

Sex, Death, and Aristocratic Empire: Iranian Jurisprudence in Late Antiquity

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In the social order of the Iranian Empire (226–636 CE), aristocratic males surpassed their inferiors not only in their powers and privileges, but also in their stature. A variety of media that the court of the Sasanian rulers disseminated communicated this corporeal dominance. In the epic literature deriving ultimately from its literary specialists, the cypress tree serves as a commonplace metaphor to capture the robustness of aristocratic bodies, and elite Iranian males reliably outshoot, outmaneuver, and overwhelm other kinds of men.¹ As an example preserved in a nearly contemporary historiographical work, a military commander of the early seventh century appeared as “gigantic in stature and handsome of appearance, strong and of solid body. He was a powerful warrior, who demonstrated his valor and strength in many battles.”² The aristocrat proceeded to uproot trees with his muscular thighs and to combat a bear, bull, and lion in succession. Such images provided the stock themes of Iranian art, especially the silverplate the court circulated among its elites. Through literary and artistic productions, the court sought to persuade them that the Iranians—a community of genealogically inter-related rulers and aristocrats—constituted superior men not only culturally, but also biologically. In the company of their kings of kings, they stood as the “big men,” *wuzurgān*, incommensurable with the mass of agricultural and artisanal laborers over whom they ruled. To their inferiors, the horses on which they traveled, the silk brocade they bore, and the weapons they wielded would have reinforced their claim to greater physical capacities unavailable to commoners.

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¹ E.g., Firdawsī, *Šāhnāme* 1987–2008, vol. 1: 92, vol. 2: 154.

² *Patmut 'iwn Sebeosi*, ed. Abgaryan: 92–93; and trans. Thomson: 39. For accounts of such representations in art and literature, see Von Gall 1990: 11–47; and Walker 2006: 121–63.

It is likely that Iranian elites did tower over their subordinates on their own two feet. Inequalities of height typified the ancient agrarian societies that supported martial aristocracies, providing an important index of stratification. If the genetic determinants of stature are fixed at birth, differential access to nutritional resources, especially in childhood and adolescence, causes a high degree of variation in observable populations with similar backgrounds.³ The more stratified a society, the greater its disparities of height, and vice versa. Paleolithic and Mesolithic humans were substantially taller than their agrarian counterparts, attaining average heights of 175 centimeters for men and 165 for women. This declined by 5–10 centimeters in the Bronze and Iron Ages, a loss only regained in Europe and the Mediterranean in the twentieth century.⁴ Highly egalitarian societies, such as in early medieval Scandinavia and precolonial North America, tended to produce men roughly 5–10 centimeters taller than their more stratified counterparts.⁵ In the richly documented societies of early modern Europe, increased inequalities reduced the average height, while well-nourished elites stood about 5 centimeters higher than their subordinates.⁶ Such comparative evidence demonstrates that in stratified societies in which an elite segment of the population obtains superior nourishment in childhood they will grow significantly taller than their social inferiors. This was certainly the case in ancient Iran, and the endogamy its elites practiced over the four centuries of Sasanian rule could only have reinforced their advantage of stature, genetically as well as phenotypically.⁷

Their bigness was therefore a social and political product. The perception and reality of the ontological superiority of aristocratic bodies correspond with systemic inequalities of status and resources, the bipartite division of society between big men and their inferiors. Such a social formation, the present article argues, was the creation of the Iranian jurists, drawn from the ranks of Zoroastrian jurists, who simultaneously segregated aristocratic communities from subordinate populations and, more importantly, reproduced them across generations to calcify a stratified social order in accordance with their distinct cosmological concepts and ideals. In so doing, they channeled the sources of social power along patrilineal lines into the aristocratic houses and their constituent households, which comprised the agents and beneficiaries of Iranian imperialism.⁸ In the course of the foundation of the empire in the middle of the

³ Steckel 1995: 1907–11; Bogin 2001: 229–78; Boix and Rosenbluth 2014: 1–2.

⁴ Boix and Rosenbluth 2014: 5–6.

⁵ Steckel and Prince 2001; Steckel 2004: 216–17; Boix and Rosenbluth 2014: 6–9.

⁶ Maat 2005: 283–86; Komlos 2009: 345–50.

⁷ For the interplay of genetic, nutritional, and environmental factors in determining stature, see Pomeroy et al. 2015. Despite the availability of osteological evidence from elite (*astōdān* burials) as well as non-elite contexts, no attempt has been made to measure the comparative stature of Iranian aristocrats. For a survey of the material, see Simpson and Molleson 2014. The only study of human growth in an Iranian context is inconclusive, though suggestive of the potential of the evidence (Littleton 2011: 365–67).

third century, the court of the early Sasanians made Zoroastrian ritual experts royally sanctioned jurists with the authority to seal contracts, regulate disputes, and judge wrongdoing.⁹ In conjunction with the rise of a dynasty that consolidated its rule through Zoroastrian institutions, the *mowbed* and other religious specialists formed a transregional elite in the service of the court.¹⁰ They subsequently developed a novel body of jurisprudence on the basis of the Zoroastrian tradition, which has partially survived in an early seventh-century collection of case-law known as the *Hazār Dādestān*, as well as a host of supplementary documentary and literary sources.¹¹ The Zoroastrian jurists focused on the exigencies of reproduction and succession that the aristocracy faced, and innovated to create a complex of institutions designed to facilitate, and even to guarantee the transmission of wealth, status, and noble identity through patrilineages.¹² These were judicial services they dispensed exclusively to aristocrats in possession of productive wealth, namely land, to enhance their strategies of patrilineal and patrimonial reproduction in a demographic landscape that was highly unfavorable to elite continuity.¹³ The *Hazār Dādestān*

⁸ The term “house” refers to the larger community of patrilineal and patrilateral relatives claiming descent from a common ancestor, and “household” to the patrilineal relatives sharing a residence, adapting the definitions of Hübner 2011: 76–77.

⁹ The inscription of the chief priest and jurist, *mowbed-dādwar*, Kirdir recorded his investment with authority over “contracts, treaties, and judgments” in the middle of the third century (Kirdir, *Inscription at Ka’aba-ye Zardosht*, ed. Gignoux: 46–47, and trans. Gignoux: 68–69). Subsequent Zoroastrian religious specialists with juridical authority developed their jurisprudence on the basis of the Avesta and its exegesis (Macuch 2005; Jany 2006). They nevertheless distinguished juridical decisions made on the basis of doctrine from those based on custom (*pad kardag*) (Macuch 1981: 150–51). By the early sixth century, the head of the Zoroastrian religious specialists, the *mowbedān mowbed*, was considered infallible in his juridical capacity (*Hazār Dādestān (MHDA)* 1981, ed. Macuch, 51, and trans. Macuch, 190).

¹⁰ On the role of Zoroastrian religious specialists in the imperial administration, see Shaked 1990. On the rise of their fire temples together with the Sasanians, see Canepa 2013.

¹¹ *Hazār Dādestān* is best available in the magisterial edition of Maria Macuch (Macuch 1981; 1993). This work has definitively surpassed the English translation of the Russian edition by Anahit Perikhanian (*Book of a Thousand Judgments* 1997), which is still frequently cited. For a concise introduction to the jurisprudential literature, see Macuch 2009: 185–90. For documentary evidence revealing juridical institutions in operation, see Macuch 2008: 249–50; and Gignoux 2012: 84–87. The legal traditions of East Syrian Christianity and the Babylonian Talmud also attest to the influence of Iranian jurisprudence on their communities (Macuch 2010; Payne 2015b).

¹² Maria Macuch has already (1995) emphasized the way in which the strategies of marriage and inheritance that the Iranian jurists developed reinforced the material underpinnings of aristocratic power. The present paper stresses the determinative role of the court in the evolution and operation of the relevant juridical institutions.

¹³ Elman (2003; 2013) has importantly introduced the comparative demographic literature to the interpretation of Iranian jurisprudence. But neither the comparative nor the jurisprudential evidence can support his argument for a sixth-century demographic “crisis.” Scholarship on ancient demography is suggestive of structural circumstances on macro rather than micro-scales. The institutions of the *Hazār Dādestān*, moreover, emerged only gradually throughout the Sasanian period, not abruptly in the late Sasanian era (Macuch 1995: 163). The crucial institution of “substitute-successorship” (*stūrīth*) was only available to Zoroastrian male elites whose property yielded at least 60–80 stater, or according to some as little as 60 drachms, only a quarter as much (*ibid.*: 161).

has preserved a juridical framework in which eligible aristocrats could elect to participate to their advantage, rather than a judicial system designed coercively to regulate the affairs of the entire population. The great bulk of this collection is concerned with institutions of reproduction, and the primary aim of the jurists was to maximize elite male access to the reproductive capacities of women and, in so doing, outmaneuver the vagaries of death in order to create and perpetuate the dominance of big men.

SEX, EMPIRE, AND COSMOLOGY

In identifying the maximization of reproductive opportunities as the essential function of their office, Iranian jurists seem to reinforce the Darwinian interpretation of ancient imperialism. Walter Scheidel has recently synthesized various works of anthropological, sociological, and historical research in an influential article arguing for the determinative role of evolutionary forces in the shaping of imperial systems that functioned, ultimately, “to facilitate sexual exploitation.”¹⁴ Building on Darwinian accounts of human behavior, he has marshaled historical examples of elite males developing institutional frameworks to maximize their reproductive potential at the expense of their subordinates, from Ur III to the Ottomans, the Inca to the Khmer.¹⁵ Such systems appear so central to the organization of the empires in question that Scheidel views the biological imperative of heterosexual sex as the primary—if subterranean and subconscious—cause for their establishment and evolution. In most cases, imperial elites employed their comparative advantage vis-à-vis non-elite males to accumulate as many women as they were capable of exploiting, in their harems, whether as wives or as concubines.¹⁶ Polygyny was the norm for elites in East, West, and South Asian as well as Pre-Columbian American empires.¹⁷ But even the largely monogamous elites of the Hellenistic and Roman empires enhanced their reproductive fitness by taking sexual advantage of female slaves.¹⁸ Scheidel has placed sex and the exploitation of women at the center of the comparative study of ancient empires. Alongside more conventional forms of capital, the circulation of women needs to be considered an essential concern of empire, especially in its aristocratic form.

While insisting on the centrality of an aspect of social relations political historians have been prone to ignore, the Darwinian interpretation has downplayed the cultural and ecological contexts of sex. As Scheidel acknowledges,

¹⁴ Scheidel 2009a: 306.

¹⁵ *Ibid.*: 268–72. The comparative work of the Darwinian sociobiologist Laura Betzig on the historical relationship between polygyny and despotism provided the starting point (Betzig 1986: 39–61; 1993: 40–52; see also Herlihy 1995: 574–77).

¹⁶ On harems in the ancient Near East and the hierarchical organization of royal women according to their status, see Melville 2004; and Parpola 2012.

¹⁷ Scheidel 2009a: 272–81; 2009b.

¹⁸ Scheidel 2009a: 282–304; 2011: 113–14.

the evolutionary approach tends toward a profoundly ahistorical reductionism when undertaken in isolation from anthropological and historical research.¹⁹ Otherwise the nature its exponents posit is imported into the past at the expense of the cultural, environmental, and, in a word, historical specificities that account for the peculiar shape of human societies and their change over time. Moreover, epigenetic accounts of human behavior on the basis of recent neuroscientific research emphasize the plasticity of the human brain and the role of environmental and cultural factors in the shaping of behavior, sexual or otherwise, against the universalizing tendencies of Darwinian accounts.²⁰ Neither desire nor its objects are universal. Still less so are the aims of trans-cultural, trans-territorial political formations. If scholars working within an evolutionary framework have foregrounded the political importance of sex, their accounts need to be reconsidered and reframed within culturally and temporally specific conceptions of sex and reproduction and their concomitant institutions coevolving with empire. In particular, the ways in which empires organized sexual relations and constructed sexual desires to sustain their political orders need to be explored.²¹ In keeping with Kyle Harper's recent call to transcend the opposition of culture and nature, Darwinian and cultural anthropological approaches that have usually been pursued in opposition to one another could effectively be joined in historical research.²²

Complementing the Neo-Darwinian emphasis on sexual capital, the anthropologist Maurice Godelier has shown how cosmological understandings of the function and purpose of sex constitute relations of production that operate in league with more conventionally economic relations of production to shape and reproduce society as a whole.²³ What is unique to humans for Godelier is their capacity to determine the nature of the collectivities they produce, as well as the means of so doing from among a wide range of possible sexual relations. His approach can be invoked as a counterpart to the Neo-Darwinian focus on the role of sex in imperial systems, creating a useful shift in emphasis. The exploitation of sexual capacities was at least as important as the exploitation of other material resources, especially for the elites on whose reproduction empires depended. They harnessed the reproductive potential of their female population not merely as a subconscious strategy to propagate their genes, but as a conscious means to produce and reproduce a particular

¹⁹ Scheidel 2009a: 306. See also Mace 2007: 395, for the necessity of considering "different social ecological conditions" in evolutionary accounts of reproduction.

²⁰ Gibson 2005. On the cultural construction of sexual desire in express criticism of evolutionary views, see Rogers 2001 and Diamond 2009.

²¹ Voss (2008a) provides a particularly vivid case study of colonial San Francisco, in which the Spanish Catholic elite juridically regulated its own reproduction while delegitimizing native sexual practices, especially homosexual ones.

²² Harper 2013: 1006–15.

²³ Godelier 2011.

vision of social and political order rooted in their respective cosmologies. It is the cultural frameworks through which imperial elites developed reproductive practices that account for historically particular configurations of sex and empire. Nevertheless, the demand of empires, and especially the aristocratic variety, for a reproducible male ruling elite made the biological imperative of reproduction the overriding sexual concern. In all historically attested cases, empires made heterosexual, reproductive sex normative, and the basic insight of the Darwinian account remains a useful starting point for their analysis so long as we replace its universal sexual subject with a historicized one.

The Iranian jurists evinced no ambiguity concerning the function of sexual relations: the reproduction of beneficent human actors in the cosmic struggle of good against evil. As the product of the creator god Ohrmazd, all humans served as his instruments in their very corporeality, regardless of their ethical states. The multiplication of humanity therefore constituted the most basic contribution individuals could make toward the defeat of evil supernatural forces and the restoration of the cosmos. Heterosexual, procreative sex appears as a sacred act already in the Avesta (the orally transmitted corpus of ritual knowledge dating from circa 1000 BCE), and humans were enjoined to produce as many offspring as possible.²⁴ Its antithesis, sodomy, increasingly preoccupied Zoroastrian scholars as the most wicked act humans could undertake, through which demonic forces were unleashed.²⁵ But if corporeal and ethical merits—the two forms of cosmological beneficence—were present in all humans, their distribution was profoundly unequal. Humanity had been divided into a variety of distinct lineages over the course of its history, and some lines of patrilineal descent were superior to others.²⁶ Of paramount concern in Zoroastrian doctrine was the endogamous reproduction of particular genealogical communities along their individual lines of descent, with neither interruption nor mixture, until the eschatological restoration of humanity to its primordial state of perfection. In the Zoroastrian mythical-historical framework the Sasanians adopted, the Iranians surpassed all other patrilineages in cosmological efficacy. The production of as many Iranians as possible, within the limits of endogamy, defined the functions of both sex and empire.

EMPIRE AS ARISTOCRATIC NETWORK

The Iranian Empire comprised a hierarchically organized network of aristocratic houses distributed throughout its geographically disparate and discontinuous territories, from the Arabian Desert to the Hindu Kush. The first Sasanian king of kings Ardashir I cannibalized the institutions of the Parthians, including the leading houses that had previously enjoyed positions as kings subordinate to

²⁴ König 2010: 19–20, 23–33, 69.

²⁵ *Ibid.*: 284–353.

²⁶ Lincoln 2010; Shaked 2010.

the Parthian king of kings. If the Sasanians gradually arrogated royal titles to themselves, they incorporated Parthian aristocratic patrilineages into the core in-group that monopolized the commanding positions of the military, religious, and, at least sometimes, fiscal administration conducive to the enhancement of their power.²⁷ Through the creation of a mythical account of shared descent drawn from the Zoroastrian religion, the early Sasanians co-opted the patrilineal organization of the elite into houses consisting of myriad individual households descending from a common ancestor that transmitted aristocratic status and patrimonial wealth to their sons and, to a much lesser degree, daughters.²⁸ The early Sasanians named their polity Ērānšahr, “the territory of the *ēr*,” or “territory of the Iranians.” The *ēr*, or “Iranians,” were the representatives of patrilineages rooted in the mythical past, the descendants of the kings and aristocrats who had supported Zoroaster and his revelation in the Avesta, a mythical ethno-class that the inauguration of the Sasanian dynasty had made historical.²⁹ In embracing the label *ēr* for themselves, the pre-existing aristocratic houses of the Parthian period joined the genealogical community of the Sasanians, rearticulated their status in the terms of Zoroastrian myth, and identified themselves as the men on whose behalf empire had been erected. The empire was theirs. What constituted Iran as an empire was the interlocking of the genealogical foundations of aristocratic power that had hitherto remained separate.

The “territory of the Iranians” encompassed populations of highly varied cultural backgrounds, including the sub-noble class of the elite *āzādān*, “freemen,” that served the *wuzurgān* as cavalymen even if they practiced distinct religions, such as Christianity, and spoke distinct languages such as Aramaic, Arabic, and Armenian.³⁰ The Iranians nevertheless dominated society. The leading aristocratic houses constituted an exclusive community of Zoroastrian *wuzurgān*, who commanded their inferiors whether sub-nobles or commoners. With patrimonial landholdings that extended throughout entire regions and thousands of dependent *āzādān* cavalymen in their service, they were collectively, and perhaps sometimes even individually, vastly more powerful than their rulers. The court of the kings of kings depended on them for its military power.³¹ To conduct a campaign against the Romans, Huns, or internal rebels, the rulers convened various houses that had themselves assembled their own lesser noble subordinates. Given the extent of aristocratic autonomy in military, economic, and cultural terms, the basic interpretive problem of Iranian history in late antiquity is the relationship of the big men to

²⁷ Lukonin 1969: 39–40; Pourshariati 2008: 37–59; Gyselen 2009.

²⁸ On the patrilineal social organization of the Iranian elite, see Perikhanian 1983: 50–79.

²⁹ Gnoli 1989: 144–48. For the term “ethno-class,” see Briant 1987: 12–15.

³⁰ Regardless of their ethnic background, non-Zoroastrians could not become *ēr*, or surpass the Iranians in status. They could nevertheless hold some of the highest offices and construct genealogies that overlapped or intersected with those of the *ēr* (Payne 2015a).

³¹ Nikonorov 2005; Howard-Johnston 2012.

the Iranian court. Scholars have tended to argue either that the aristocracy consistently opposed Sasanian attempts to centralize power within the imperial apparatus, or that the royal court effectively disempowered the aristocracy gradually over the course of its rule, culminating in the late Sasanian period with the highly despotic reigns of Husraw I, Ohrmazd IV, and Husraw II.³² But the continued dependence of these late Sasanian rulers on the aristocracy suggests neither of these opposing views captures the complex relationship of the aristocratic houses to their rulers. What is needed is an account of the incentives through which the court made the aristocracy as dependent on its infrastructure as the kings of kings were on noble cavalymen. Such an approach would explain the effective harnessing of aristocratic power to empire without precipitating its negation. In exploring the ways in which Iranian jurisprudence enhanced the sexual opportunities and reproductive success of the aristocracy, this article moves beyond the straightforward redistribution of the dividends of imperialism, and toward a sexual economy of aristocratic empire.³³

Historians have customarily regarded empires functioning through genealogical networks as inherently fissiparous: aristocrats exercising power in the provinces are considered altogether too prone to unburdening themselves of the demands of the imperial center, unless frequently recycled in and out of their positions, subject to coercion securing their obedience, and/or constrained by rival provincial authorities.³⁴ What stands out in the history of the Iranian Empire is the rarity of such exits among aristocrats who enjoyed a high degree of autonomy within their positions and regions. Only in the late sixth century did the interrelated rebellions of Wahram and Wistaxm dispense with Sasanian suzerainty, throughout Iran in the case of the former, and in the Caspian provinces in the case of the latter.³⁵ In explaining continued aristocratic cooperation across four centuries, commonly identified factors play key roles: the late Sasanian court at times circulated aristocrats throughout its territories, augmented its coercive capacities through the construction of fortified walls controlling internal traffic, and supervised administrative activities in the provinces using unnamed, untitled officials who worked inter-regionally.³⁶ In addition, the adoption of the Iranian ideological

³² For accounts of the structural weakness of the empire on account of its aristocratic dependencies, see Rubin 2000, and Pourshariati 2008. For its despotic centralization at the expense of the aristocracy, at least in the late Sasanian period, see Wieshöfer 2010, and McDonough 2011.

³³ In so doing, however, the aim is not to downplay the importance of granting aristocrats a share in the rents of empire, whether through gifts, salaries, offices, or opportunities for agrarian or mercantile investment. It is rather to uncover another incentive reinforcing the others.

³⁴ For the interaction of ideological and material factors in securing the cooperation of the elites in tributary states in which “relations of surplus distribution are inherently antagonistic,” see Haldon 1993: 140–202, 157.

³⁵ Rubin 2004; Pourshariati 2008: 122–36; Payne 2013: 22–29.

³⁶ On the emergence of infrastructures granting the court a degree of coercive power in the late Sasanian period, see Payne *n.d.* (forthcoming 2016); and for administrative oversight, Gyselen 2007: 10–11.

framework by the elite hindered the development of forms of political legitimacy independent of the ruling dynasty, as long as the material underpinnings of the idea of Iran continued to function.³⁷ But cumulatively these factors would have remained inadequate in their ability to maintain aristocratic discipline and ensure the intergenerational continuity of a network.

An unusually robust ideology of kinship that reinforced the co-constitution of aristocratic and autocratic powers distinguished Iran from other ancient political systems that sought to co-opt the affective ties of genealogy in order to exercise authority across far-flung territories. The invocation of the mythical-historical *ēr* in the third century created an imagined community the ruling Sasanians shared with the various aristocratic houses of the Parthian period, as long as they were, at least notionally, Zoroastrian.³⁸ Even non-Zoroastrians could claim a genealogical relation with the Iranians, though they could not become fully *ēr* themselves.³⁹ By the late fifth century, at the latest, the leading houses of the Parthian period had interwoven themselves genealogically with the house of Sasan. This remapping of the ancestors to include heroes that had purportedly served the Kayanians, the mythical kings the Sasanians imagined as their predecessors, shaped aristocratic self-conceptions vis-à-vis the ruling dynasty, making disloyalty a departure from ancestral tradition. But entrance into the ranks of the “Iranians” also made their welfare a primary concern for Zoroastrian religious specialists. As the lineage of the *ēr* performed sacred historical functions, Zoroastrian doctrine insisted on the reproduction not only of the patrilineages, but of each of the individual lines arising from them. If Zoroastrians had espoused the merits of fertility for all humans from the origins of the religion around the turn of the first millennium BCE, the jurists drawn from the priestly ranks in the Sasanian period came to view ensuring the reproduction of the particular lineages of superior human beings as a fundamental aspect of their cosmo-political practice. In so doing, they responded to structural demographic challenges of which the Iranian elites were acutely aware.

ARISTOCRATIC MORTALITY

Alongside accounts of aristocratic robustness the Iranian literary sources juxtaposed accounts of premature aristocratic death, especially in battle. It was, after all, the profession of big men to die. Unlike their contemporaries in the Roman Empire, Iranian elites were expected to participate in military campaigns and even to man the most forward, exposed flanks of the cavalry. The wars against the Romans posed comparatively few dangers: Iranian armies preferred

³⁷ The rebellion of Wahram V Chobin here offers a case study (Payne 2013: 22–30).

³⁸ Despite the claims of Daryae (2010), non-Zoroastrians did not adopt the adjective *ēr* for themselves until at least a century after the Islamic conquest. For a discussion, see Payne 2015a. The term was inextricable from a Zoroastrian religious identity, virtually synonymous with the adjective *wehdēn*, “of good religion,” used to describe believers (Shaked 2008).

³⁹ Payne 2015a.

sieges to pitched battles and circumventing rather than confronting their antagonists.⁴⁰ But the northeastern frontiers of the empire became an aristocratic deathtrap. From the middle of the fourth century through the early seventh, nomadic imperialists—the Huns and, after 560, the Turks—displaced the Iranians from Bactria and challenged their authority in Khurasan. Continuous warfare against adept Hun and Turk cavalymen exacted a heavy toll on aristocratic ranks.⁴¹ To persuade big men to continue the bloody struggle against nomadic warriors, the literary specialists of the court produced accounts modeling the Iranians waging war against the Huns and Turks on mythical epic heroes who sacrificed themselves, and their sons, for Iran. The *History of Zarēr* gave voice to the anxieties of late Sasanian elites, through the mouthpiece of an advisor to a mythical king: if a battle with the nomads comes to pass, “there will be many mothers without sons, many sons without fathers, many fathers without sons, many brothers without brothers, and many married women without husbands.”⁴² The king promised to sacrifice not only himself but, more shockingly from an Iranian perspective, all of his descendants to protect Iran and its religion.⁴³ Apart from warfare, internecine political struggles not infrequently decimated elite ranks in a political culture in which violence was a basic tool of negotiation. Even in the absence of such threats, however, Iranian aristocrats could overcome the biological and environmental circumstances that fostered a high rate of mortality in ancient societies only with difficulty.

Conforming to patterns broadly observable in other premodern and developing societies, the demographic models historians of the Roman Empire have established in recent years provide a heuristic for scholars of the ancient Near East without access to data comparable to the Roman census records. The Roman demographic predicament was far less favorable to elite reproduction than historians have presumed. With an average life expectancy of between twenty and twenty-five years, a very high rate of fertility of five to six children per woman was required simply to replace the population across generations, let alone achieve growth.⁴⁴ Only two to three of these offspring would reach adolescence, and a high rate of mortality would continue to haunt the fortunate survivors of infancy: 30 percent of children living beyond age five perished before their thirtieth birthday.⁴⁵ Men were therefore unlikely to have had

⁴⁰ Lee 2013: 719–23.

⁴¹ For an overview of the wars, see Payne 2015c. The destruction of an entire army, together with the king of kings Peroz, in battle against the Hephthalite Huns in 484 shocked the aristocracy (Āzar P'arpec'i 1904: 155, 214–15; Al-Ṭabarī, *Ta'rikh al-rusul wa al-mulūk*, ed. de Goeje, 879; trans. Bosworth, 119).

⁴² *Ayādgar ī Zarēr* 1981: 34.

⁴³ *Ibid.*: 35.

⁴⁴ Current estimates of the rate of population growth range from 0.1 to 0.2 percent: Bagnall and Frier 1994: 100; Scheidel 2004: 747.

⁴⁵ Bagnall and Frier 1994: 77, 100.

more than one son. As disease and sanitation rather than poor nourishment appear to have been the principal causes of death, Roman elites enjoyed no demographic advantages over their social inferiors.⁴⁶ Combining the steep rate of infant mortality with the gentler, if continuous rate of adolescent and adult mortality makes the chances of a paterfamilias obtaining a male heir only two in three. The osteological data from Hellenistic, Parthian, and early Sasanian Bahrain—the only reliable study of Iranian demography so far available—suggest a broadly similar pattern, with a starker rate of mortality: only 40 percent of children reached adolescence, and the average life expectancy was as low as 15.1 years.⁴⁷ Under such circumstances, a patrilineal chain of succession could endure no longer than three generations, and even the mightiest of men had to confront the likelihood of the premature death of any sons he was fortunate enough to have produced.

There are two cultural variables that would have caused the demographic profile of the Iranian elite to differ from the Roman pattern: negatively, the comparatively high rate of adult male death in battle; positively, the high rate of elite female fertility, harnessed exclusively and continuously in the service of aristocratic reproduction. The maximal exploitation of female bodies within the juridical framework that regulated legitimacy on behalf of aristocratic fathers—both real and fictive—enabled the Iranian elite to outpace the rate of mortality, however marginally, to perpetuate its patrilineages across four centuries. In this respect, their fate differed dramatically from their Roman counterparts. Senatorial families only exceptionally transferred their status and wealth along the line of patrilineal descent for more than two generations, and as a consequence they incorporated new men to fill offices. Within each generation, senatorial lines disappeared, or were grafted onto other aristocratic lines through intermarriage.⁴⁸ The reason for the divergent histories of Iranian and Roman houses resides in the distinct juridical systems of the two empires. Roman jurists concerned themselves with the immediate transfer of elite proprietary interests to living heirs, both male and female, instead of “grand designs for *posteritas*.”⁴⁹ It was not within their remit to ensure the transmission of wealth and status beyond a single generation, although the emperors enacted measures, such as the Augustan laws of marriage, to maintain the stability of their elite and its position of superiority.⁵⁰ Iranian jurisprudence, in contrast, aimed at the eternal transmission of patrilineages and patrimonies as the cosmologically beneficial entities of Zoroastrian doctrine. The overarching concern of the Iranian jurists was to install and administer institutions preventing the

⁴⁶ Scheidel 1999; 2001: 28–29.

⁴⁷ Littleton 1998: 41–65; 2011: 372–84.

⁴⁸ Hopkins 1983: 69; Scheidel 1999.

⁴⁹ Saller 1994: 103.

⁵⁰ Galinsky 1981; Wallace-Hadrill 1981.

disappearance of a line, making what was naturally likely a political impossibility. With the circumstances aggravating an already unfavorable rate of mortality out of their control, they concentrated on the exploitation of women within their grasp.

ARISTOCRATIC FERTILITY

The notoriously elusive concept of *xwēdōdah*, literally “the giving of oneself,” animated Iranian jurisprudence. Conventionally translated as incest, the term most often designated the marriages of close kin—father and daughter, mother and son, or brother and sister—that distinguished the Iranian elite from its counterparts elsewhere in Eurasia, with the possible exception of Egypt.⁵¹ Such incestuous unions appeared as routine in the *Hazār Dādestān*, and Zoroastrian scholars enjoined them on believers.⁵² But *xwēdōdah* encompassed a much wider array of endogamous marriages, ranging from those of “near relations” (*nazdpaywand*) to those of the “nearest relations” (*nazdpaywandtar*) characterized as incestuous.⁵³ Whether between cousins or close kin, *xwēdōdah* channeled cosmically beneficial supernatural forces, and human practitioners imitated the actions of the creator god Ohrmazd.⁵⁴ It was among the most sacred functions humans could undertake. It was defined in opposition to the practice of sodomy characteristic of the evil deity Ahreman and his allies.⁵⁵ As such, Zoroastrian directives to practice *xwēdōdah* formed injunctions to employ one’s procreative capacities as much as possible, within the bounds of endogamous unions. Even when *xwēdōdah* entailed sex between close kin, the marriages were generally contracted on a temporary basis, introducing youths to the labor of reproduction in preparation for careers of insemination and childbearing.⁵⁶ In defining procreative, endogamous sex as the primary ethical human function, *xwēdōdah* served as the linchpin of the Iranian sexual economy.

The burdens of reproduction weighed disproportionately on the bodies of women. In this respect, the literal translation of *xwēdōdah* as “the giving of oneself” captured the onus of the obligation for women who would dedicate

⁵¹ From Northeast Asia to the Mediterranean, a chorus of voices in the first millennium condemned the Iranians for the practices of incest and wife-sharing, not without reason (Silk 2008; Traina 2012). A recent reinterpretation of Egyptian brother-sister marriage in light of the prevalence of fictive kinship has rekindled the debate on incest in the ancient Mediterranean (Hübner 2007; Rowlandson and Takahashi 2009). For Roman incest on the Iranian periphery, see Lee 1988. The documentation of incest in Sasanian texts undermines recent attempts to downplay or deny its practice in the Achaemenian and Parthian periods (Bigwood 2004; 2009; Huijs 2014: 616–22).

⁵² *Hazār Dādestān (MHD)*, ed. Macuch, 69, 303, and trans. Macuch, 71–72, 319–20; *Hazār Dādestān (MHDA)*, ed. Macuch, 41, and trans. Macuch, 164–65.

⁵³ *Dēnkard III 1911*: 73; and 1973: 85–86; Macuch 2010: 135–36.

⁵⁴ *Dēnkard III 1911*: 74; and 1973: 86; de Jong 1997: 430–31. The practice was accordingly regarded as a source of religious power: Macuch 1991.

⁵⁵ *Pahlavi Rivāyat 1990*, ed. Williams, 51, and trans. Williams, 12.

⁵⁶ *Pahlavi Rivāyat 1990*, ed. Williams, 59, and trans. Williams, 15.

their lives to childbearing, with its high risk of mortality.⁵⁷ The bones of Partho-Sasanian Bahrain demonstrate that women perished at more than twice the rate of men during their childbearing years, especially at ages fifteen to thirty.⁵⁸ Exacerbating the rate of maternal mortality were “the increased risks of childbearing at young ages.”⁵⁹ The jurists stipulated that women should begin their reproductive careers as soon as they reached puberty, but disagreed on the timeline: the famous scholar and jurist Sōšāns argued women should marry as early as nine, while others regarded fifteen as the desirable age of first marriage.⁶⁰ Regardless, Iranian elite females were married at least several years and as much as a decade earlier than their contemporary counterparts in the Roman Empire or their Mesopotamian predecessors.⁶¹ Refusal to marry, moreover, constituted a *margarzān* crime “worthy of death,” and widows were required to re-marry rapidly after the death of their husbands.⁶² Abortion was frequently condemned as among the most heinous of possible offenses. The jurists therefore aimed to enlist as many female wombs as possible in the labor of reproduction throughout their lifetimes. In keeping with the imperative of endogamy, they subordinated elite women to the sexual and reproductive requirements of their men instead of outsourcing such labor to their lower status or servile counterparts. This regime of marital coercion yielded significant reproductive advantages. Even a slightly lower average age of first marriage and lower incidence of contraception and abortion would have substantially increased the rate of fertility, the only factor in reproductive success on which jurists, or imperial authorities more generally, could have had an impact.⁶³

But the flexible institutions of marriage the Iranian jurists innovated would have affected the rate of fertility even more favorably. Early marriage, rapid remarriage, and the avoidance of contraception and abortion were cultural practices in accordance with Zoroastrian doctrine that required minimal juridical intervention. The drafting and authorizing of contracts of marriage, though, constituted a basic function of the royally sanctioned judicial authorities. In the *Hazār Dādestān* one novel institution appeared fundamental to the various

⁵⁷ Comparative estimates of maternal mortality range wildly, from 450 per 100,000 births among modern developing populations (Graham et al. 2010: 3) to 14 percent of total female deaths, according to one of the few bio-archaeological studies (Arriaza, Allison, and Gerszten 1988: 41). These studies also suggest, however, that cultural, social, and environmental factors caused the rate to fluctuate enormously.

⁵⁸ Littleton 1998: 48–50.

⁵⁹ Ibid.: 54–55.

⁶⁰ *Widēwdād* 2014, ed. Jamasp, 503, and trans. Moazami, 353; *Pahlavi Rivāyat* 1990: 89–91, 141, and trans. Williams, 32, 60; *Hērbedestān* 1992: 44–47.

⁶¹ The average age of first marriage in Roman and Old and Middle Babylonian contexts was fifteen to twenty (Roth 1987: 737; Shaw 1987: 43; Scheidel 2007: 396–98).

⁶² *Šāyest-nē-šāyest* 1990: 127. Women were regarded as fertile until age fifty: *Hazār Dādestān* (MHD), ed. Macuch, 308, and trans. Macuch, 325.

⁶³ For the effects of abortion, contraception, and infanticide on the rate of fertility, see Scheidel 2001: 44–45.

reproductive strategies they facilitated: temporary marriage.⁶⁴ Both the prevalent and preferred forms of marriage could be contracted for a fixed duration: the *pādixšāy*, or “authoritative” marriage in which the wife and offspring were regarded as the legitimate heirs of the paterfamilias; and the *čagar*, “auxiliary” marriage in which neither the wife nor the offspring were so regarded.⁶⁵ The function of the *čagar* marriage, the topic of the next section, was to produce an heir on behalf of another, usually already deceased man, and therefore such unions were typically temporary in nature. But Iranian jurisprudence empowered elite males to contract any union for any period beyond the minimum of one year. The reproductive and sexual capacities of elite women were thus detached from the limitations of a single husband, and women were expected to have remarried multiple times in the course of their fecundity. The institutional opportunities such flexibility afforded the jurists will be examined presently, but at this stage its implications for fertility need to be highlighted. Temporary contracts allowed men to give their *pādixšāy* wives in a *čagar* marriage to another man for a fixed period, presumably in times when they could not exploit their fertility.⁶⁶ The highly mobile Iranian elite, who frequently campaigned at great distances from their homes, left their wives husbandless for extended periods. Time is an incalculable resource in the matter of female fertility, and temporary marriage provided a juridical framework for its uninterrupted exploitation.

The injunction to maximize female fertility even led some Iranian jurists to advocate the communal sharing of women. Drawing on the doctrine of the third-century scholar Zarādušt of Fasā, Roman observers reported that the king of kings Kawad I (r. 488–96, 498–31) enacted a “law” (Gr. *nomos*) during his first reign according to which women were to be made commonly available to elite males.⁶⁷ In the lurid accounts of contemporary Roman Christians and the later East Syrian Christian tradition, the measure was designed to release women throughout Iran from the bounds of marriage in a universal system of wife-sharing. But Iranian jurisprudence constituted a set of services for the elite to adopt rather than an omnipresent regulatory body constraining their behavior. The “law” in question likely complemented pre-existing juridical institutions, such as *stūrīth*, through which wives could legitimately be shared with other men. It attracted the immediate hostility of the aristocracy,

⁶⁴ Macuch 1985; 2006.

⁶⁵ Macuch 2006; König 2010: 88–92.

⁶⁶ *Hazār Dādestān (MHD)*, ed. Macuch, 68, 560–1, and trans. Macuch, 71, 563. There were circumstances in which a woman, even if already married, could be required to enter a *čagar* marriage to produce an heir for a patrilineal relative, as his so-called *ayōkēn* (see below).

⁶⁷ *Chronicle of Pseudo-Joshua the Stylite* 1882: 16–17; and 2000: 18; Procopius 1914: 30–32; *Chronicle of Seert* 1911: 125. With the exception of the last reference to the East Syrian historiographical tradition, these accounts are contemporaries. As Patricia Crone has shown (1991; 1994), the Iranian and Islamic historiographical traditions have confused the ambitions of Kawad and Mazdak, making the Roman and Christian sources more reliable guides to the events.

which deposed Kawad in 496, and the king of kings, on returning to the throne in 498, abandoned the innovation.⁶⁸

The ideal of communal access to women nevertheless recurred during the revolt of Mazdak in the late 520s and in various Iranian religious movements against Islam in the first three Islamic centuries.⁶⁹ It was sufficiently rooted in Zoroastrian thought to have been irrepressible. And yet surviving Iranian juridical texts represented the doctrine of Zarādušt of Fasā as the diabolical antithesis of cosmically beneficial jurisprudence. The crime of the would-be wife-sharers was that they jeopardized the genealogical link of father to son and undermined the patrilineal foundation of aristocratic power. If women were exploited in common, the paternity of their offspring was ambiguous. Regardless of whether Zarādušt, Kawad, or Mazdak actually sought to disentangle patrilineages, the Iranian jurists in their opposition to wife-sharing worked to neutralize an apparent contradiction in Zoroastrian thought: between the maximization of fertility and the safeguarding of patrilineal succession. At the same time as they polemicized against the supposed heresy of Zarādušt or Mazdak, they devised ever more complex arrangements to make maximum use of female reproductive capacities, especially of women already married, within unions that not only guaranteed paternity, but also addressed the reproductive inequalities of elite males.

What Kawad likely intended to achieve through the communal sharing of women was the redistribution of reproductive opportunities among elites at court. Iranian jurisprudence, as we have seen, aimed to reproduce each individual line of descent of a patrilineage, with at least one male heir for every elite male. Ensuring male access to women was thus at least as important as enlisting available wombs. The cosmological exigency of endogamy, however, resulted in roughly proportionate ratios of male and female sexual partners. Overlapping genealogies allowed aristocrats from a variety of patrilineages to intermarry, but marriages of males with either common or foreign females appear to have been exceptional. Conventional polygyny, the usual means for elite males in the Ancient Near East to enhance their reproductive opportunities, would only have reduced the access of other aristocrats to women, ultimately eroding their patrilineal networks. At least in its traditional form, polygyny played only a peripheral role in Iranian reproduction, for reasons that will become clear. As a consequence of the comparatively short duration of female fertility, parity of reproductive opportunity among postpubescent males would have been unattainable. There was always a shortage of elite women available for marriage. Inseminators, too, were often absent as a consequence of the mobility of a martial elite. Because of unequal access to elite females and the absence of elite males, wife-sharing was an abiding fascination

⁶⁸ Crone 1991: 5–6.

⁶⁹ Crone 1991: 9–19; 2012: 391–450.

for an Iranian elite eager to ensure its intergenerational reproduction. Though Husraw I suppressed the Mazdakite doctrine, he reportedly recirculated available elite females among elite males with a view to achieving reproductive parity; that is, to addressing the disparity of sexual resources among aristocrats that had caused some of them to agitate for the communal sharing of women.⁷⁰ But beyond such specific measures, the jurists devoted the bulk of their labor to the innovation and operation of an institution through which the reproductive potential of elite males and females alike could be harnessed in the service of their patrilineages: *stūrīh*, “substitute-successorship.”

SUBSTITUTE-SUCCESSORSHIP AS REPRODUCTIVE STRATEGY

As a package of practices, procedures, and ideals, *stūrīh* represented the culmination of Iranian jurisprudence in late antiquity. Its straightforward translation as “substitute-successorship” captures its essential function: in cases of sonless male death, a substitute successor stands in the place of the legitimate male heir, making arrangements for the production of a son and protecting his proprietary rights until his attainment of maturity.⁷¹ The *stūr* contracts a marriage for the express purpose of bearing a son as the legitimate male heir of the deceased. In this respect, substitute-successorship resembles the institutions of Jewish levirate and Greek epiklerate marriage, in which the female relatives of a sonless man—the wife in the case of the former, the daughter in the case of the latter—marry an agnate to produce a male heir. But *stūrīh* was significantly more complicated and flexible, and played a more fundamental role in the social and political organization of its practitioners. The *stūr* could be either male or female, as long as he or she was fertile, and although they were normally close kin, they were not necessarily genealogically related to the deceased. In the unlikely, if far from unimaginable scenario of a man perishing without living kin, a *stūrīh* could nevertheless be established on his behalf. Regardless of the identity of the biological parents contracting a marriage for a *stūrīh*, the son they produced became both physically and spiritually the successor of the deceased and a full-fledged representative of the patrilineage. The jurists identified three distinct varieties of *stūr*: the “natural substitute-successor” (*stūr ī būdag*), the wife, daughter, or sister of the deceased on whom the service was incumbent; the “designated substitute-successor” (*stūr ī kardag*), whom the deceased had juridically designated as such in a written testament; and the “appointed substitute-successor” (*stūr ī gumārdag*), whom the juridical authorities had appointed in the absence of either a natural or designated *stūr*.⁷² This final form signals a crucial feature of the institution: the court and its

⁷⁰ Al-Ṭabarī, 1964–1965: 897; 1999: 156–57.

⁷¹ Macuch 1981: 7–10; 1993: 74–76, 345–46; Hjerrild 2003: 15–18; 2006; 2007.

⁷² Macuch 1981: 116.

juridical officials served not simply as its administrators, but also as its ultimate guarantors.

The *Hazār Dādestān* presented *stūrīh* as a ubiquitous feature of the social landscape, and jurists regarded it as their purview. In addition to receiving several chapters dedicated exclusively to problems arising from its administration, the institution recurs elsewhere in discussions of inheritance, marriage, and partnerships, to such an extent that the jurists presumed their elite beneficiaries to have arranged substitute-successorships and to have acted as *stūr* as a normal part of their life course.⁷³ As a further testament to its prevalence, Armenian and East Syrian Christian elites imitated the practices of the institution to the best of their ability, despite the efforts of the jurists to restrict *stūrīh* to Zoroastrians.⁷⁴ Widespread aristocratic participation in the institution is unsurprising in light of the demographic trends. The unfavorable odds of reproduction that patrilineal communities faced compelled them to invest their wealth in the reproductive institution as a matter of course: with a third of households failing to produce a male heir, every elite male was conscious not only of his own vulnerability, but also that of his father, brother, and paternal uncles. The institution was more than an ancillary resource for households at risk. It guaranteed the succession of individual aristocratic lines across generations, as long as the empire endured, and as long as their representatives maintained the 80 drachms of productive property required for the establishment of a *stūrīh*. The latter was a remarkably low threshold for the administration of a complex set of judicial services. The king of kings himself promised to intervene in cases of the sonless death of an eligible aristocrat to appoint a *stūr*, personally insuring patrilineages against the vagaries of death.⁷⁵

In so doing, the court and its apparatus of jurists and officials facilitated the fulfillment of the cosmological obligation to perpetuate the individual lines of aristocratic patrilineages unto the eschaton. The jurists designed *stūrīh* to make attainable the ethical imperative of self-replacement as a prerequisite for entry into paradise.⁷⁶ They assembled practices and ideals from pre-existing institutional means of achieving reproduction to create a more elaborate juridical architecture that was entirely unprecedented in earlier Zoroastrian tradition. One ancient juridical practice was crucial: the obligation of the *ayōkēn*, the female descendants of a deceased man, to produce a male heir in

⁷³ Macuch 1995: 155–56.

⁷⁴ Payne 2015b: 17–23; 2015a. For the practice of levirate marriage in Armenia, see Movses Daskhurants'i 1983: 92; and 1961: 52. On Zoroastrian sexual practices, see Mardirossian 2004: 78–86.

⁷⁵ *Hazār Dādestān* (M*HDA*), ed. Macuch, 36, and trans. Macuch, 143; *Letter of Tansar* 1932: 21–22; 1968: 46–47. Loans from the royal domain could be given to fund a *stūrīh*: *Hazār Dādestān* (M*HDA*), ed. Macuch, 52, and trans. Macuch, 190.

⁷⁶ If the production of sons appears as a primary ethical good already in the Avesta, only texts of the Sasanian period developed the requirement of a male heir as a prerequisite for paradise (König 2010: 69–75).

cases of sonlessness.⁷⁷ In the *Hazār Dādestān*, the wife, eldest or most recently married daughter, or sister of a man were constrained as *ayōkēn* to become *stūr*. *Xwēdōdah* provided the theoretical foundation for the institution, as *ayōkēn* daughters and sisters became, in theory if not in practice, the *pādxsāy* wives of their deceased fathers and brothers, while serving as the *čagar* wives of another man to produce a successor. The term *ayōkēn* is itself derived from an Avestan phrase, and the practice appears to have been traditional among Zoroastrians—comparable to the levirate and the epiklerate known elsewhere in the Near East—before the rise of the Iranian jurists. Building on *ayōkēnīh* and *xwēdōdah*, they developed the practice further to make arrangements for those who either lacked *ayōkēn* or who desired alternative substitute-successors, inside or outside the patrilineage.

This possibility of men from outside the patrilineage serving as inseminators violated a fundamental principle of Zoroastrian reproductive theory: the exclusive role of semen in determining the identity of a person.⁷⁸ Women could not transfer the lineage of their fathers. Although mothers could transmit the affective ties of the households of both their fathers and their husbands, their wombs were mere storehouses for the seed of their spouses. The emphasis on the succession of individual lines made even the use of patrilateral relatives as inseminators a problematic instrument. The architects of *stūrīh*, however, ascribed no role to either of the biological parents in determining the identity of their offspring, negating the potency of semen within the specific bounds of a substitute-successorship. Their account of the supernatural process through which the identity of the deceased father was transmitted to the son without the use of his semen has not survived, but at least one deity was believed to have safeguarded cosmically beneficent patrilineages. Nēryōsang operated at the behest of Ohrmazd to preserve the lineages of the Iranians in adverse circumstances.⁷⁹ Irrespective of the precise supernatural forces involved and their mechanisms, *stūrīh* depended on the Zoroastrian ritual expertise the Iranian jurists possessed. It was for that reason the only juridical institution they expressly restricted to Zoroastrians.

This innovation rendered *stūrīh* a mechanism not simply of reproduction, but also of alliance. Whether male or female, the substitute-successor had to contract a *čagar* marriage in order to produce the required male heir. There were thus two opportunities to consolidate relations either inside or outside the patrilineal house: the appointment of the *stūr*, and the selection of a *čagar* spouse. So-called natural substitute-successors, of necessity, married

⁷⁷ Macuch 1993: 180–81.

⁷⁸ For accounts of the process, see *Wizīdagīhā ī Zādspram* 1993: 100–1; and *Bundahišn*, ed. and trans. Anklesaria, 138–39; with the discussion of Sohn 1996: 13–15. Such a conception was well rooted in ancient Near Eastern thought (Biggs 2000).

⁷⁹ *Dēnkard V* 2000: 34–35.

men who were not descendants of the deceased, whether patrilateral relatives or members of an entirely unrelated house. Similarly, the designated or appointed substitute-successors could be related only patrilineally, not patrilineally, but the testator or the juridical authorities could install a *stūr* from any patrilineage, as long as he or she was fertile and of comparable social status. The institution precipitated the unusual circumstances in which a significant number of aristocratic males—as much as one third, if the comparative rate of mortality is taken as a guide—were raised as the legitimate male heirs, even the physical descendants, of their deceased “fathers,” by their biological parents to whom they were unrelated juridically and spiritually. One would expect, however, that *čagar* parents forged intimate, affective ties with their biological offspring, while identifying them with their deceased fathers.⁸⁰ The problem of *čagar* parents of children born in *stūrīth* reappears throughout the *Hazār Dādestān*. They adopted sons and daughters, enlisted them as their own *stūr*, and made them their legitimate heirs. The jurists sought to limit the treatment of the products of *čagar* unions as legitimate, *pādixšāy* children, to protect the bond of deceased males with their heirs in *stūrīth*. But even if the sons of substitute-successors inherited the name, identity, and patrimonial wealth of their fathers, they could still retain affective ties with their biological parents throughout their lifetimes.

Such links would have been more potent than the ties of fosterage that Iranian elites had traditionally used to forge alliances between different households of the same house and between houses.⁸¹ And there was no limit to the number of *stūrīth* in which a man could participate as an inseminator. In addition to the members of his patrilineage, an elite male could draw on a range of inter-aristocratic relations established through substitute-successorship, whether as a child or as an adult. Devised within an endogamous system, *stūrīth* generated a potentially vast array of social bonds with those outside of the household or house, forms of fictive kinship complementary to the traditional forms of patrilineal and patrilateral kinship. While reinforcing the principal and practice of unilineal descent, the institution fostered the development of lateral relations through which aristocratic networks consisting of multiple houses could be established and maintained throughout Iran’s disparate territories. Thanks to the jurists, the social and political status of a lineage was guaranteed not only to survive in perpetuity, but to extend the range and scope of its inter-aristocratic relations and resources.

⁸⁰ *Hazār Dādestān (MHD)*, ed. Macuch, 196–97, 307, trans. Macuch, 203, 323; *Hazār Dādestān (MHDA)*, ed. Macuch, 61, 67, trans. Macuch, 219, 224. *Čagar* parents also developed intense affections for one another, leading them to transform their union into a *pādixšāy* marriage, despite the reservations of the jurists (*Hazār Dādestān (MHDA)*, ed. Macuch, 67, and trans. Macuch, 224). For a bio-historical account of the affective ties of parents and children, even in an ideological system which privileges fictive over biological relations, see Harper 2014.

⁸¹ On fosterage, see Widengren 1967: 64–95.

SUBSTITUTE-SUCCESSORSHIP AND SEXUAL COMPETITION

Substitute-successorship also mitigated a potential downside, in a patrilineal social and political formation, of the biocultural propensity of elite males to seek as many reproductive opportunities as possible: the proliferation of heirs. In the various imperial structures designed to maximize reproductive opportunities, from the harems of ancient Mesopotamia to the levies by Aztec and Inca elites of attractive girls, elite males produced heirs in copious quantities.⁸² They thereby overcame the limits mortality imposed on elite reproduction so successfully that, for example, the DNA of the Mongol elite famously continues to circulate in nearly a tenth of the Central Asian population.⁸³ But such success introduced its own challenges. The larger the number of heirs a man had, the greater the pressure on his resources of status and wealth. The ensuing competition—the proverbial violence of brother against brother—often undermined the stability of imperial orders. In the Hellenistic kingdoms, Daniel Ogden has shown how the enthusiastic polygyny of Near Eastern rulers after Alexander fostered the characteristic internecine violence of the Hellenistic political elite.⁸⁴ To successfully reproduce, elites had to achieve what evolutionary psychologists term “optimal reproductive scheduling”—the appropriate ratio of resources to the number of surviving offspring.⁸⁵

Monogamy provided one means of reproductive optimization. Though ruling groups could, at least in certain circumstances, afford the risks of a surplus of heirs, their subordinates could only rarely do so. Simultaneously with the rise of polygyny among aristocrats and kings across Eurasia, some agrarian communities ascribed to monogamy as a shared norm in order to minimize pressures on their limited resource of arable land and, accordingly, to reduce potentially explosive social competition.⁸⁶ Marital practices mirrored the social cleavages that the empires of the Iron Age had widened: polygyny for the ruling elite with access to an expanding set of resources, and monogamy for its subjects whose resources were either already defined or prone to erosion. As Scheidel argues, this was true even of the Roman Empire, whose elites espoused monogamy while practicing polygyny with their slaves. For the polygynous, however, the ratio of resources to reproductive outcomes was unforeseeable, and the goal of ruling houses was not to ensure an equitable distribution of their wealth, offices, and prestige among heirs, but rather to

⁸² Scheidel 2009a: 268–72.

⁸³ Xue et al. 2003.

⁸⁴ Ogden 1999.

⁸⁵ Mace 2007: 387–92.

⁸⁶ Bio-historical accounts thus view monogamy as an advantageous adaptation of communities responding to the structural conflicts and inequalities of a polygynous system (Herlihy 1995: 577–82; Fortunato and Archetti 2010; Fortunato 2011: 99–101; Scheidel 2011: 113; Heinrich, Boyd, and Richerson 2012: 666–67). For the coexistence of polygyny for the elite and monogamy for non-elites in the Near East in the second and first millennia BCE, see Wittke 2010: 463–64.

augment their power intergenerationally. The case of the Hellenistic royal houses suggests that even the wealthiest, most potent of males could miscalculate the number of heirs appropriate to their resources, rendering their reproductive strategy a source of political instability rather than endurance.

Iranian jurisprudence provided an institutional resolution to the dilemma faced by Hellenistic kings. Substitute-successorship represented an evolution of polygyny that transcended its two potential handicaps for Iranian aristocrats—the production of a surplus of heirs and the unequal distribution of women among endogamous males—without precluding the traditional practices of marrying multiple women in conventionally permanent unions, or sexually exploiting slaves. The subjection of female slaves to the desires of their male masters was so common that a late fourth- or fifth-century king of kings issued a decree insisting on the servile, rather than free or noble, status of the products of such relations.⁸⁷ A man appears in the *Hazār Dādestān* with more than one *pādixšāy* wife (two), and the kings of kings routinely married multiple wives, while their harems (*šābestān*) supposedly included thousands of women.⁸⁸ But in stark contrast to their Parthian predecessors, even the kings of kings projected their restrained contentment with, at most, two wives, rather than boasting of their sexual prowess.⁸⁹ Conventional polygyny appears as a marginal phenomenon among Iranian elites in comparison to the ubiquitous substitute-successorship. This distinct form of polygyny distinguished reproductive opportunity from legitimacy: men participating in an auxiliary marriage for a substitute-successorship shared neither their status nor their wealth with their progeny. Elite males could enter as many unions as they liked without subjecting their resources to the pressures of a potential surplus of heirs. The institution offered the sexual benefits of polygyny without the attendant risks. At the same time, the reproductive advantages of polygyny for demographically vulnerable elites were harnessed for aristocratic communities, rather than individuals, as elite males produced heirs on behalf of one another. Unlike the Roman exploitation of slave women, Iranian elites with a single *pādixšāy* wife conducted sexual relations with a variety of other women in *čagar* marriages and produced sons for their peers who had none. The potentially disruptive propensity of elite males to maximize their reproductive opportunities was, in Iranian jurisprudence, enlisted in the operation of an

⁸⁷ *Hazār Dādestān* (MHD), ed. Macuch, 22, and trans. Macuch, 24.

⁸⁸ *Hazār Dādestān* (MHDA), ed. Macuch, 21, and trans. Macuch, 69. *Husraw ī Kawādān ud Rēdag-ē* (2013: 63), described thousands of women in the royal harem (*šābestān*), while the kings of kings only rarely highlighted their possession of more than one wife in courtly media. With two wives from distinct constituencies, Husraw II was the exception. See also the account of Shapur II campaigning with multiple wives in *Patmut īwn srboyn Nersisi* 1853: 69–70; 1869: 34–35.

⁸⁹ *Letter of Tansar* 1932: 24; and 1968: 49. Parthian aristocrats and rulers practiced polygyny on a large scale and the kings included the number of their queens in official accounts as a means of symbolically projecting their power (Huijs 2014: 607–30).

institutional framework that provided aristocrats with sexual access to women, male heirs in cases of sonlessness, and the intergenerational stability of that most precarious of human political institutions: the patrilineage.

The upshot of such juridical innovation was the unprecedented stability not simply of the royal dynasty, but of the aristocratic dynasties of Iran. The houses that appeared as the allies of the Sasanians in the inscriptions of the third century recurred in the sigillographic and historiographic sources of the sixth as their leading military commanders. Their adherence to the empire was framed through the discourse of *Ērānšahr*, but it was grounded in the court's enhancement of the material and immaterial sources of aristocratic power through disbursements of gifts and salaries of silver, opportunities to acquire prestige in battle, and the growth of agrarian resources, among other incentives. What cemented the mutually beneficial relations of autocrats and aristocrats, however, was the juridical architecture designed to guarantee the indefinite perpetuation of patrilineages and the maximization of elite male access to women, without endangering the endogamous, circumscribed nature of aristocratic communities. The court offered a promise no single aristocratic house could make either to itself or to its peers: that, irrespective of the vagaries of history, its patrilineage would continue to produce great men. Such a guarantee married the ideological and economic aspects of aristocratic power. If Zoroastrian doctrine required the continuation of every individual male line of a patrilineage, the devolution of property—either to women in cases of sonlessness or, at the opposite extreme, among multiple heirs—undercut the consolidation of the patrimonial lands that constituted the foundations of a house and its component households. Iranian jurisprudence both eliminated the possibility of sonlessness and enabled aristocrats to optimize the number of their male heirs. The massive deployment of fictive kinship, moreover, allowed houses—and, within patrilineages, households—to intermarry and to establish affective ties without eroding the endogamous boundaries through which they defined themselves. The major houses thus only grew stronger and more interdependent, both politically and economically, over the course of Sasanian history.

CONCLUSION

Through the institutions of Iranian jurisprudence and its regime of reproductive coercion, sex overcame death to produce aristocratic empire. Rather than an inconvenient relic of the Parthian era, aristocratic houses were the products of a juridical system the court had installed. What rendered them reliable agents of empire was their dependency, under preindustrial demographic conditions, on the imperial apparatus for their intergenerational reproduction. At the same time, the jurists enhanced male aristocratic access to female reproductive capacities, a prerequisite for the consistent co-optation of elite males in an imperial order according to the Darwinian model. Rooted in Zoroastrian cosmology, however, this institutional framework did not simply enhance inclusive fitness,

but also reproduced a political system predicated on cosmically potent patrilineages. Only the interaction of biology, environment, and culture can account for the Iranian organization of sex and its consequences for the social and political history of the empire. The effective endogamous reproduction of aristocratic houses over multiple generations resulted in the naturalized social hierarchy that Iranian texts and artifacts envisioned, in which big men enjoyed biopolitical superiority over the undifferentiated mass of semi-servile persons that constituted the great bulk of the population. Their status and stature depended on the large-scale exploitation of women constrained continually to undertake reproductive work, and future research would do well to recover the still largely invisible role of women's bodies in sustaining ancient empires.⁹⁰

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⁹⁰ This bio-historical and bio-archaeological project remains to be undertaken, since the effects of reproductive coercion have been largely ignored. Recent surveys on the archaeology of sex and gender, for instance, ignore childbearing and downplay the importance of reproductive sex, while marking significant advances in the study of the construction of gender, sexuality, and fertility management (Voss 2008b; Gilchrist 2009; Casella and Voss 2012).

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Abstract: In the Iranian Empire (226–636 CE), jurists drawn from the ranks of the Zoroastrian priestly elite developed a complex of institutions designed to guarantee the reproduction of aristocratic males as long as the empire endured. To overcome the high rate of mortality characteristic of preindustrial demographic regimes, they aimed to maximize the fertility rate without compromising their endogamous ideals through the institutions of reproductive coercion, temporary marriage, and “substitute-successorship.” Occupying a position between the varieties of monogamy and polygyny hitherto practiced in the Ancient Near East, the Iranian organization of sex enabled elites not only to reproduce their patrilineages reliably across multiple generations, but also to achieve an appropriate ratio of resources to number of offspring. As the backbone of this juridical architecture, the imperial court became the anchor of aristocratic power, and ruling and aristocratic dynasties became increasingly intertwined and interdependent, forming the patrilineal networks of the “Iranians”—the agents and beneficiaries of Iranian imperialism. The empire’s aristocratic structure took shape through a sexual economy: the court created and circulated sexual and reproductive incentives that incorporated elite males into its network that was, thanks to its politically enhanced inclusive fitness, reliable and reproducible. In demonstrating the centrality of Zoroastrian cosmology to the construction and operation of the relevant juridical institutions, I seek to join the approaches of evolutionary biology and cultural anthropology to reproduction that have been pursued in opposition, to account for the historical role of sex in the consolidation of the Iranian Empire.