

# Crimes against Reproduction

*Domesticating Life in  
the Animal Trials*

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**Abstract:** Secular animal trials were coincident with witch trials across Europe from the 1200s–1700s, peaking between the fifteenth and seventeenth centuries. The trials’ similarity extends beyond simultaneity. Both forms of trials were preoccupied with what we call reproductive crimes: criminalized perceived deviance from reproductive norms that codified into an order facilitating the rise of capitalist modernity. In this paper we discuss secondary sources concerning the animal trials alongside feminist theories of reproduction, domestication, and anthropocentrism to suggest that animal trials, like witch trials, are sites of struggle over the domestication of reproduction. The animal trials are specifically a site of negotiation concerning the nonhuman world’s position within an ascendant domesticated reproductive order. In the trials, the domestication of reproduction thus entangles with the anthropocentric domestication of the nonhuman world. The empirical base of our analysis focuses on three arenas in which animals were incorporated into juridical structures as criminal subjects: bestiality, infanticide, and witch trials. The first two involved animals being tried directly in French courts, while the latter involved animals being implicated in British trials as witches’ familiars. Together, these appearances of animals provide an introductory window into how human–animal relations were 1) shaped by the reproductive anxieties and politics of the late Middle Ages and early modern period in these countries, and 2) marshalled towards the assembly of domesticated reproductive norms whose legacies persist into current frameworks of gendered and interspecies relationality. This imposition of a gendered order onto animality evidences the extent to which gendered systems of reproduction govern not only humans but also a wider terrain of life.

**Keywords:** *Law, reproduction, domestication, anthropocentrism, animal trials, witch trials*

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**S**ecular courts across Europe from the thirteenth to eighteenth centuries put various domesticated animals (such as pigs, donkeys, bulls, dogs, and horses) on trial for crimes including bestiality, infanticide, and property damage.<sup>1</sup> These trials were arguably commonplace across continental Europe,<sup>2</sup> and while it is tempting to cast them as relics of a superstitious past, the timing of the trials alone complicates such an easy dismissal.<sup>3</sup> While American historian E.P. Evans’s study of animal trials dates the earliest recorded incident as occurring in the year 824 against a labour of moles in the Aosta Valley, the trials peaked in the early modern era, specifically the fifteenth to seventeenth centuries—regarded as “an age of ‘comparative enlightenment’” relative to the Middle Ages preceding it.<sup>4</sup> Historians also emphasize that the trials “were serious proceedings, carried out by professional lawyers [...] sanctioned by bishops, and often discussed by university professors”.<sup>5</sup> Legal scholars, too, challenge the supposed discontinuity between the “brutality” of animal trials, which often ended in animals’ deaths, and the contemporary situation where animals are routinely killed for threatening property or human life, without formally being tried in court.<sup>6</sup>

Considering the continuities between the supposedly archaic trials and the treatment of animals today, in this paper we suggest that the animal trials offer an oblique view into an emerging politics of reproduction at that time, and particularly the position of animals within those politics. While a varied and insightful set of scholarship has considered what the animal trials tell us about contemporary

1 By contrast, wild animals like insects and rodents were tried in ecclesiastical courts, typically as groups accused of damaging crops. For discussion of these ecclesiastical trials, see Leeson, “Vermin Trials”; Cohen, “Law”; Dinzelbacher, “Animal Trials”; Girgen, “Historical and Contemporary Prosecution”.

2 Carson, “Trial of Animals and Insects”, 411.

3 Girgen, “Historical and Contemporary Prosecution”.

4 Finkelstein in Cohen, “Law”, 17; see also Hyde, “Prosecution of Lifeless Things” for detail on animal trials (and those of inanimate objects) that extend from Ancient Greece into the periods we discuss in this paper.

5 Dinzelbacher, “Animal Trials”, 406.

6 See Girgen, “Historical and Contemporary Prosecution”; Beirne, “The Law Is an Ass”; Sykes, “Human Drama”.

human–animal relations and animal law, no scholars have considered how the animal trials shaped and were shaped by the reproductive politics of their time. This is a significant omission for two reasons: First, as several scholars have noted and as we discuss below, the animal trials are geographically and temporally coextensive with the witch trials, which have been theorized as a potent site of reproductive politics.<sup>7</sup> Second, the crimes featuring most prominently in secular animal trials can be interpreted as reproductive. By “reproductive crimes” we mean behaviours deemed criminal for their perceived deviance from an assemblage of reproductive norms—norms concerning one’s conduct regarding sex, family life, child-rearing, intimacy—that are later codified into an order in capitalist modernity. The two most common crimes for which animals were tried in secular courts were bestiality (usually prosecuted under the rubric of “buggery” or “sodomy”) and infanticide—crimes notable for their ostensible infringement on reproductive norms of proper sexual conduct and child-rearing, respectively. To these reproductive crimes we add a third for which animals were not tried directly but in which they were implicated: that of being a witch’s “familiar”, an animal considered a supernatural entity who assisted witches in their diabolical rites. In witch trials in England, especially, animals were commonly accused and punished for their perceived complicity in witchcraft, which manifested in what was cast as unnatural sexual or familial intimacy between these animals and women accused of being witches. In all three of these crimes, animals were viewed as a disturbance to social norms regarding domestic reproductive order.

In this paper we explore the reproductive political dimensions of these crimes, focusing especially on bestiality and infanticide, particularly in France<sup>8</sup> (though the prosecution of these crimes occurred across Europe) and familiars in witch trials in England. Looking to these two emerging states, in our view, helps to illuminate

7 Federici, *Caliban*; Fissel, *Vernacular Bodies*; Farrell, “Witch Hunts”. See also Rowlands, “Witchcraft”, for a careful and nuanced review of scholarship on the witch hunts, with particular attention to the role played by gender and patriarchy.

8 Dintelbacher notes that France was one of a few European regions that “had a comparatively high number of animal trials” (“Animal Trials”, 411).

the diverse origins of a socioeconomic order that later proliferated around the globe when both states indelibly shaped the world through various forms of colonialism. While reproductive politics varied across time and space in Europe over the early modern period, there were common threads concerning proper reproductive conduct, including what constituted appropriate relations between humans and animals, and the role of the state—emerging in its modern form—in promoting and enforcing this conduct. During the early modern era, when the animal and witch trials peaked, both reproductive and species orders were becoming more “domesticated”.

We conceive of domestication broadly, following geographer Kay Anderson, as involving racializing, colonial, patriarchal, and ecological processes of separating and mastering “the animal” within (via the mind–body dualism) and outside the human (via the human–animal dualism).<sup>9</sup> We focus on two modes of domestication in particular: First, the emergence and consolidation of a normative, gendered social order and division of labour in which women became responsible for the “unproductive” and unpaid work of social reproduction—a division that feminist political economists have long argued is essential to the development and functioning of capitalism.<sup>10</sup> Second, the attempted domestication of the nonhuman world, which directs nonhuman bodies and energies toward capital accumulation, fitting neatly alongside enlightenment notions of animals as mechanistic automata, and colonial processes of “improvement”.<sup>11</sup> Drawing together feminist theory that outlines and connects these two modes of domestication, legal and historical scholarship on reproductive politics, and secondary sources on the animal trials, in this paper we consider how the animal and witch trials codify the contested position of the nonhuman world within overlapping and hardening domesticated, reproductive, and anthropocentric

9 Anderson, “A Walk on the Wild Side”.

10 Federici, *Caliban*; Mies, *Patriarchy and Accumulation*; Fraser, “Contradictions”.

11 Anne McClintock notes the close ties between domestication of nature and colonial enterprise, explicitly tying it to gendered frameworks this paper interrogates (*Imperial Leather*, 34). Julietta Singh, in *Unthinking Mastery*, also foregrounds colonial mastery’s effects on nonhuman lives. A large body of work explores the relationship between domestication and capitalism, e.g. Tsing, “Unruly Edges” and Shukin, *Animal Capital*.

orders.<sup>12</sup> Understanding anthropocentrism as an “interrelated and interlocking set of meanings and practices” that “reproduce a privileged space for the human”,<sup>13</sup> we foreground how gendered frameworks of domestication undergird the animal trials and their legacies in ways that implicate both human and nonhuman lives.

In doing so, we build from the close parallels some scholars observe between the animal trials and the witch trials.<sup>14</sup> The trials occurred across similar periods and geographies, and they are, we suggest, mutually implicated in emerging reproductive frameworks. While the animal trials appear to have preceded the witch trials, for the most part, both occurred from the thirteenth to eighteenth centuries across Europe, concentrated in France, Italy, and Switzerland. The frequency curve of animal trials overlaps with that of the witch trials, both peaking in the sixteenth and seventeenth centuries.<sup>15</sup> Treatises on witchcraft, such as the *Malleus maleficarum*, and on animal trials, like the *De exorcismis*, informed both types of trial, and were even published together, seen as relevant to each other’s machinations, particularly concerning exorcism.<sup>16</sup> In Switzerland, Italy, and France, beginning in the fifteenth century, another type of animal trial emerged that borrowed elements from the witch trials: individual animals were tried in secular courts, charged with supernatural behaviour, always found guilty, and killed on a witches’ pyre.<sup>17</sup> As the discipline of demonology spread and began to influence popular consciousness, animals, as we will see, became viewed as “active agents in diabolic rites”.<sup>18</sup> As feminist political economist Silvia Federici writes of the witch trials, “such was the presence of animals

12 Our reliance on secondary sources for the paper’s analysis means we are limited by others’ interpretations of the trials. We have sought to mitigate this limitation by triangulating where possible among the secondary sources, and capturing corrections of the historical record where they exist (e.g. Friedland, *Seeing Justice Done*; Beirne, “A Note”). We thank the anonymous reviewers for their recommendations of further secondary sources, which were helpful in this effort.

13 Calarco, “Being”, 416.

14 Cohen, “Law”, 12; Leeson, “Vermin Trials”.

15 Leeson, “Vermin Trials”; Dinzelsbacher, “Animal Trials”; Van Bruaene, “Revoluting Beasts”.

16 Cohen, “Law”.

17 Cohen, “Law”, 34.

18 Cohen, “Law”, 30.

in the witches' world that one must presume that they too were being put on trial".<sup>19</sup>

These trials were neither a vestigial, irrational throwback to the "dark ages", nor did they operate through purely "rationalistic" logics. Both, as Federici describes in reference to the witch hunts, were a "transitional phenomenon, a sort of ideological bricolage" that combined "elements from the fantastic world of medieval Christianity, rationalistic arguments, and modern bureaucratic court procedures".<sup>20</sup> Historians' reflections on how the witch trials resulted from an exchange or compromise between learned and popular ideas is equally true of the animal trials.<sup>21</sup> As a transitional phenomenon, the witch trials were a place where ideas about reproduction (and the state's role in it), supernatural and secular power, and gender and sexuality were assembled through centuries-long debate. The animal trials were also part of this process, a site of social struggle over the role of the natural world, especially animals, in the reproductive and anthropocentric orders of the time.

While the law through the period of the animal and witch trials might appear anthropocentric in its scope and execution, the former reveal how the norms of reproduction extended beyond human lives, even when the letter of the law applied to humans only. Understanding the reproductive norms that incorporated animals into a punitive structure for a lengthy period of European history, we suggest, promises to shed light on how the current absence of animals as subjects in legal proceedings is actually a mode of governing their bodies by rendering them nonsubjects and mere property. The removal of animals from legal subjectivity today parallels Federici's account of the removal of reproduction from labour; both processes are indicative of a biopolitical system governing reproductive bodies by way of exclusion.

The animal trials participated, if ambivalently, in the broad historical process of turning animals into property, acknowledging their

19 Federici, *Caliban*, 194.

20 Federici *Caliban*, 203.

21 On witch trials, see Dolan, *Dangerous Familiars*; on animal trials, see Cohen, "Law".

agency while simultaneously depriving them of it by imposing gendered norms of reproduction on them. On the one hand, the trials centrally acknowledge animals as having the capacity to act; on the other hand, as Allie Terry-Fritsch argues, accused animals underwent a “calculated stripping of identity” during animal trials: “instead of a recognizable subject that was connected to the community through shared physical characteristics and social history, the convicted offender was ‘defaced’”, that is, violently deprived of identity and recognizable social value.<sup>22</sup> In this way, animals entering the juridical arena as legal subjects and being subjected to their punitive outcomes in the animal trials were violently incorporated into (and subsequently objectified within) the capitalist reproductive order that was emerging—albeit unevenly—across much of Europe between the fifteenth and seventeenth centuries, as we explore in our next section. Mechanistic thinking is implicated in both modes of violence and desubjectification. As Federici observes of social processes in which witch trials were implicated, by the seventeenth century, the “machine was becoming the model of social behaviour”, which achieved “the mechanization of the proletarian body and its transformation, in the case of women, into a machine for the production of new workers”.<sup>23</sup> At the same time, Cartesian ideas about “beast-machines” or animals as automata were taking hold, albeit slowly and not without contestation.<sup>24</sup>

If animal trials equally factor into the production of the mechanized social body, following Foucault’s *Discipline and Punish*, punitive processes might be said to be violent not only because of what they destroy but also because of what they produce.<sup>25</sup> The reproductive crimes that dominated animal and witch trials normalized gendered and ecological forms of reproduction, contributing to the creation of a domestic order that sustained the mechanization of the social by quelling disturbances to reproductive processes. In this analysis

22 Terry-Fritsch, “Animal Trials”, 56.

23 Federici, *Caliban*, 145 and 12.

24 Sahlins, 1688.

25 See also Friedland, “Beyond Deterrence”. Friedland takes up Foucault’s work to analyse the “positive” power of the animal trials, exploring not only what behaviours they deterred but also those they encouraged.

we presume that governance of social life required control over ecological reproduction, by which we mean the life-sustaining capacities of the crops needed to sustain a growing population and the animals needed to support its labour force. Punitive outcomes we reference below (as well as instances in which animals were spared from punishment) assemble notions of animality primed for induction into this domesticated order, expunging noncompliance to order through death and (more rarely) rewarding docile domesticated behaviour. The bulk of our paper considers what the three criminal acts of bestiality, infanticide, and being a witch's familiar suggest about nonhuman lives' implication in early modern reproductive norms that established one of the conditions of possibility for capitalist (re)production. But first we sketch the historical context and our approach to domestication as an imperial process, building from theorists who foreground domestication's interlinked (but non-identical) gendered, ecological, and racialized dimensions.

### **Theorizing Domestication across Reproductive and Anthropocentric Orders**

In the early modern period, many European states, emerging in proto-modern form, began claiming jurisdiction over marriage and family formation and directly intervening into the reproductive lives of their citizens. States' efforts to regulate reproduction are often attributed to their interest in promoting population growth, which was seen as politically beneficial, expanding kingdoms' wealth and power by bringing more soldiers, laborers, and taxpayers, particularly in a time of anxiety over population instability arising from war, famine, disease, and harvest failures.<sup>26</sup> Several feminist historians of the early modern era show, however, that prevailing ideologies and norms around gender and sexuality are also part of the story, especially the conviction that marriage and child rearing were of central importance to "stabilizing the political order", encouraging social discipline and obedience.<sup>27</sup> In European states like France and England,

26 Tuttle, *Conceiving*.

27 Tuttle, *Conceiving*, 7; Berry and Foyster, *The Family*; Hanley, "Engendering"; Amussen, "Being Stirred"; Fissel, *Vernacular Bodies*.

early modern political wisdom held that “the health and security of the nation [...] rested on the stability of family life”;<sup>28</sup> that “orderly households anchored an ordered society”;<sup>29</sup> and that the origins and nature of monarchical power were a natural extension of the paternal power of a conjugal household.<sup>30</sup> Increased legal regulation of reproductive life (including marriage, birth and child rearing, and inheritance) was also a way for early modern states to enact power.<sup>31</sup>

In pursuit of power, population growth, and this stable domestic base, the early modern state began intervening into the reproduction of its citizens. In France, this intervention occurred through what Sarah Hanley calls the “Family–State compact”: a bundle of state regulations and bureaucratic procedures that brought family formation and reproductive customs under patriarchal and parliamentary control and supervision.<sup>32</sup> The new regulation took particular aim at “the female realm of pregnancy and childbirth” and included several “pro-natalist” policies, or policies intended through incentive and punishment to “promote both population growth and the extension of the gendered identities associated with procreation and childrearing”.<sup>33</sup> For example, a 1666 royal edict in France granted full exemption from royal taxation for men who fathered twelve or more “legitimate” children.<sup>34</sup> In doing so, the state “claimed the realm of licit, reproductive sexuality as proper terrain for government intervention”.<sup>35</sup>

At the same time, the state began criminalizing and punishing deviation from reproductive, sexual, and family norms. Although the church had long forbidden certain acts, such as non-procreative sex, across Europe in the sixteenth century, early modern states began to assume and extend jurisdiction over these matters.<sup>36</sup> Repro-

28 Berry and Foyster, *The Family*, 8.

29 Amussen, “Being Stirred”, 73

30 Tuttle, *Conceiving*.

31 Hanley, “Engendering”.

32 Hanley, “Engendering”, 6.

33 Hanley “Engendering”, 15; Tuttle, *Conceiving*, 3.

34 Hanley, “Engendering”, 12; Tuttle, *Conceiving*.

35 Tuttle, *Conceiving*, 8.

36 Rapaport, “Mad Women”.

ductive crimes, or what Frances Dolan calls domestic crimes, rose to prominence in law and the public imagination in the early modern period.<sup>37</sup> Infanticide had long been policed by the church, but its criminalization intensified through new laws in France and England. Under an edict by Henry II in 1556, France declared clandestine pregnancy and childbirth a “serious and detestable” crime and began condemning to death women convicted of killing unbaptized babies.<sup>38</sup> In 1623, the English Parliament passed the Act to Prevent the Destroying and Murthering of Bastard Children, which punished with death any unmarried woman who concealed the death of her child. This act made alleged infanticides the only crime for which it was the defendant’s responsibility to establish her innocence rather than the Crown’s responsibility to prove guilt—a legal stipulation that remained in place until 1803.<sup>39</sup>

Historians have noted that incomplete record-keeping makes it impossible to know how many cases of infanticide were prosecuted and how common the crime was.<sup>40</sup> Existing records do indicate prosecution increased significantly after the passage of the 1623 statute in England.<sup>41</sup> Records also highlight the gendered nature of infanticide, with women representing nearly all of the accused.<sup>42</sup> This was also true of witchcraft, which was itself, as Federici reminds us, frequently cast as a reproductive crime, with witches accused of aborting pregnancies or causing male sterility.<sup>43</sup> These crimes against reproduction were not only formally registered in law but also accompanied by a wave of popular discourse. In sixteenth-century England, “witches who harmed children and mothers who murdered their babies became stock characters in a newly emergent print marketplace”.<sup>44</sup> Following the 1623 statute making infanticide a capital offense, popular representations of infanticide proliferated

37 Dolan, *Dangerous Familiars*.

38 Hanley “Engendering”, 11; Tuttle, *Conceiving*.

39 Rapaport, “Mad Women”, 549-50; Dolan, *Dangerous Familiars*; Sauer, “Infanticide”.

40 Gowing, “Secret Births”

41 Dolan, *Dangerous Familiars*, 124.

42 Dolan, *Dangerous Familiars*, 124; Dean, *Crime*.

43 Federici, *Caliban*; also see Dolan, *Dangerous Familiars*; Jensen, *The Path of the Devil*.

44 Fissel, *Vernacular Bodies*, 3.

and suggested the crime was widespread.<sup>45</sup> Women accused of witchcraft and infanticide — most often poor, single women — were sensationalized, thus indicating that they were threats to domestic order and stability.<sup>46</sup>

Unruly nonhuman agents were also criminalized by the increasing state focus on reproductive order. In thinking through the implications of domestic order for nonhuman bodies, it is important to note that at this time the position of the natural world was in flux. Long held popular conceptions of animals as conduits between the human and the supernatural world, as endowed with magical powers of their own, or as humans' superiors, were clashing with the ascendant learned Enlightenment view of the animals as mechanistic, devoid of agency and inferior to humans.<sup>47</sup> An escalation in large-scale material interventions into the nonhuman world accompanied this shift. Animal and plant domestication was of course occurring long before the early modern period, but an interest in bringing the nonhuman world under the human thumb, and interventions to attempt this, intensified in the sixteenth and seventeenth centuries with the emergence of world-transforming colonial projects like natural history collecting and resource extraction, zoological gardens and royal menageries, and what Crosby calls ecological imperialism.<sup>48</sup> At the same time, the nonhuman world also became more regularly drawn on as a metaphor or foil for sovereign power. Peter Sahllins argues that Louis XIV often rooted his authority in the natural world, specifically through symbolic representations he constructed in the royal menagerie at Versailles, "a living metaphor of royal authority and aristocratic civility."<sup>49</sup> Constructed as the menagerie might be, its symbolic currency naturalized sovereign authority.

These two modes of attempted domestication — the formation of a domestic, gendered reproductive order, and the ordering and

45 Malcomson, "Infanticide"; Dolan, *Dangerous Familiars*.

46 Dolan, *Dangerous Familiars*.

47 Cohen, "Law"; Sahllins, 1688.

48 Burton and Mawani, eds, *Animalia*; Tilley, *Africa*; Sahllins, 1688; Sahllins, "Royal Menageries"; Grigson, *Menagerie*; Crosby, *Ecological Imperialism*.

49 Sahllins, "Royal Menageries", 239.

mastery of the nonhuman world — are not the same, but they share logics and bleed into each other discursively and materially. As Carolyn Merchant famously argues, the rise of mechanistic thinking during the early modern period was central to the oppression and domination of both women and nature.<sup>50</sup> Anna Tsing finds material connections between domestication as a physical enactment of power over nature, and domestication as a social project of ordering reproductive life according to a gendered division of labour, even farther back in time. She observes that “domesticating agricultural grains transformed [the bodies of] women”, rapidly increasing population expansion but also heightening the risk of death during pregnancy and confining women to the domestic sphere.<sup>51</sup> Moreover, ecologically transformative processes such as the British Enclosure Acts of the seventeenth to the early twentieth centuries, which privatized vast swaths of previously commonly held land across the nation, were accompanied by moral discourses of bodily enclosure most acutely felt in the policing of women’s behaviour and sexuality.<sup>52</sup> In all of these cases, the gendered domestic and the ecologically domesticated call upon and recall one another, and the close ties between domestication of the nonhuman world and the policing of women’s reproduction come to light. Increasingly, from the seventeenth century onwards, women were closely associated with unreason and nature; in this regard, women were cast in opposition to civilizational projects, and where legality was concerned, even justice itself.<sup>53</sup>

Here, we extend this history of domestication to particular cases of criminalizing animals, within which animals who were seen as

50 Merchant, *The Death of Nature*. See also McClintock, *Imperial Leather* and Schiebinger, *Nature’s Body*.

51 Tsing, “Nine Provocations”, 239. Tsing notes of the Neolithic period that “the high carbohydrate diets of the starch-heavy grains of domestic cereals would have increased the frequency of ovulation. Women seem to have begun reproducing earlier and had more babies. Meanwhile, women’s stature decreased due to the change in diet. Biological anthropologists have argued that the death of women in childbearing, rather than being a species problem of our famed big heads, becomes acute only with grain domestication, when nutritionally stressed young women whose pelvises have not reached earlier sizes start bearing young.”

52 Burt and Archer, *Enclosure Acts*.

53 Pateman, “The Disorder of Women”.

disrupting reproductive orders by committing infanticide or “abnormal” intimacy with humans were condemned to violent punishment. The intersection of the realms of reproductive politics and animality collided with particular potency in secular courts of law, specifically in animal trials and witch trials that featured “familiars”. In what follows, we discuss three examples from the annals of these trials in each of the categories of bestiality and infanticide, focused on France, and the crime of being a witch’s familiar, in England. For the first two crimes, we draw especially from what remains the most comprehensive account of the animal trials: E.P. Evans’s *The Criminal Prosecution and Capital Punishment of Animals*, among other more recent original surveys of the animal trial archives.<sup>54</sup> Aiming more to furnish a broad, structural sense of the relationship between animal trials and reproductive order, as opposed to a place-based understanding of the trials, our paper foregrounds a few exemplary trials that illustrate this relationship. While this structure cannot hope to be comprehensive, it provides an introductory window into how animal trials, in their various times and places, participated in the assembly of reproductive norms whose legacies persist in current frameworks of gendered and interspecies relationality.

## Bestiality

While legal processes in Europe during the Middle Ages were heterogeneous and dynamic, an increasing persecution of non-procreative sexual acts began across much of the continent as early as the twelfth century. Ruth Mazo Karras traces the specific emergence of state violence against same-sex sexuality as of this period. Building on John Boswell’s work, she argues that “in the thirteenth century [...] legal systems began to adopt strict penalties (and sometimes enforce them) and churchmen, following the particular lead of Thomas Aquinas, used the discourse of ‘nature’ to cast any

54 Evans, *Criminal Prosecution*; MacGregor, “Criminalizing Animals”. Historians have found flaws in Evans’s compiled records of animal trials (see Beirne, “A Note”, and “The Law Is an Ass”) and have critiqued Evans’s “evolutionist and positivist perspectives” (Srivastava, “Mean, Dangerous, and Uncontrollable Beasts”, 2). Nevertheless, Evans’s text is still acknowledged as the “most relied upon” (Sykes, “Human Drama”, 278n31), and the most “comprehensive account” of the trials (Grier, “Childhood Socialization”, 118n50).

nonreproductive sex as deeply deviant”.<sup>55</sup> Panics about the crime of sodomy — as well as other nonreproductive sex acts such as masturbation — grew in Burgundian Bruges in the late fourteenth century<sup>56</sup> and in Germany and Switzerland from the early fifteenth century.<sup>57</sup> While not identical in their legal processes and punishments, these contexts nonetheless speak to the emergence of the reproductive ordering of social life we traced above, a phenomenon that accelerates and homogenizes with the advent of biopolitical capitalism. Bestiality was a central part of that emerging reproductive order.

If, in various parts of Europe during the late Middle Ages, an increasing trend toward reproductive order banished non-procreative sex, bestiality is perhaps most exemplary of illicit, non-procreative sex, particularly for the way that congress with nonhuman life metonymized the human violator’s transgression from civility to inhumanity.<sup>58</sup> Bestiality also perhaps best exemplified a crime against nature in the western Christian tradition, in which nature “referred to the hierarchical order of God’s creation, where every living thing had its determined and appropriate position”.<sup>59</sup> In Sweden, after bestiality was named a capital crime in 1442, “approximately six hundred to seven hundred persons, mostly male adolescents and young men, were executed, together with hundreds of cows and mares and a smaller number of sows, ewes, and bitches”.<sup>60</sup> Punishments for this crime were frequent and severe, and in France (the context we turn to below in an analysis of one particular trial) they typically required “that the bodies of the offenders were completely eradicated through the full-scale destruction of fire”.<sup>61</sup> Even in places where animals were not directly put on trial themselves in prosecuted cases of bestiality,

55 Karras, “Regulation of Sodomy”, 969.

56 Boone, “State Power and Illicit Sexuality”.

57 Puff, *Sodomy*.

58 Bestiality trials were not limited to Europe, but extended to European colonialism from the Middle Ages into the nineteenth century. For more details, see Bazant, “Bestiality” for an analysis of bestiality in colonial Latin America, and Tortorici, *Sins against Nature*, for inquiry into bestiality prosecutions in colonial New Spain.

59 Liliequist, “Peasants against Nature”, 393.

60 Liliequist, “Peasants against Nature”, 394.

61 Terry-Fritsch, “Animal Trials”, 76.

they were invariably incorporated into the proceedings via their spectacularly violent punishments, and they accentuated the inhumanity of the perpetrator. In that animals in the trials emphasized the perpetrator's transgression beyond humanity, they reveal how the law's reproductive imperatives extended their power to govern nonhuman life. The law did so by establishing appropriate relations between human and animal and punishing exceptions to these relations.<sup>62</sup>

Animal studies has troubled the exceptionality of bestiality within legal and cultural discourse, exposing that the spectacle of interspecies sex as a singularly transgressive violation also allows a society dependent on animal labour to occlude the fact that its social structure involves multiple kinds of everyday violations of animal life, many of which are sexualized. As Kathy Rudy convincingly argues,<sup>63</sup> bestiality figures as an exceptional and obscene violation despite the myriad ways animals are regularly subjected to a range of practices more physically violent — practices that require sexual contact between humans and other species (such as animal breeding) not regarded as obscene at all.<sup>64</sup> Colleen Glenney Boggs also emphasizes that the supposedly asexual role of the pet in modern times is deeply embedded in the sexual structure of the family, even when sex between human members of the family and its pet is prohibited.<sup>65</sup> In the context of the animal trials, norms governing interspecies sex, particularly those applied to animals who were the presumably unwitting accomplices to the crime, shed light on how the punishment of bestiality, rather than a way to exclude animals from sexuality with humans, is actually implicated in the formation of a gendered and sexualized reproductive order that governs human *and* animal life.

62 A clear distinction between human and animal was central to medieval epistemologies, making the transgression from humanity to animality particularly severe. As Joyce Salisbury argues, medieval ideas about animality contrasted contemporary understandings of the animal as a biological entity, in which humans are considered animals. By contrast, "medieval thinkers repeatedly defined humanity by trying to establish a clear boundary between humans and animals" (Salisbury, "Human Beasts", 9; cf. Salisbury, *Beast Within*).

63 Rudy, "LGBTQ...Z?"

64 See also Brown and Rasmussen, "Bestiality"; Gillespie, "Sexualized Violence".

65 Boggs, *Animalia Americana*.

The bestiality trial of Jacques Ferron in Vanvres provides a useful starting point for thinking through this order. The trial is unique in Evans' account for the restraint it showed in punishing an offending animal, given that in the many bestiality trials occurring in France and elsewhere in Western Europe from the fifteenth to the eighteenth century, both the animal and the offending human were almost invariably put to death.<sup>66</sup> Convicted of "coition with a she-ass" in 1750, Ferron was sentenced to death, whereas

the animal was acquitted on the ground that she was the victim of violence and had not participated in her master's crime of her own free will. The prior of the convent, who also performed the duties of parish priest, and the principal inhabitants of the commune of Vanvres signed a certificate stating that they had known the said she-ass for four years, and that she had always shown herself to be virtuous and well-behaved.<sup>67</sup>

The citizens of the commune "were willing to bear witness that she is in word and deed in all her habits of life a most honest creature", resulting in this uncommon acquittal.<sup>68</sup> Evans acknowledges that "as a piece of exculpatory evidence [this incident] may be regarded as unique in the annals of criminal prosecutions".<sup>69</sup> Indeed, the reference to the animal's "free will" is singular in Evans's commentary on the animal trials, and the archival work of other scholars.<sup>70</sup> Free will here is a significant counterpoint to the frequency with which

66 Evans (*Criminal Prosecution*, 146–51) details many bestiality trials in over this period. Of the nine mentioned in this short portion of the book, six occurred in France, two in Germany, and one in Britain. Of those trials noted in France, Ferron's is the only one in which one of the parties' lives was spared. Evans notes that "this disgusting crime appears to have been very common; at least Ayrault in his *Ordre Judiciare*, published in 1606, states that he has many times (*multoties*) seen brute beasts put to death for this cause" (148). According to Evans, buggery with an animal "was uniformly punished by putting to death both parties implicated" (147). He also notes the 1532 criminal code of the emperor Charles V, which "ordained that sodomy in all its forms and degrees should be punished with death by fire", with animals being shown mercy only in cases where there was reason that "the punishment of the sodomite should be mitigated" (151).

67 Evans, *Criminal Prosecution*, 150.

68 Evans, *Criminal Prosecution*, 150.

69 Evans, *Criminal Prosecution*, 151.

70 Also see Lilliequist, "Peasants against Nature"; Macgregor, "Criminalizing Animals"; Tortorici, *Sins against Nature*.

animals, despite being implicated in trials via their spectacular executions, do not “become the subjects of the histories we write”.<sup>71</sup> Being exceptional in the secular trials of animals, it also counters the removal of agency that accompanies frameworks of animal life prevalent in anthropocentric capitalism.

Even though the animal trials offer some acknowledgment of animal agency by holding them accountable for their “crimes”, they also culminated in the removal of this agency with animals’ criminalization and punishments. For human and animal perpetrators of “buggery”, punishments were typically spectacular. When crossing species lines, according to Evans, the death penalty for the crime of buggery usually involved both human and animal being burned alive.<sup>72</sup> He also adds that executioners had significant agency in the spectacle of punishment as well, and “often indulged in capricious and supererogatory cruelty in the exercise of their patibulary functions”.<sup>73</sup> Nonetheless, though both the sparing of the donkey and the mention of its “free will” in Ferron’s trial might be exceptional, it merits mention here for being no less an act of subjection to anthropocentric and reproductive regimes than punishment would have been.

Read under Foucault’s account of the shift from sovereign to disciplinary power,<sup>74</sup> the parallel shift from spectacles of punishment such as earlier centuries’ more common burning at the stake to an ostensibly more humane treatment of animals embodied by the sparing of the donkey, emphasizes that the latter is no less power-laden than the decision to put her to death would have been. Indeed, lurking under the surface of the benevolent defence of the donkey is the imposition of gender on the animal: the projection of “virtuous and well-behaved” qualities onto her body assures her safety from death but ushers her into a gendered framework of power. Moreover, in her characterization as a victim of the carnal desires of one man, she emerges as a passive being compliant with anthropocentric codes

71 Tortorici, *Sins against Nature*, 127.

72 Evans, *Criminal Prosecution*, 147.

73 Evans, *Criminal Prosecution*, 146.

74 See Foucault, *Discipline and Punish*.

of gendered behaviour. The donkey, an animal already immersed in the everyday practice of forced physical labour, becomes even more docile under a framework of gender that corrals the animal into a domesticated framework.

This incident also reveals how gendered and anthropocentric paradigms intersect in the “domestic”, as discussed above. On the one hand, the domestic connotes the economic devaluation of reproductive labour (its coding as feminine and “non-work”), as well as the removal of reproduction from the public sphere and its confinement to the private realm that was largely achieved by the end of the seventeenth century.<sup>75</sup> On the other, as “domestication”, the domestic connotes the process by which humans exercise control over other species. Both the domestic sphere and animal domestication are implicated in the creation of a reproductive order, in which women’s bodies and ecologically “wild” zones are converted to suit the productive capacities of capitalist natures.<sup>76</sup> With this framework in mind, a double domestication takes place in the context of the donkey, as she is both domesticated into labour for the human and narrativized as a gendered subject. Jens Rydström’s commentary on the “heterospecial” character of bestiality trials lends credence to this gendered reading.<sup>77</sup> He posits that trials involving male humans and female-coded animals “did not threaten the masculinity of the perpetrators but rather enhanced it and made it grotesque”.<sup>78</sup> In the case examined here, the deviance of the act itself does not disrupt domesticated order as it consigns the donkey to the status of a feminized victim of monstrous masculine incursion against the order of nature.

Tsing cautions against critical frameworks that posit domestication as a unidirectional form of power, as humans exercising power over animality, instead framing it as a broad structure governing human and nonhuman life; with Tsing’s framing in mind it is useful to position bestiality trials such as the one above within a broader context

75 Federici, *Caliban*, 92.

76 Tsing, “Unruly Edges”, 146.

77 Rydström, *Sinners and Citizens*, 18.

78 Rydström, *Sinners and Citizens*, 18.

of juridical power negotiating reproductive norms for all life, both human and animal. More than mere “human control over other species”, Tsing posits that such ideals of domestication emerge from “an ideological commitment to human mastery”, a fantasy of human agency and domination that obscures humans’ dependence on other species.<sup>79</sup> In the case of the ass, even while she may be subject to the human who owns her, she enters the field of human relation presumably because of a need for her labour. The gendered language of her exoneration at trial, however, sustains the illusion of human mastery as her life and existence are spared through a mythology of virtuous feminine docility. To live, she must be doubly subjected: first to criminal prosecution, and second to gendered frameworks of submission.

The above example indicates how the contributions of animal labour to domesticated order diminish in a fiction of anthropocentric mastery. Moreover, the juridical structure assembled out of this trial naturalizes an ideal of submissive femininity by deriving it from the donkey as a mobile symbol of nature, an ideal that reflects appropriate modes of gendered behaviour back onto the human. The order we trace here, then, is not confined to any one side of the species binary, instead indicating a mode of governance that enrolls both human and animal in the public arena of the trial. Read in this way, just as a gendered domestic order is not only concerned with the subjugation of women, but the confinement of bodies to a binary structure of gender (even while some bodies inherit more privilege within that system than others), anthropocentric order does more than simply subjugate animals under humans. It also indicates a broader social structure that acts on those humans governing animal lives by circulating appropriate modes of human–animal relationality and gendered behaviour through the spectacle of animal punishment and rare cases of exoneration. The gendered crime of bestiality works to curtail sexual practices perceived as a threat to reproduction. In the following section we expand on how animals relate to a figure at the heart of reproductive order: the child.

79 Tsing, “Unruly Edges”, 144.

## Infanticide

Like bestiality, infanticide figures as an explicit attack on reproductive order, and thus animals accused of infanticide were seen as unruly disruptors of the sanctified structure of the family. Today, the child is a central and sacralized figure within reproductive imaginaries, replete with projections of innocence and vulnerability that sustain affective investment in capitalist futurity and devalue non-procreative sexuality and community. This has been well documented by queer studies' critiques of heteroreproductive futurity,<sup>80</sup> for which the sexual structure of the family sustains reproductive order, as well as national and communal futurity. While the animal trials of course precede queer studies' contemporary understandings of heteroreproductive futurity, they nonetheless play into historical assemblages of it in important ways, and feminists' and historians' accounts of the witch trials confirm the emergence of an order that increasingly secured reproduction through the demonization of those disruptive to that order.<sup>81</sup> While children did not have the same sacred position within society during the early modern era, this was a period when children and their position in society became a prominent site of scholarly and religious interest.<sup>82</sup> Authorities and writers began to view children as vehicles for wider societal reform.<sup>83</sup> Alongside this shifting position of the child, the state began incentivizing and regulating reproduction, as discussed earlier. Infanticide was a key piece of such regulation and was a crime of which animals were also accused.

Below, again focusing predominantly on France, we examine Evans's accounts of infanticide from the fourteenth and fifteenth centuries alongside broader legal frameworks for this crime that emerged in the sixteenth century. While occurring in different times and places within French history, the trials and frameworks examined here evidence the assembly of reproductive order we trace in this paper, in

80 Edelman, *No Future*; Halberstam, *In a Queer Time and Place*.

81 Federici, *Caliban*; Dolan, *Dangerous Familiars*; Fissel, *Vernacular Bodies*.

82 French, "Locating the Early Modern Child".

83 Whitmore, "Childhood in Early Modern England".

which the child functions as a symbol of procreative sex's potentiality to reproduce life in a social and biological sense and — when the victim of violence — its vulnerability. The animals who were accused of and subsequently punished for infanticide were enrolled in this narrative as violators of a reproductive order of family life. Their public and spectacular deaths enshrined the ascendancy and extensive reach of this order as it incorporated nonhuman life, which is what we expand upon in this section. Infanticide trials thus offer a useful metric for thinking through animals' position in relation to reproductive order. As Paul Friedland notes of pre-modern France, "infants were eaten by animals — usually pigs — with surprising frequency", with "more than thirty documented cases of pigs who were accused of homicide, and this number only includes those cases whose records have survived".<sup>84</sup> In that such trials were arguably common and spectacularly violent in their handling of animal execution, they attest to the emerging visibility of reproductive and domestic orders that provide the conditions of possibility for biopolitical capitalism.

Looking at the trial of a sow and her piglets in 1457 allows an examination of the extension of the reproductive structure we trace here into the world of nonhuman life. The sow in question was convicted of "murder flagrantly committed on the person of Jehan Martin, aged five years, the son of Jehan Martin of Savigny", for which she was sentenced to be "hanged by the hind feet to a gallows tree".<sup>85</sup> As Evans

84 Friedland, *Seeing Justice Done*, 1. Friedland notes of the execution of the Sow of Falaise that "neither the crime itself, the judicial proceedings, nor the punishment were all that unusual in premodern France." Friedland is not alone in noting the frequency of infanticide trials in France even with the few surviving records of them. Based on archival work on the trials, MacGregor suggests that animals (particularly pigs) committing infanticide was common in medieval France, and that the punishment of the animal most often involved hanging. MacGregor concludes with reference to one infanticide trial from 1378 in Auxonne that "there is no sign of concern or surprise about the events described" and suggests that "animal executions were simply seen as a part of judicial action" ("Criminalizing Animals", 4–7). Evans (*Criminal Prosecution*, 138–45) details twelve animal trials for infanticide in France and Germany between the thirteenth and sixteenth centuries, with only one animal pardoned from execution.

85 Evans, *Criminal Prosecution*, 153. While the term infanticide arguably does not apply to the death of a five-year-old, for our purposes, the position of the infant within reproductive orders — where the infant embodies reproduction's potentiality and vulnerability — applies equally to the child, as discussed earlier.

details, “her six sucklings, being found stained with blood, were included in the indictment as accomplices; but ‘in lack of any positive proof that they had assisted in mangling the deceased, they were restored to their owner.’”<sup>86</sup> What does the assignment of culpability to pigs mean in the context of a gendered system of reproduction? Furthermore, how is the drama of punishment and acquittal here productive of a system that privileges procreative sex through the figure of the human child? In the condemnation of the sow to death and the acquittal of the piglets, the trial establishes a dichotomy between the figures of the violent mother and the innocent child; even animals—however outside the sexual structure of the family they are presumed to be—do not escape enrolment within that structure. The domestic order of the family, as the sow takes on the guise of the monstrous mother and the piglets become projections of childhood innocence, sustains a narrative of the innocent child through the violent expulsion of the violent mother who “flagrantly” flouts its sacred position.

Insofar as norms of reproduction, even applied to animals, are vitalized by societal frameworks of gendered order, there is a stark overlap between the demonization of women and mothers so prevalent in infanticide cases and that of nonhuman animals. From the Middle Ages to the early modern period in France and elsewhere in Europe, emergent anxieties consolidated control over errant and unruly bodies within populations, especially women who threatened or simply did not conform to patriarchal family structures. Trevor Dean accordingly notes the gendered character of infanticide throughout the Middle Ages, with women almost invariably being the subjects of infanticide prosecutions despite being a minority in crimes and felonies overall: “Gender dictated women’s generally lower participation in crime, but also the specific pattern of their criminality.”<sup>87</sup> An increasingly punitive approach to infanticide coalesced from the late Middle Ages into the early modern period in various parts of Europe, with punishments varying from fines to penance or whippings.<sup>88</sup> In the particular case of premodern France, anxieties about infanticide

86 Evans, *Criminal Prosecution*, 153.

87 Dean, *Crime in Medieval Europe*, 78.

88 Obladen, “From Sin to Crime”.

ran rampant, and were often punished with the death penalty. There were exceptions to these punishments, as Sara McDougall's work on infanticide in medieval France shows: While death sentences were common, given a "general reluctance to carry out executions"<sup>89</sup> authorities regularly pardoned women so accused. Executions were less common prior to the sixteenth century,<sup>90</sup> but became more common during and following it when several authorities passed stricter laws punishing women who committed infanticide with the death penalty. As of 1582 in Dijon, death sentences were more frequently doled out for infanticide.<sup>91</sup> This persisted through a rising hysteria in France during Louis XIV's regime in the seventeenth century, when authorities believed thousands of babies were being killed by their parents, which Tuttle diagnoses as "a sign of elite anxiety about the murderous social disorder and wastefulness represented by illicit sexuality".<sup>92</sup>

While this section of our paper deals with cases in premodern and early modern France, other instances of infanticide are useful for thinking through the emergence of a gendered, capitalist reproductive order derived from the social norms of various times and places. Thus, Dolan notes that in seventeenth-century Britain "child murder and [...] the obsession with representing it pervade[d] the culture".<sup>93</sup> These representations also coincided with an increased suspicion toward maternal "authority and agency", associating it with "violence and crime", with fathers' roles in children's lives being represented far more euphemistically than mothers'.<sup>94</sup> In Britain, whether cases of child death involved actual infanticide was not always clear, as according to Fissel, "most who were prosecuted [for infanticide] were single women whose newborn children had been found dead, perhaps stillborn, perhaps killed at birth by intention or neglect".<sup>95</sup> More generally, whether agents of infanticide or not, sin-

89 McDougall, "Pardoning Infanticide", 231.

90 Dean, *Crime in Medieval Europe*, 79.

91 Farr, *Authority and Sexuality*.

92 Tuttle, *Conceiving the Old Regime*, 33.

93 Dolan, *Dangerous Familiars*, 126.

94 Dolan, *Dangerous Familiars*, 127.

95 Fissel, *Vernacular Bodies*, 77.

gle women were viewed with particular suspicion. As Dolan writes, “popular representations of infanticide and witchcraft explicitly target those women who live outside direct male supervision”, and these “accounts of infanticide and witchcraft demonize women’s self-assertions as attacks directly on the family they stand outside (and so, the logic goes, therefore against): such women slaughter infants, undermine domestic production, and hold secret rites”.<sup>96</sup> The contexts above do not necessarily refer to animality, but they provide a groundwork for thinking through how those outside of a family order were positioned as threats to it and expunged from it through punishment, a process eventually extended to animals associated with this perceived threat. Constellations of reproductive order and the punishments for violating it, as we suggest, also assimilated animal life; in the process of punishing animals for crimes against reproduction, the law extended reproductive order beyond the human and naturalized it by attaching to animals as figures of nature.

The imposition of a gendered order onto animality evidences the extent to which gendered systems of reproduction govern not only humans but also life itself. Indeed, animal trials for infanticide cannot be easily dismissed as mere deterrents to potential human perpetrators, nor can they be easily read as a way to hold liable the owners of the animals in question; the animals themselves were the subjects of the trials even if, as we argue, the making of animals into legal subjects was integral to their later unmaking as social subjects. According to Evans and in striking contradistinction to current legal prosecutions of animal-on-human violence, the humans owners were not held liable for the infanticidal crimes committed by their animals: “In general, as we have seen, the owner of the blood-guilty beast was considered wholly blameless and sometimes even remunerated for his loss”.<sup>97</sup> One case in the Abbey of Josephat near Chartres in 1499 cites owners being punished because they were negligent of a child killed by a pig but, importantly, not because of “any proprietary responsibility for the infanticidal animal”.<sup>98</sup>

96 Dolan, *Dangerous Familiars*, 14.

97 Evans, *Criminal Prosecution*, 155.

98 Evans, *Criminal Prosecution*, 154.

The question of animal agency in infanticide trials remains contentious, particularly regarding whether animals were tried *as animals* or hominized in the process of becoming the subject of a criminal trial. Various scholars of the trials suggest that animals themselves were implicated in a juridical order as agents against reproduction in violent punishments for killing children.<sup>99</sup> Nonetheless, persistent debates on whether animals were tried as proxies for humans bearing the consequences of anthropocentric social norms have coalesced around a prominent case whose particulars have been misreported through several retellings in animal trials scholarship: the infamous story of the “Sow of Falaise”. While occurring earlier than the trials we discuss here, its persistence in animal trials scholarship merits attention. The sow in question, convicted in 1386 of infanticide after she had entered the room of an infant and begun consuming his face, was “found guilty of the crime, and was condemned to be dragged through the streets of the town — probably tied to a hurdle that was attached to a horse or donkey — and then hanged at the place of justice, the usual punishment for those who had been convicted of homicide”.<sup>100</sup> In Evans’s account, and others preceding and following, the trial takes on a curious spectacle of interspecies drag in which, “as if to make the travesty of justice complete, the sow was dressed in man’s clothes and executed on the public square near the city hall”.<sup>101</sup> Friedland, though, issues a correction: the sow was in fact never dressed in human clothing, and this detail was an embellishment added to the original account by the Abbé Langevin in his 1826 *Supplément aux recherches historiques sur Falaise*.<sup>102</sup> Despite its apparent falsity, this myth has until recently remained unquestioned in both academic and popular retellings.

The persistent mythology of this incident, however historically inaccurate, merits some attention for the way it foregrounds the tenuous boundary between human and animal in current understandings of

99 Evans, *Criminal Prosecution*; Friedland, *Seeing Justice Done*; MacGregor, “Criminalizing Animals”.

100 Friedland, *Seeing Justice Done*, 1.

101 Evans, *Criminal Prosecution*, 140.

102 Friedland, *Seeing Justice Done*, 5.

legal proceedings governing infanticide in medieval France. Jen Girgen's reading of the myth suggests it embodied "an effort to make the animal more humanlike (perhaps to impart a moral lesson on the people witnessing the event[...])"<sup>103</sup> and that it gave "the proceeding the semblance of human trials."<sup>104</sup> Katie Sykes likewise reads the trials as not being entirely about or for the animal. For her, "animals' presence [...] in human courts of law is [...] always derivative and always mediated, and animals are always metaphorically dressed up in clothes that do not belong to them."<sup>105</sup> To make this argument, however, is to presume that such (proverbial and literal) clothes belong to humans, rather than having been constructed and imposed on the human — even formative of the human — by gendered histories of belonging. Just as humans can be brought into gendered, juridical orders through both the law and norms of dress, the pig in its mythical clothing may be as well. While such accounts read the pig as a stand-in for the human, one wonders why critics might not instead take a lesson from drag culture in which the clothes common to one gender on the body of its ostensible opposite parodies the very notion of the original gender.<sup>106</sup> One could extend this reading to the myth of the Sow of Falaise's interspecies drag to question the legitimacy of the human-animal binary. Given the falsity of the claim that the sow was dressed in human clothing, however, this reading falls apart.

Though not entirely. One does not need the spectacle of human clothing in either the 1457 trial of the sow and her piglets or the infamous 1386 trial of the Sow of Falaise to note that the law here does not merely include animals as proxies for humans but operates over a gendered domain of life itself in which animals are conscripted into an anthropomorphic version of legal subjectivity. Sykes's attention to animals in metaphorical clothes that do not belong to them emphasizes their adornment in all the trappings of a trial even without the materiality of clothing. But to read the executed animal as

103 Girgen, "Historical and Contemporary Prosecution", 98n4.

104 Girgen, "Historical and Contemporary Prosecution", 118.

105 Sykes, "Human Drama", 280.

106 Butler, *Gender Trouble*, 136–39.

a mere metaphor—and how could we, given the visceral and spectacular public violence enacted on the physical animal?—obscures the materiality of the process taking place: the bringing of the animals to the city hall, imprisoning and feeding them before execution, the mangling and maiming of their bodies, the application of punishments reserved for homicide (apparently) irrespective of species. As Terry-Fritsch argues of the animal trials, “using the guise of humanity to figuratively transform the convicted animals, and the guise of animals to figuratively transform the convicted humans, the government presented offenders to the populace as unrecognizable subjects that no longer fit within the symbolic order of community life.”<sup>107</sup> Legal authority thus did not stop at the human but extended across the species boundary by applying the attire of criminality to both human and animal. The bringing of the animal to the site of societal governance emphasizes animals’ incorporation into the order it represents, even as abject figures expelled from its protections, enfolded them in the guise of the criminal subject; human clothing is thus redundant to the material processes already taking place. Animals tried for bestiality and infanticide were cast as disruptors of domesticated life—to procreative sex and the child, respectively. On occasion, as in the case of the pardoned she-ass and piglets, animals could also be deemed innocent using the same hetero-patriarchal logics that inform the reproductive order they were accused of violating. In the final “crime” we examine, these threats combine in the potent figures of the witch and her familiars.

## **Familiars**

Both the murderous mother and the witch were figures united by the threat they posed to children and reproductive order. The figure of the witch disturbed domestic orders, frequently cast as threatening a specifically reproductive stability: causing impotence, killing children, or making crops fail. As such, witchcraft was often understood as a domestic crime. Witches were also typically depicted as being “engaged in a demonic form of domesticity” of their own—undertaking wicked deeds such as brewing potions and fire-roasting

107 Terry-Fritsch, “Animal Trials”, 55.

a victim's hair and nail clippings—“in inversions of the housewifely tasks of cooking and gardening.”<sup>108</sup> Among these perceived demonic inversion of domestic life, witch's maternal relationship with “familiar” captured particular attention in pamphlets and accounts of witchcraft.<sup>109</sup> Familiars were generally small companion animals who were thought to act as witches' emissaries, carrying out harmful acts on their behalf, especially inflicting harm on children. Mary Fissel suggests that witches' relationships with their familiars were especially portrayed by “images of anti-mothers, a kind of double perversion of the maternal relationship”, where not only did women-cast-as-witches kill babies and children instead of nurturing them, but they also lavished improper maternal attention and affection on their animal familiars.<sup>110</sup> In this section we consider this relationship in more detail, looking for what the witch trials suggest about how animal familiars were positioned in relation to the domesticated reproductive orders witches threatened. To do so we look to England during the early modern period.

Whether there were animal trials in England is a matter of debate.<sup>111</sup> Regardless, as the criminologist Piers Beirne maintains, animals did still appear in British criminal processes—most prominently in the witch trials. Familiars featured in as many as sixty to seventy-five percent of English witch trials from the fifteenth to the eighteenth centuries, with the first recorded instance of familiars in trial evidence in 1530 and the last in 1712.<sup>112</sup> While familiars scarcely appeared in witch trials in continental Europe, English witchcraft lore—including popular pamphlets and legal texts—regularly emphasized the relationship between witches and their familiars.<sup>113</sup>

108 Dolan, *Dangerous Familiars*, 181.

109 Dolan, *Dangerous Familiars*; Fissel, *Vernacular Bodies*

110 Fissel, *Vernacular Bodies*, 80.

111 See Beirne, “A Note”.

112 Serpell, “Guardian Spirits”, 162, 164; Parish, “Paltrie Vermin”, 5.

113 Dolan, *Dangerous Familiars*; Garrett, “Witchcraft”. Historian James Serpell suggests several possible explanations for why familiars were prominent in British witch trials but appeared so rarely in witch trials in continental Europe: pet-keeping was potentially more common in Britain, English prosecutors of witchcraft were more “prejudicial and puritanical” about pet-keeping; there were differences between English and continental European witchcraft laws, texts and models, such that official witchcraft texts

Frequently depicted with accused women at witch trials, familiars were usually small animals found close-at-hand, in or at the margins of the home: toads, cats, dogs, ferrets, bees, birds, flies, moles, mice, rabbits, rats, or snails. They shared with witches a domestic familiarity that made the threat they were seen to pose especially disquieting, because it arose from “inside the household or hover[ed] at its margins”, within communities.<sup>114</sup> These familiar animals’ presence in the witch trials suggests that witchcraft laws and trials were not only about determining and debating the level of “domestic threat” of particular people — usually women — but also the level of threat and proper place of “relatively autonomous beings”: animals with whom people closely shared space but did not entirely control.<sup>115</sup>

Despite being co-inhabitants, familiars did not contribute to domestic life: aside from possible companionship, and except for a few animals (such as chickens, rabbits, and bees), they did not provide anything useful like food or materials (there are no records of farm animals like cows, sheep, or pigs as familiars). Nor are they predominantly vermin (with the exception of rats, mice, and moles), who were at the time in England subject to a long-standing vermin eradication program.<sup>116</sup> Vermin and farm animals arguably had a more clear-cut place in the domestic order, even if they occasionally upset that order. In an era that largely preceded popular pet-keeping, were “familiars” friends or foes? Where did they belong in the rising anthropocentric and domestic orders of the time? Ultimately, material from the witch trials and popular accounts of the trials at the time suggest that these animals and women were perceived as living together too

in England reflected more popular beliefs about witches (as opposed to a more elite version of witchcraft law that developed in continental Europe) and more focused on witches acting as solitary individuals, not a collective (Serpell, “Guardian Spirits”, 181). In her book *Witchcraft in England*, Barbara Rosen also makes this latter point, explaining that in continental Europe, the “affectionate” relationship between the witch and the devil “took the form of surrender and worship, and bestiality with demons”, whereas in England it was “expressed by the cosy, slightly perverted relationship of a lonely, poverty-stricken woman to her pet animal” (32).

114 Dolan, *Dangerous Familiars*, 175.

115 Serpell, “Guardian Spirits”, 158.

116 Lovegrove, *Silent Fields*; McDonagh and Daniels, “Enclosure Stories”; Cragoe and McDonagh, “Parliamentary Enclosures”.

closely, with suspect intimacy, or what Will McKeithen in a related current context calls “strange intimacy”,<sup>117</sup> that was framed as reproductively—sexually or maternally—deviant.

Some scholars suggest that familiars were a precursor to more widespread practices of pet-keeping, and that the single, elderly, poor women who were most often accused of witchcraft and who came to embody the figure of the witch, may have tended to keep animals as pets.<sup>118</sup> Pet-keeping did not become socially acceptable in England until the tail end of the trials, in the eighteenth and nineteenth centuries.<sup>119</sup> In the preceding centuries, although many royals in France, England, and elsewhere kept individual dogs, birds and other animals, pet-keeping outside of royal court was viewed as dangerous and “morally suspect” because it blurred the line between human and animal.<sup>120</sup> Witches were accordingly seen as personifying their familiars in alarming ways, by giving them names and feeding them, prefiguring the antipathy toward the contemporary figure of the “crazy cat lady”, as Fiona Probyn-Rapsey observes.<sup>121</sup> James Serpell argues that this popular view of “familiars” preceded the concept’s acquisition of formal, legal recognition in the witch trials.<sup>122</sup>

But it would be a mistake to view familiars as purely a product of “popular culture and folklore that positioned animals, imps, and fairies as intermediaries between humans and the numinous supernatural.”<sup>123</sup> Demonology also played a central role as a learned discipline, detailing how familiars were witches or demons in animal form. As non-innocent participants in the practice of witchcraft, familiars were “creatures with agency, demons in corporeal form”, whose existence and actions “were evidence of the permeable boundary that existed between humans and animals, the presence of demonic ritual and blood-feeding among practitioners of

117 McKeithen, “Queer Ecologies”.

118 Serpell, “Guardian Spirits”.

119 Ritvo, *The Animal Estate*; Tague, *Animal Companions*.

120 Thomas in Serpell, “Guardian Spirits”, 159–60; Tague, *Animal Companions*.

121 Probyn-Rapsey, “Crazy Cat Lady”; also see McKeithen, “Queer Ecologies”.

122 “Guardian Spirits”, 160.

123 Parish, “Paltrie Vermin”, 2.

magic, the moral and theological depravity of witchcraft, and the transgression of nature that lay at the heart of the witch.”<sup>124</sup> Part of witches’ and familiars’ transgression of nature was coded specifically as a disturbance of a “natural” domestic order.

The witch–familiar relationship registered as reproductively disturbing or warped in two key ways. First, at times, the relationship was sexualized and eroticized.<sup>125</sup> Federici notes a “constant identification between female sexuality and bestiality” in the witch trials.<sup>126</sup> The perceived intimate relation between familiar and witch was consistent with the view that the latter engaged in sexual acts with the devil and demons— at times in animal form. Witches and their familiars were therefore figures aligned with the deviant spectre of bestiality that also inflected the animal trials. Dolan describes how popular pamphlet accounts of English witchcraft during the time of the trials “reveal a prevalent association of witchcraft with sexualities constructed as evil and unnatural because of their association with the devil; with animals; and with postmenopausal women, whose desire was assumed to be boundless, unsatisfiable through socially acceptable means, and destructive because it could not be (pro)creative.”<sup>127</sup> Familiars were cast as active partners, even initiators, of interspecies sexual relations that upset both reproductive and anthropocentric orders.

Second, and even more commonly, witches were viewed as attempting to mother their familiars in depraved ways, feeding and nurturing them and, in a practice that received the majority of witch hunters’ attention, letting their familiars suckle blood at their skin. The notion of “bloodsucking familiars” was first recorded in Ursula Kemp’s 1582 trial for witchcraft, after which point it “became increasingly stereotyped and exaggerated, and the search for bloody marks or spots began to expand to include lumps, boils, hernias, warts, excrescences, supernumerary nipples, or any accessory protuberance

124 Parish, “Paltrie Vermin”, 2.

125 Dolan, *Dangerous Familiars*, Garrett, “Witchcraft”.

126 Federici, *Caliban*, 194.

127 Dolan, *Dangerous Familiars*, 213.

on the body that could be construed as the site of the familiar's recent gustatory attentions."<sup>128</sup> By the peak of the English witch trials in the mid-seventeenth century, the practice of suckling familiars was considered so integral to witches in their relationship with their familiars that seeking out marks from this suckling "became an almost mandatory part of the judicial process."<sup>129</sup>

While the familiar is in the first case conjured as a witch's demonic sexual partner, in the second, it is construed as a "demonic infant [...] in an obscenely distorted inversion of the mother-child relationship."<sup>130</sup> The obscenity again stems from the transgression or even inversion of both reproductive and anthropocentric norms. In this anti-maternal mythology, women direct their reproductive energies not toward human children but rather to nonhumans. Serpell describes how "this image of the postmenopausal crone giving suck to her demonic animal companion — this grotesque mixing of animal and human categories, reproductive roles, and body fluids — was virtually tailor made to provoke horror, revulsion and sanctimonious outrage in the puritanical minds of early modern Englishmen", for whom — Protestants and Puritans among them — mixing with animals was "morally degrading", as they were to "suppress the growling of the 'beast within'".<sup>131</sup> The imagined act of suckling familiars is doubly transgressive. With one move, both the domestic and anthropocentric orders are warped, and there is a compounding or redoubling of the two distorted orders onto each other — improper mothering and improper species mixing — in one monstrous act. The spectacle of obscenity associated with the unruly intimacies between witches and their familiars, much like the criminalization of deviance in bestiality trials, orients social desire toward more appropriate and (re)productive forms of sexuality. These instances of human-animal care being rendered immoral close down the intimacies available to both parties, redirecting them toward reproductive roles conducive to a biopolitical anthropocentric social order.

128 Serpell, "Guardian Spirits", 178.

129 Serpell, 159.

130 Serpell, 181.

131 Serpell, 181.

## Conclusion

Secular animal trials, which primarily dealt with crimes against reproduction, involved animals who were already moving in and out of human communities. They were all “near-at-hand” — whether donkeys in the case of bestiality, pigs in the case of infanticide, or those animals at the margins of the domestic in cases of witches’ familiars. The juridical trial might be read as a way to bring animals and the humans with whom they related in line, a way of exercising power over an increasingly unruly menagerie of interspecies relations as European states were encroaching into nonhuman space and sedimenting the position of animal life within the functioning of socioeconomic life. These trials document not only attempts at producing a juridical order governing these relations, but also its failures as desires, acts, and agencies deemed deviant by legal powers violently unsettled anthropocentric and reproductive norms, as well as human mastery. Towards what other horizons of possibility might such failures of human mastery gesture? Recalling Julietta Singh’s work on failure as refusal of mastery, a tool to inhabit social norms differently “vital to the project of shaping a dehumanist politics to come”, what possibilities do the animal trials offer to a contemporary world in which domesticated animals are almost completely disregarded, confined in hidden spaces like factory farms, recognized only as property?<sup>132</sup>

The project of devitalizing anthropocentric mastery is ever more urgent as the reproductive orders we examine in this paper, which took hold in Europe from the late Middle Ages onward, have spread across the globe through various waves of colonialism. While this paper focuses primarily on France and England, reproductive order extended (and continues to extend) through colonized geographies via the imposition of European norms of domestication and the reduction of human life to property in various slave trades.<sup>133</sup> European

132 Singh, *Unthinking Mastery*, 22

133 Crosby, *Ecological Imperialism*; McClintock, *Imperial Leather*; Bennett, *Being Property*. Several scholars also foreground how European notions of animality play into constructions of race and racism. In addition to Bennett, see Enders, “Homicidal Pigs” for details on animal trials of pigs in relation to antisemitism and Jackson, *Becoming Human* for detail on ties between animality and blackness in the antiblack imagination.

states' legal apparatuses, including animal trials, reached beyond their borders into colonized lives and lands, imposing an order that sought to supplant longstanding Indigenous socialities and ecologies.<sup>134</sup> As scholars working on unceded territories in what many call Canada, our project is conscious of the way that our own colonial and capitalist government reduces animalities and ecologies to mere commodities, a legacy inherited from colonial Europe. While the latter is a concern for a future analysis, we hope to have offered here some groundwork for thinking through how domestic orders in Europe extend through the many geographies where it violently intervened and where its imposed orders continue to be contested. Especially crucial to our analysis is the notion that the animal trials reveal how, within Europe's borders, sovereign authority had to negotiate with and quell animal (and human) agencies threatening to its hold over reproduction. If the animal trials are repositories for the making of the Europe the world now knows—the one whose domesticating effects have spread across the globe and reduced animals and wider ecologies to inert resources—they also potentially hold promise for its unmaking. They demonstrate that the reduction of animal and other forms of reproducible life (given the heterogeneous and sometimes contradictory approaches to it within the trials) was never certain even from within the Europe that has become a global centre of imperialist power.

That is, in that our paper has focused almost entirely on the assemblage of juridical structures that eventually banish animal life to the realm of reproducible property, they also hold promise for their disassembly. In the early twenty-first century when the complete subjugation of domesticated animal life has become so commonplace as to appear natural, the animal trials gesture toward a *longue durée* in which the role of animal life in human affairs is still being negotiated, a lengthy period during which the naturalization of a resolutely anthropocentric mode of social organization is not yet a given. In parallel to feminists' efforts to denaturalize reproduction's relegation from a legitimate form of labour to a

134 Belcourt, "Animal Bodies"; Kimmerer, *Braiding Sweetgrass*; Simpson, *As We Have Always Done*; Whyte, "Reflections".

domestic service by exposing its history of emergence alongside capitalism, a look into the animal trials foregrounds the processes of subjugation through which Europe makes animal life into commodified property. For those who insist on the animal trials as an absurd anachronism, there might be another possibility: in the trials' sometimes violent negotiations with animal presence in human social life — however imperfect they may be — they serve as a potent reminder that there are other possible ways of relating to animal life than capital's totalizing mastery allows.

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