs of the realm" as having "their origin in reason."[88] Written some forty years later, Bracton similarly associated English law and custom, and the "general agreement of the *res publica*," with a broader principle of justice derived abstractly from God and human nature.[89] To varying degrees, this association was preserved in the seventeenth- and eighteenth-century sources that Sharp read and cited frequently.[90] Tellingly, the very last line of the *Representation* was a quotation from Matthew Hale: "What is contrary to reason, is contrary to law."[91] This melding of law and reason reflected both Coke's enduring eighteenth-century influence and the practical fact that judges continued to rely on external sources like natural law, not just precedent, to decide cases.[92] As a story of origins and persistence, this lineage suggests that Sharp's view of natural law was more viable and less eccentric than it might seem in light of familiar distinctions between "law" and "equity," with the former regarded as relatively inflexible judge-made rules and the latter as the flexible application of principles of justice.[93]

[84] Ibid., 9–10.

[85] Ibid., 10.

[86] Ibid., 14, 22. The two kingdoms referred to here are England and Scotland.

[87] Winter, "From Procedural Law to the 'Rights of Humanity'," 408 (quoting Hargrave's invocation of "natural justice" and Alleyne's argument concerning rights essential to man's "condition as such").

[88] *The Treatise on the Laws and Customs of the Realm, Commonly Called Glanvill*, ed. and trans. G. D. G. Hall (Oxford, 1965), 2.

[89] Bracton, *On the Laws and Customs of England*, 2: 22.

[90] In particular, Sharp engaged extensively with Blackstone. See, for example, his discussion of Blackstone's *Commentaries* in the *Representation*, 140–46. See also Davis, *The Problem of Slavery in the Age of Revolution*, 485–6.

[91] Sharp, *Representation*, 167.

[92] See Michael Lobban, *The Common Law and English Jurisprudence, 1760–1850* (Oxford, 1991), 3–7, 59–61 (on Coke and the lasting influence of his view of law and reason), and 80–115 (on the use of external sources of law in judicial decision making, including, at 90, "natural law, justice, political philosophy, political economy, and convenience"); David Lieberman, *The Province of Legislation Determined: Legal Theory in Eighteenth-Century Britain* (Cambridge, 1989), 88–126 (on natural law as a source of law and as a means of reforming precedent in commercial contexts, in the jurisprudence of Lord Mansfield in particular); D. J. Ibbetson, "Natural Law and Common Law," *Edinburgh Law Review* 5/1 (2001), 4–20 (arguing that natural law was an important source that affected the substance of the common law during the seventeenth and eighteenth centuries).

[93] Lobban, *Common Law and English Jurisprudence*, 1.

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But the meaning and force of Sharp's melding of natural and common law is best viewed not in narrow jurisprudential terms but rather in the wider context of opposition politics during the 1760s and 1770s. These decades witnessed new, more forceful challenges to the form of aristocratic one-party rule that had dominated English politics under George I and George II. As noted, significant expansions in an increasingly national press network facilitated extra-parliamentary agitation. So did coffeehouses, debating societies, and popular demonstrations. Opposition to court–Whig hegemony was ideologically multivalent, but by the 1760s political radicalism was newly visible. John Wilkes galvanized a popular movement that rejected the particularly unrepresentative status quo and called for parliamentary reform. American attacks on the theory of virtual representation then motivated similar demands among a wider range of English radicals. While it is overly simplistic to read this period as a fully formed precursor to nineteenth-century reform, 1760s radicalism was new in arguing not just for more frequent elections but also for reformed electoral districts and a more expansive franchise.[94]

Importantly, radicals in this context drew simultaneously on notions of inherent and inherited rights. The case for political representation was based on assertions of liberty, but liberty could be conceived of as both a natural right and a historic tradition. Wilkite radicals melded the two poles. They appealed to the ancient constitution as a source of rights and promoted a narrative of English history, focused particularly on the Civil Wars and the Glorious Revolution, as a basis for arguing that legitimate political power depended on the consent of an inherently free "people."[95] This was a recurring feature of English radical thought into the nineteenth century. As James Epstein has argued, a republican natural-rights tradition coexisted with "popular constitutionalism," which grounded rights in constitutional guarantees like the 1689 Bill of Rights.[96] In practice, these two conceptions intermingled. Radicals portrayed Saxon England as a "paradigm of constitutional virtue" and parliamentary reform as a restoration.[97] The parliamentary reformer John Cartwright merged the two strands through a selective reading of English history that emphasized traditional rights guarantees like Magna Carta.[98] The Chartists similarly drew symbolically and rhetorically from both traditions, championing the "ancient right" to petition while simultaneously convening a "national convention" as a kind of anti-parliament.[99]

During the 1770s and 1780s, Sharp was an active participant in the radical circles that promoted this line of thought. He worked closely with Capel Lofft and Cartwright, who published the influential radical tract *Take Your Chance!* in 1776. In 1777, the three met to revise Wilkes's call for parliamentary reform.[100] Three years later, they jointly established the Society for Constitutional Information, along with John Jebb, Richard Price, and others, to disseminate arguments in favor of yearly parliaments and a wider

[94]Brewer, *Party Ideology and Popular Politics*, 7–22, 139–261.

[95]Wilson, *The Sense of the People*, Ch. 4; Brewer, *Party Ideology and Popular Politics*, Ch. 12.

[96]Epstein, *Radical Expression*, esp. 1–28.

[97]Brewer, *Party Ideology and Popular Politics*, 260.

[98]Epstein, *Radical Expression*, 20.

[99]Ibid., 19; see also Gibson, "The Chartists and the Constitution," 76–84.

[100]Owers, "Common Law Jurisprudence," 61.

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suffrage.[101] Lofft had compiled the authoritative transcript of Mansfield's decision in *Somerset* years earlier, and Cartwright was similarly aware of Sharp's antislavery. Sharp and Cartwright read and cited each other.[102]

In this context and as a radical advocate, Sharp viewed natural law as both a limit on legitimate political conduct and an embedded source of traditional English liberties. In 1774, he published *A Declaration of the People's Natural Right to a Share in the Legislature*, a tract in support of the American cause, which portrayed political representation as a "Natural Right."[103] Natural rights of this sort imposed inherent limits on positive law, he argued, and could not be "withdrawn from any part of the British empire by any worldly authority whatsoever," including Parliament.[104] At the same time, Sharp argued that the natural right to representation possessed by the American colonists stemmed from the English constitution, and was equally guaranteed by English law. "The free representation of the people in the legislature," he wrote, was a crucial part of "mixt government, limited by law, which our ancestors have always most zealously asserted, and transmitted to us, as our best birthright and inheritance."[105] Representation was thus both natural and traditional, a "right" and an "inheritance." For Sharp, this linked natural law to the ancient constitution, defined as existing beyond sovereign power. Parliament could not "give up the ancient and established right of the people to be represented in the legislature" because doing so would "entirely subvert the principles and constitution on which the very existence of the legislature itself, which ordained it, is formed!"[106]

A melding of natural and constitutional rights was thus integral both to Sharp's political radicalism and to his abolitionism. In both cases, he revived an older tradition of common-law thinking, one that saw natural law as the basis of the ancient constitution, for new political purposes. As we have seen, Sharp's argument against slavery had long depended on a notion of natural rights. "[*N*]*atural liberty*" belonged to "all mankind," he asserted in the *Representation*, making enslavement a "gross infringement" of "common and natural rights."[107] Later tracts confirmed and expanded this theory. *The Law of Liberty*, published in 1776, argued that liberty and equality were inherent rights guaranteed by God; it further cast slavery as a violation of "the general Laws of Morality, and the *natural Rights of Mankind*."[108] Yet with equal persistence, Sharp read these notions of natural rights into his account of the common-law tradition and the ancient constitution. He was aware that the British state had not in practice respected the principles of liberty he lauded. But rather than undermining his account

[101] Ibid.; Brown, *Moral Capital*, 188–91; John W. Osborne, *John Cartwright* (Cambridge, 1972), 25.

[102] Owers, "Common Law Jurisprudence," 62.

[103] Granville Sharp, *A Declaration of the People's Natural Right to Share in the Legislature, which is the fundamental principle of the British constitution of state* (London, 1774), 4.

[104] Ibid.

[105] Ibid., 10.

[106] Ibid., 12.

[107] Sharp, *Representation*, 38, 40.

[108] Sharp, *Law of Liberty*, 21–2.

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of tradition, he viewed this discrepancy as a call for reform amidst the "depravity of the present age."[109]

In so doing, Sharp gave his antislavery vision the ideological power of the common-law notion of "immemoriality."[110] As an abolitionist, Sharp called for an immense reordering of the world. But his antislavery jurisprudence—his arguments for abolition—featured a rhetorically potent mixture of tradition and radicalism. Radical advocates for parliamentary reform, including Sharp, "constructed an alternative narrative of English history that endowed radical apprehensions and goals with credibility."[111] Sharp's antislavery writing, which is sometimes viewed separately from his political advocacy, made use of this same mode of political assertion. Like the "popular constitutionalists" described by Epstein, Sharp argued for radical change using the language of tradition. Change, even radical change, could be framed as restoration rather than upheaval—as part of a general effort to "save the British Constitution."[112]

This rhetorical strategy should not be seen as the mere product of Sharp's peculiar personality.[113] Instead, it should be regarded as an important contribution to British abolitionism. Rather than portraying abolition as a radical revolution, Sharp figured it as a restorative, traditional project. In the 1760s and 1770s context in which Sharp developed this idea, it marked a revival of an older yet still viable legal tradition in which natural law was viewed as the basis of the ancient constitution. At the same time, he used the language of natural rights to press beyond the parameters of legal cases involving trover, forced detention, and habeas corpus, to question the legitimacy of slavery itself, in a context in which he and other radicals were actively reinventing the past to challenge prevailing structures of authority. Looking forward, Sharp's melding of radical and traditional claims—his portrayal of abolition as a restoration, not a revolution—would be received and promoted by others during the later campaign against the trade. Indeed, it is an image that Thomas Clarkson would celebrate in his first history of abolition, which attributed to Sharp the "restoration of the beauty of our constitution."[114]

Law, religion, and national guilt

Having considered Sharp's natural-law constitutionalism, we turn now to a third fundamental element of Sharp's legal thought: religion. Indeed, it would be impossible to understand Sharp's antislavery jurisprudence without taking into account his view of the relation between law and religion. After publishing the *Representation*, Sharp shifted his attention to religious law in an effort to repudiate, as he explained to Benezet,

[109]Sharp, *Representation*, 105.

[110]On the notion of immemoriality in common-law thought see J. G. A. Pocock, *The Ancient Constitution and the Feudal Law* (Cambridge, 1987), Ch. 2.

[111]Wilson, *The Sense of the People*, 212–36, quote at 218.

[112]Granville Sharp to Benjamin Rush, 27 July 1774, in John A. Woods, "The Correspondence of Benjamin Rush and Granville Sharp 1773–1809," *Journal of American Studies* 1/1 (1967), 1–38, at 10.

[113]There is a tendency in the literature to describe Sharp as an eccentric. See, for example, Davis, *The Problem of Freedom in the Age of Revolution*, 391.

[114]Thomas Clarkson, *History of the Rise, Progress, and Accomplishment of the Abolition of the Slave Trade*, 2 vols. (London, 1808), 2: 79.

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"the doctrines of some late writers and disputers, who have ventured to assert that slavery is not inconsistent with the Word of God."[115] Two tracts published in 1776—*The Just Limitation of Slavery in the Laws of God* and *The Law of Liberty*—argued extensively that slavery and Christianity were incompatible. A third, *The Law of Retribution*, also published in 1776, portrayed slavery as a crime, called for national repentance, and warned of divine punishment. Together, these writings reveal the significant extent to which religion shaped Sharp's understanding of the common law, and of legality in the abstract.[116]

The first point to make in this respect is that Sharp viewed the Bible as a source of law with direct application to human affairs; to address basic questions surrounding the legality of slavery, he turned to Scripture in addition to statutes. Surveying evidence from both the Old and New Testaments, *The Just Limitation of Slavery* argued that both biblical sources condemned Atlantic slavery.[117] Sharp's emphasis, however, lay persistently on the Gospels, from which he derived further support for universal principles of equality and liberty.[118]

The foundation of Sharp's natural-law thinking was thus religion. The golden rule, which Sharp treated as a constitutional principle, he simultaneously viewed as an imperative of Christian love. "Slavery is absolutely inconsistent with Christianity," he affirmed, "because we cannot say of any *Slaveholder*, that he *doth not* to another, what he would not have done to himself!"[119] Natural liberty Sharp similarly viewed as "SUPREME LAW" derived from biblical principles.[120]

Sharp's exegetical method in *The Law of Retribution* further demonstrates both points: that Scripture was, for Sharp, both the basis of natural law and directly applicable to human affairs in the present. Much of the more than three-hundred-page tract is devoted to close interpretation of biblical text, and Sharp's basic argumentative logic is that principles of moral conduct derived from Scripture can be applied universally and in the modern world, not simply in the biblical past. Citing specific passages from Deuteronomy and Leviticus, Sharp concluded that "no *National* Wickedness can be more heinous in the sight of God, than a public toleration of *Slavery and Oppression!* For Tyranny (in whatsoever shape it appears) must necessarily be esteemed a presumptuous breach of that Divine Command."[121] In so doing, Sharp argued as a lawyer, treating divine punishment of oppression (as recorded in Scripture) as precedent, and applying such precedent to the modern context of chattel slavery. At the same time, Sharp made manifest his view that Scripture was a directly applicable source of law. The "Command" to which Sharp referred was that "in which '*all Law is fulfilled*' (Gal. v. 14.) viz. 'Thou shalt love thy Neighbour as thyself' Levit. Xix. 18."[122]

[115] Sharp to Benezet, 21 Aug. 1772, in Hoare, *Memoirs of Granville Sharp*, 101.

[116] See note 9 above. Sharp authored a fourth, related tract in the same year, *The Law of Passive Obedience*.

[117] Sharp, *Just Limitation of Slavery*, 2–46.

[118] Ibid., 13–20; Sharp, *Law of Liberty*, 5–33.

[119] Sharp, *Law of Liberty*, 33.

[120] Ibid., 31.

[121] Sharp, *Law of Retribution*, 10–11.

[122] Ibid., 11.

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Thus, for Sharp, religion and law were inextricably intertwined. Scripture could be used to answer legal questions, but it was also a means of challenging the legitimacy of man-made law. Perhaps most important, Sharp read a religious repugnancy principle into the common law, invalidating laws that conflicted with biblical command. Applying Deuteronomy to answer legal questions surrounding the rights of runaways and those who harbored them, he thus argued, "AN ACTION OF TROVER *cannot lye for a slave* … because that would be punishing a man for doing *his indispensable duty* according to the *laws of God*."[123] In cases of conflict, religious law was supreme; positive law in violation of religious law "must necessarily be rejected as *null and void*."[124] To support this argument, Sharp again drew on an older tradition of common-law texts, citing Christopher St Germain's work *Doctor and Student*.[125]

From this vantage point, the legality of slavery depended on more than positive law. And as a violation of religious law, slavery was more than simple wrongdoing. According to Sharp, slavery was a collective sin—a crime against God. As such, it was a problem affecting the nation and empire as a whole. The result was what Sharp called a "*National Guilt*," calling forth the prospect of divine retribution.[126] "The AFRICAN SLAVE TRADE, which includes the most contemptuous Violations of *Brotherly Love* and *Charity* that men can be guilty of, is openly encouraged and promoted by the British Parliament!" he warned.[127] "By the unhappy Concurrence of *National Authority*, the GUILT is rendered *National*; and *National* GUILT must inevitably draw down from GOD some tremendous *National* Punishment."[128] Sharp pursued this argument extensively in his *Law of Retribution*, which warns throughout of "severe VENGEANCE" for the "CRYING SIN OF TOLERATED SLAVERY."[129]

It is difficult to overstate the rhetorical importance of Sharp's emphasis on sin. Sharp propagated a kind of "judicial providentialism," a belief that God actively punished nations for immoral behavior.[130] The concept of divine retribution lent immediacy to the case for abolition.[131] Like Sharp's earlier invocation of Englishness, it also served to universalize the problem of slavery, implicating a domestic audience. According to Sharp, the "horrible Guilt" of slavery was "no longer confined to the few hardened

[123]Sharp, *Just Limitation of Slavery*, 55.

[124]Ibid., 55–6.

[125]Ibid., 56. On Sharp's invocation of St Germain, Coke, and other key common-law texts see Owers, "Common Law Jurisprudence," 62–5.

[126]Sharp, *Law of Liberty*, 49–50. Sharp used the phrase as early as 1768; see Brown, *Moral Capital*, 170.

[127]Sharp, *Law of Liberty*, 49.

[128]Ibid., 49–50. Relevant here is Clark, *Language of Liberty*, 55 ("The sense of the nation as a moral person derived from an ancient tradition of Biblical exegesis, [was] still fully in repair in the late eighteenth century").

[129]Sharp, *Law of Retribution*, 304, 340.

[130]I borrow the term "judicial providentialism" from Nicholas Guyatt, *Providence and the Invention of the United States, 1607–1876* (Cambridge, 2007), 6. The theological basis for this kind of providentialism was not strictly denominational; during the second half of the eighteenth century, adherents included Anglicans (like Sharp) and a wide variety of nonconformists. See ibid., Ch. 2; John Coffey, "'Tremble, Britannia!' Fear, Providence and the Abolition of the Slave Trade, 1758–1807," *English Historical Review* 127/527 (2012), 844–81.

[131]Brown, *Moral Capital*, 175.

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Individuals" directly involved in the trade.[132] Instead, "The WHOLE BRITISH EMPIRE" was responsible.[133] As Christopher Brown has concluded, "Sharp introduced in Britain the seminal idea that the fate of the nation depended on its liberation from the sins of slaving."[134]

Similarly, Sharp's emphasis on sin served to attribute direct moral responsibility for slavery to Britons throughout the empire. As Thomas Haskell has argued, the issue of causality was a central problem in the eighteenth-century rise of antislavery and humanitarianism.[135] If antislavery advocates sought to shift moral perceptions of the issue, then part of their task was to attribute responsibility for attenuated, distant events across the imperial economy. Sharp's approach was to promote a religious view of moral responsibility that merged direct and indirect support for slavery, as well as action and inaction. "[*T*]*o be in power*, and to neglect (as life is very uncertain) even a day in endeavouring to put a stop to such monstrous injustice," he warned Lord North in 1772, "must necessarily endanger a man's *eternal* welfare, be he ever so great in *temporal* dignity or office."[136] Writing to the Colonial Secretary, the Earl of Dartmouth, Sharp was equally stern; political leaders responsible for colonial violence accrued a "*personal* guilt, which they must one day *personally* answer for, when they shall be compelled to attend, with common robbers and murderers, expecting an eternal doom."[137] Equating political decision making in London with the direct action of "robbers and murderers," Sharp denied causal attenuation.[138] Meanwhile, the guilt of *inaction* in the face of sin he applied generally to the public at large. As Benezet wrote to Sharp several months earlier, "we cannot be at the same time *silent* and *innocent* spectators of the most horrid scene."[139]

This moral immediacy separates Sharp's antislavery from many earlier and contemporary variants. We have seen how Sharp's legal arguments in many cases revived claims made during the seventeenth century and the early eighteenth, particularly during the tenure of Chief Justice Holt. In Sharp's own lifetime, others similarly questioned slavery on moral, and increasingly economic, grounds. Edward Trelawny, the governor of Jamaica during the First Maroon War, anonymously published *An*

[132]Sharp, *Law of Liberty*, 49.

[133]Ibid.

[134]Brown, *Moral Capital*, 171. On the subsequent prevalence of divine retribution in British antislavery thought, see Coffey, "Tremble, Britannia!".

[135]Thomas L. Haskell, "Capitalism and Humanitarian Sensibility, Parts I and II," in Thomas Bender, ed., *The Antislavery Debate: Capitalism and Abolitionism as a Problem in Historical Interpretation* (Berkeley, 1992), 107–60.

[136]Granville Sharp to Lord North, 18 Feb. 1772, in Hoare, *Memoirs of Granville Sharp*, 78–80, at 78–9.

[137]Granville Sharp to the Earl of Dartmouth, 10 Oct. 1772, in Hoare, *Memoirs of Granville Sharp*, 109–111, at 111.

[138]Sharp similarly did this in *The Law of Retribution*, 17 (warning that a "public Toleration" of slavery, "under the sanction of Laws to which the Monarchs of England, from time to time, by the advice of their Privy Counsellors, have given *the Royal Assent*," rendered those officials "themselves Parties in *the Oppression*, and (it is to be feared) Partakers of the Guilt!").

[139]Anthony Benezet to Granville Sharp, 14 May 1772, in Hoare, *Memoirs of Granville Sharp*, 98–100, at 99.

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Essay Concerning Slavery in 1746, which warned that ongoing importations would eventually lead to catastrophic violence.[140] Like Sharp, Adam Smith rejected the notion that villeinage could serve as legal precedent for African slavery while arguing, more broadly, that slavery was premodern and inefficient.[141] John Millar similarly condemned enslavement on economic grounds in his *Origin and Distinction of Ranks*, marking a broader trend within the Scottish Enlightenment.[142] Without enumerating additional examples, we can note that these grounds of argument—one focused on the potential for revolutionary violence, later tied to the Haitian Revolution, and another focused on political economy—remained abiding preoccupations for nineteenth-century abolitionists.

Sharp took part in neither of these traditions; as his emphasis on religious command and retribution makes clear, he had no use for pragmatic grounds in developing a case against slavery. He was consistent in this regard, as we see when Sharp returned to his arguments concerning slavery and religion eleven years later. This occurred in response to the infamous *Zong* case, which arose after the ship's captain had his enslaved "cargo" thrown overboard to collect an insurance payment. Sharp argued that the murder of 132 men ("considered as Goods … yet, that still they are Men") should be punished. But in so doing, he warned the Admiralty that allowing the slave trade to continue imperiled "the whole Nation," not just those directly involved in the *Zong*, and would result in divine retribution, or a "tremendous Calamity, as may unquestionably mark the avenging hand of God."[143] An additional letter sent to the Duke of Portland explicitly invoked Sharp's earlier admonishment of Lord North; denying any claim of causal attenuation, Sharp argued that British officials bore responsibility for allowing the trade to continue.[144]

While Sharp's theory of religious guilt served to concretize the abstraction of slavery and universalize its threat of destruction, it also underscored a broader point about his conception of law. Law, for Sharp, was not in the end a matter of public policy; its purpose was not to balance competing interests and needs. Instead, it was to

[140]Edward Trelawny (attributed), *An Essay Concerning Slavery: and the Danger Jamaica is expos'd to from the Too great Number of Slaves, and the Too little Care taken to manage Them, and a Proposal to prevent the further Importation of Negroes into that Island* (London, 1746). See also Blanton, "This Species of Property," 399–405.

[141]Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776), 2 vols. (Chicago, 1976), 1: 89–90, 407–19; Blanton, "This Species of Property," 484–6; Eric Herschthal, *The Science of Abolition: How Slaveholders Became the Enemies of Progress* (New Haven, 2021), 8–9.

[142]Herschthal, *Science of Abolition*, 8–9.

[143]Granville Sharp, "An Account of the Murder of 132 Slaves on Board The Ship *Zong*, or *Zurg* … inclosed in the Letter 2d July 1783 to the Lords Commissioners of the Admiralty," National Maritime Museum, REC/19, reprinted in Lyall, *Sharp's Cases on Slavery*, 297–305, at 303, 305. Michelle Faubert has discovered a more complete copy of this letter in the British Library and shown that the National Maritime Museum's copy was a draft. The original sent to the Admiralty has been lost. Faubert, "Granville Sharp's Manuscript Letter." On the *Zong* more broadly see Walvin, *The Zong*; Jane Webster, "The *Zong* in the Context of the Eighteenth-Century Slave Trade," *Journal of Legal History* 28/3 (2007), 285–98; Ian Baucom, *Specters of the Atlantic: Finance Capital, Slavery, and the Philosophy of History* (Durham, NC, 2005), 3–18, 39–79.

[144]Granville Sharp to the Duke of Portland, 17 July 1783, National Maritime Museum, REC/19, reprinted in Lyall, *Sharp's Cases on Slavery*, 308–9.

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impose absolute moral principles on human conduct. Arguments from necessity—whether strategic or economic—Sharp cast aside as "deceitful sophistry."[145] Causal attenuation Sharp similarly cast aside, attributing personal responsibility even to those only indirectly connected to slavery and the slave trade. In this view, justice was unbending.

Antislavery, progress, and modernity

As Sharp sought to portray slavery both as a "foreign" threat to Englishness and as a national sin, he also argued that antislavery—and ultimately abolition—was distinctively progressive and modern. This was the final important rhetorical contribution made by Sharp's legal writing to the antislavery movement as a whole. As Eric Herschthal has recently argued, a wide range of antislavery actors sought to portray slavery as a premodern institution and slaveholders as "the enemies of progress."[146] Sharp was a progenitor of this modernizing antislavery discourse, though he placed less emphasis on science and technology than Herschthal's protagonists did and more on a progressive reading of British legal history. Associating antislavery with the notion of progress, Sharp's legal history provided an answer to the long-standing acceptance of slavery apparent in Western and non-Western societies alike.

As part of Sharp's general effort to prove that English law prohibited slavery, he engaged substantially with English legal history. We have seen that Sharp turned particularly to the history of villeinage in a strategic effort to undermine its value as precedent in legal cases involving modern slavery. This effort simultaneously served broader aims; it produced a "usable past"—a history of common-law evolution with larger antislavery purposes. Two points are particularly important in this regard. First, Sharp's history was progressive in the Enlightenment sense; it attached to English legal development a clear directionality, moving forward in time towards improvement. From this perspective, the story of the common law was above all a story of freedom; its central narrative principle was the gradual triumph of liberty over tyranny. According to Sharp, ancient forms of feudal servitude existed in spite of and against the common law's true spirit. Villeinage, like slavery, he portrayed as a foreign, un-English aberration. "[S]uch barbarous customs," he argued, "had no other foundation, than the violent and unchristian usurpation of the uncivilized barons in an age of darkness."[147] Not only was villeinage "obsolete," it was also contrary to "*the very foundation of our* English Common Law."[148]

Second, as the preceding quotation suggests, Sharp abstracted the common law from its feudal social origins. The rise of freedom—and of the common law's true spirit—coincided in his narrative with the decline of feudalism.[149] Feudal bondage, meanwhile, was the result of "uncontrollable power," not law.[150] Thus, even as villeinage

[145]Sharp to the Earl of Dartmouth, 10 Oct. 1772, in Hoare, *Memoirs of Granville Sharp*, 111.

[146]Herschthal, *Science of Abolition*, 2.

[147]Sharp, *Representation*, 124–5.

[148]Ibid.

[149]Ibid., 126.

[150]Ibid., 125.

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reigned, the tendency of law was to limit its severity. According to Sharp, "ancient patriotic lawyers" persistently interpreted the law "*in favour of liberty*," bearing out Fortescue's maxim, "*Angliae Jura in omni casu libertati dant favorem*."[151]

Sharp was not alone in associating common-law history with the progressive realization of freedom; the assertion was potent in the litigation that had inspired Sharp's *Representation*. Arguing *Somerset's Case* in 1772, Francis Hargrave similarly portrayed villeinage and domestic slavery as a corrupting force incompatible with true common-law principles. "[L]ong and uninterrupted usage from the *origin* of the common law," he argued, "stands to oppose its [domestic slavery's] revival."[152] In England, after all, "freedom is the grand object of the laws."[153] Like Sharp, Hargrave saw the preservation of personal liberty as the essence and fundamental purpose of the common law.

In the broader context of antislavery ideology, Sharp's progressive theory of common-law history offered a powerful explanatory paradigm that remained influential well into the twentieth century. When Thomas Clarkson wrote the first history of British antislavery, just after the abolition of the trade in 1808, he attributed the movement's rise to religious and moral awakening.[154] His book helped introduce a "Whig narrative," reflected in Lecky's famous line and still dominant when Reginald Coupland wrote *The British Anti-slavery Movement* in 1933.[155] In this framework, antislavery stood as part of the larger history of British progress—from feudalism to capitalism, tyranny to liberty, and darkness to light. Not until 1944, when Eric Williams published *Capitalism and Slavery*, would this general view be questioned.[156]

But Sharp's representation of progressive historical change was also important in its original, eighteenth-century context, as a response to the history of slavery itself. As David Brion Davis emphasized, the antislavery movement had to confront the widespread prevalence and relative historical constancy of slaveholding from the classical period onward.[157] By 1769, the Atlantic slave trade had existed for more than two hundred years without attracting widespread public criticism. In this context, Sharp's progressive account of legal history was part of a broader attempt to confront the history of slavery. Throughout his writings, Sharp was at pains to portray slavery as a premodern form of barbarism. Antislavery, by contrast, was modern, civilized, and enlightened. His account of law promoted this dichotomy. Villeinage—and

[151]Ibid., 116–17: "The Laws of England are favorable in every case to liberty." Sharp cites Fortescue's *De Laudibus Legum Angliae*, and Fortescue's principle is based on the concept in Roman law of *favor libertatis*. I thank an anonymous reviewer for clarifying this point.

[152]*Somerset* v. *Stewart*, 98 English Reports 500 (emphasis added).

[153]Ibid., 501.

[154]Clarkson, *Rise, Progress, and Accomplishment of Abolition*.

[155]W. E. H. Lecky famously described the British antislavery movement as "among the three or four perfectly virtuous acts recorded in the history of nations." W. E. H. Lecky, *History of European Morals from Augustus to Charlemagne*, 2 vols. (London, 1869), 1: 161; Reginald Coupland, *The British Anti-slavery Movement* (London, 1933).

[156]Eric Williams, *Capitalism and Slavery* (Chapel Hill, 1944). On this historiographical progression see Brown, *Moral Capital*, 3–16.

[157]Davis, *The Problem of Slavery in the Age of Revolution*, 39–83.

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bondage more broadly—was a "disgraceful and uncivilized" custom, a relic of "feudal tyranny."[158] Antithetical to the spirit of progress that characterized English history, it was thus doomed to abolition. Sharp's common law, "after a long conflict with the barbarity of several generations," rose steadily towards freedom.[159]

The key rhetorical point was clear: slavery was not a normal part of the modern world; it belonged instead in a remote, un-Christian past. Like many of Sharp's claims, this was an inventive reframing of the past with normative implications for the present. For Sharp, the notion of historical progress served as a means of disrupting the eminent regularity of Atlantic slavery in eighteenth-century society. Against the implausibility of abolition, Sharp helped create a competing image: the inevitability of modern freedom. During the nineteenth century, after abolition, many Britons would abandon and subvert this view of time and modernity while decrying the economic effects of emancipation.[160] In our own times, historians have sought to connect the history of Atlantic slavery to modern economic development in numerous ways.[161] But in the late eighteenth century, as abolitionism gained political force, Sharp's conception of modernity played an important role in the emergence of an antislavery worldview. In this worldview, abolition suddenly appeared necessary, as part of the unfolding of modern progress.

Conclusion

Scholars have long considered the relation between law and antislavery in late eighteenth-century Britain. But most works on the subject have focused primarily on Mansfield's judgment in *Somerset's Case* and the actual state of English law in relation to slavery as the century drew to a close. This article has reexamined the importance of legal argument to the early development of British antislavery by subjecting Granville Sharp's antislavery jurisprudence to detailed scrutiny. Its goal was to illuminate the broader ideological purposes of Sharp's wide-ranging assessment of the common-law tradition.

Four points are particularly important in this regard. First, Sharp's antislavery jurisprudence promoted a kind of antislavery nationalism, linking antislavery to the idea of Englishness itself. In this view, slavery was a "foreign" corruption of true English principles, and a threat to domestic as well as colonial institutions. Second, Sharp read

[158]Sharp, *Representation*, 112.

[159]Ibid., 163.

[160]See, among others, Catherine Hall, *Civilising Subjects: Metropole and Colony in the English Imagination, 1830–1867* (Chicago, 2002); Thomas Holt, *The Problem of Freedom: Race, Labor, and Politics in Jamaica and Britain, 1832–1938* (Baltimore, 1991); Richard Huzzey, *Freedom Burning: Anti-slavery and Empire in Victorian Britain* (Ithaca, 2012); Padraic X. Scanlan, *Freedom's Debtors: British Antislavery in Sierra Leone in the Age of Revolution* (New Haven, 2017); Jonathan Connolly, *Worthy of Freedom: Indenture and Free Labor in the Era of Emancipation* (Chicago, 2024).

[161]For instance, Sven Beckert: *Empire of Cotton: A Global History* (New York, 2014); Sven Beckert and Seth Rockman, eds., *Slavery's Capitalism: A New History of American Economic Development* (Philadelphia, 2016); Maxine Berg and Pat Hudson, *Slavery, Capitalism and the Industrial Revolution* (Hoboken, 2023); Inikori, *Africans and the Industrial Revolution*; Walter Johnson, *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom* (Cambridge, MA, 2017); Caitlin Rosenthal, *Accounting for Slavery: Masters and Management* (Cambridge, MA, 2018).

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natural rights into the ancient constitution, casting antislavery as a restorative project even as he argued for radical change. Recognizing this allows us to contextualize Sharp's antislavery jurisprudence within wider currents in eighteenth-century radical thought, which similarly melded natural rights with a particular interpretation of English constitutional history in order to argue for parliamentary reform. Third, Sharp's concept of law was grounded in an unbending sense of religious command; the Bible, in his view, guaranteed certain natural rights and overruled man-made laws that failed to uphold them. While not unique in condemning the legality of slavery on religious grounds, Sharp's vision of religious necessity distinguished his writing from more pragmatic critiques of slavery developed during the same period and helps explain his consistent embrace of abolition as opposed to reform. Finally, Sharp's history of the common law helped to promote a progressive theory of English history, which became, over time, an important motif in antislavery thought. Portraying slavery as a relic of premodern barbarism, Sharp framed the cause of antislavery as both necessary and inevitable.

Sharp was personally involved in *Somerset's Case*, and there is no doubt that he promoted the *Representation* with Strong's predicament in mind. But Sharp's legal arguments should not be seen as a mere precursor to Mansfield's decision. Instead, they were part of a broader cultural project that would continue to grow during the nineteenth century. As we have seen, Sharp's legal writing responded strategically to the specific legal issues raised by cases like *Somerset*; in this sense he wrote as a lawyer, not a philosopher. But throughout, Sharp's legal writing did more than advance technical legal arguments. As normative representations, his claims about law illuminate specific aspects of a much larger effort to construct a politics of abolition aligned conceptually with the oppositional politics of the period. This was an effort to build "a new way of viewing and ordering the world," to universalize the threat of slavery and promote the radical cause of abolition.[162]

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[162]Quote from Seymour Drescher, *Capitalism and Antislavery: British Mobilization in Comparative Perspective* (New York, 1987), 166.

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