Sofia Bianchi Mancini, Helen A. Gibson, Dirk Schuck, Markus Vinzent (eds.)

# *Relating to Landed Property*

STRUCTURAL CHANGE OF PROPERTY

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Structural Change of Property

Edited by Silke van Dyk, Tilman Reitz and Hartmut Rosa

Volume 4

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# Series Introduction

Property is a largely under-examined institutional basis of the contemporary global, economic order. Yet property in the early twenty-first century is being challenged and politically contested in seemingly unprecedented ways. Property is being called into question not only because of the accelerated, global implementation of private property after the collapse of state socialism at the end of the twentieth century spurred an extreme increase in inequality, but also because established forms of property in various sectors prove to be dysfunctional with respect to such phenomena as environmental sustainability and even economic growth. The changing significance of what it means to own something such as an apartment, a forest, or stock options, has been set in motion. The meaning of ownership has been further called into question as a result of new technological developments, indefinitely transferable objects appear to be replacing scarce material goods, a process through which completely new questions related to intellectual property are being posed. Questions of what, if anything, lends itself to constituting or conceptualizing property abound: Works of art? Human organs? DNA sequences? Raw materials? Algorithms? Forests? Asteroids? What alternatives to private property are observable? What new property arrangements are being formed, and what alternatives to the property-wrought order of society are even thinkable?

The series at hand is a product of the German Research Foundation-sponsored Collaborative Research Centre TRR 294, "Structural Change of Property," based primarily at the Universities of Jena and Erfurt. This series is dedicated to the systematic, interdisciplinary study of the topics outlined above and features outstanding scholarly works on the past, present, and future of property.

# Introduction

This collection of essays brings together contributions which all have in common that they deal with the issue of landed property.[1] The volume is the product of a series of three workshops which were held between 2021 and 2023. During these workshops, the authors engaged with each other's arguments and discussed their differing approaches to the issue of landed property. What the title *Relating to Landed Property* means to address is a specific focus on what might be called an often-neglected phenomenological dimension of the topic: What are political and epistemological preconditions for conceiving of land as someone's property? Historically, land has been the primary object of social property relations, and questions of landed property continue to be of immense significance today. One might even argue that the global ecological crisis brings the issue of landed property again to the forefront of politico-scientific, sociological, economic, and ecological discussions. The current collection of essays will not aim at giving a normative framework as to what kind of property claims to land might be legitimate and which are not.[2] Instead, what all contributions have in common is to ask how the issue of landed property has been discussed under different historical circumstances and from a wide range of perspectives, and how the notion of property in land has been conceptualized. In this regard, the contributions aim at making visible the prerequisites that historically allowed for property claims to land. Rather than making normative claims themselves, the authors of this volume tend to analyze historical

1 The editors of this volume would like to thank Lilith Poßner for her extraordinary support in copy editing. Many thanks as well to Malte Janzing for additional help.

2 The question of normative implications of ecological approaches to landed property, among other questions, is discussed by Wesche 2023.

understandings and practices of legitimization, thereby also foregrounding the strategies of the dispossessed in dealing with those property claims.

Regarding a natural object like land as something which can be possessed by a legal entity––be this an individual, a specific group, a corporation, or, in antiquity, even a deity––cannot be taken for granted. To perceive of land as property can only be regarded as self-explanatory within a specific social-ontological framework: Until today, Western liberal political theory usually takes it as a natural given that land can be rightfully owned by a lawful possessor. The following collection of texts have in common that they all, in different ways, question this assumption. Especially if an individual owner is understood to have a right of disposal regarding its landed property, this usually means excluding others from using it. For the sociologist Max Weber, this exclusion of others can be regarded as one of the main effects of property claims. This means that 'property' always refers to a social and economic conflict lying beneath it.

One group of contributions to this volume looks at the ancient beginnings of relating to land as property. Here, the question of central importance is how such property claims first came about. What religious, political, economic, and social circumstances are expressed through the public appearance of property claims? For example, how can it be understood that a fictitious entity like a deity 'owns' a sacred grove? What societal changes objectify themselves in early manifestations of a legal codification of property claims within the Roman empire? More specifically, to what extent does property, as a legal concept, emerge from an institutionalization of legal procedures regulating inheritance?

A second group of contributions focuses on how claiming land as one's property served specific purposes in the history of the colonial expansion of Western societies. The prospect of becoming individual landowners formed a powerful reason for European peasants to migrate to the Americas. As their sedentary lifestyle gets juxtaposed against a supposedly nomadic one of Indigenous Americans, a paternalistic narrative unfolds in which the emergence of landed property comes to be regarded as the prime marker of civilizational 'progress.' This colonial narrative influenced debates about reparations for formerly enslaved people during and after the American Civil War. Several contributions in this volume ask how enslaved Americans related to the land they were forced to live on, aside from it being their oppressor's property.

A last group of contributions deals with the more general question how the still hegemonic understanding of relating to land as private property is perpetuated today in abstract and philosophical ways. Here, a genealogical perspective on the history of law proves to be of the utmost importance. Can a critical reconstruction of pragmatist assessments of property as an institution show itself to be theoretically fruitful with regard to a phenomenologically informed understanding of landed property? How have Black and Indigenous communities related to land(ed property) in settler-colonial settings of total violence during and in the afterlife of slavery? These are some of the questions raised by the authors of the following essays. All contributions follow the guiding idea that how relating to land as property emerges and evolves needs explaining. Each of these contributions suggests that the well-worn path dependency of conceptualizing property in (post-)Enlightenment-derived terms is in need of serious revision, whether this revision foregrounds perspectives from antiquity, Indigenous knowledge, Black studies theory and methodology, or pragmatist perspectives.

In a recent working paper for the collaborative research centre *Structural Change of Property*, Carsten Herrmann-Pillath proposes a new conceptualization for a 'language of property'.[3] This new 'language of property' might also be helpful for reassessing some of the issues raised in this volume. Without being able to go into any considerable detail here, Herrmann-Pillath distinguishes between three 'modes of appropriation': belonging, holding, and using. Those are juxtaposed with three different ideas of relating to an object as one's 'property': first, *ownership* as expressing a mode of belonging, second, *property* (in the narrow sense) as expressing a relation of economically holding an object, and third, *possession*, which refers to any dimension in which a specific object is made use of by its possessor.[4]

For example, Indigenous claims to land can then be categorized as expressions of 'ownership' because they express a mode of belonging to a specific land.[5] Settler colonialism, on the other hand, can be seen as a movement which specifically made 'property' claims because it generally insisted on a Lockean line of argument to make the land profitable. As Herrmann-Pillath makes clear, any *individual* claim to land on the grounds of economic produc-

3 Herrmann-Pillath 2023. https://sfb294-eigentum.de/media/filer_public/69/79/6979a66b-0c07-4da8-9500-e778b510fb23/wp_04_fin.pdf

4 Cf. Herrmann-Pillath 2023, 25.

5 Cf. Herrmann-Pillath 2023, 9–12.

tivity might actually be a modern capitalist phenomena, as, like in medieval Europe, customary claims to land as a 'commons' usually entailed a dimension of belonging (of a specific people to a specific land).[6]

The categorical outlook of *Relating to Landed Property* might then still be too narrow. It might also need to encapsulate the dimensions of 'belonging' to land as 'ownership', and 'possessing' a land in the meaning of 'using' it for customary purposes. The two remaining subsections of this introduction will elaborate on two issues in more detail, which are repeatedly raised in this volume. The next subsection deals with question of divine property in antiquity, and the third and final one addresses the topic of enslavement (or, rather, the Colonial/Racial/Capital) in Western colonialism in more detail.

## Divine Property in Antiquity[7]

From Roman legal intellectuals to modern scholars, the debate on divine property has primarily revolved around the legal terms *sacer* and *religiosus*, in that *sacer* denotes those *res sacrae* (e.g., sacred groves, sanctuaries, temples) that have been publicly consecrated according to 'proper rites', whereas *religiosus* indicates those *res religiosae* (e.g., tombs, burial grounds) that have instead been privately transferred to the deities.[8] But what exactly is 'divine property'? And what was 'proper' according to the Romans? *Sacer* and *religiosus*, like the *mos maiorum*, were part of the customary realm, meaning that there were no clear legal indications that systematically clarified what these concepts entailed. For this reason, it was up to individuals and to the situational agreement within a given community to determine what was 'proper' or 'traditional' according to the manner of the ancestors. The lack of legal regulations gave rise to a subjective perception of ownership

6 Cf. Herrmann-Pillath 2023, 22: "Feudal land law is only one example for the universal phenomenon that possession of land was never strictly individualized before the emergence of capitalist property."

7 For Classical antiquity, and only in some specific cases for Late antiquity, the abbreviations of ancient authors and their works follow the fourth edition of the *Oxford Classical Dictionary*, edited by Hornblower–Spawforth–Eidinow 2012.

8 For antiquity, see, for instance, Gai. *Inst*. 2.2-3, 5–6, 9. For modern times, the scholarly debate is extensive, so we will only mention a few important scholars who have evaluated earlier ideas and advanced the 'state of the art', such as Ramon 2016/2017; Lanfranchi 2017; Santi 2004.

that pushed individuals from different classes or communities towards the regulation and deregulation, or the institutionalisation and privatisation, of what 'belonged to the gods'.

As early as Republican times, the attribution of land, time, and concepts to the gods played a crucial role in religious activities and provided an arena in which individuals experimented with ownership through a wide range of practices that differed in the way each individual envisioned it and the divine presence. The sacred was therefore intrinsic to such dynamics and tensions between individual perspectives and socially accepted habits, as they were central to the definition of which spaces, whether material or immaterial (e.g., festivities), 'belonged' to them and were therefore adequate for the communication with the divine. This scenario draws a horizon in which people could convince institutions or communities about the rightful or unrightful attribution of a piece of land to the divinity. The struggles behind the allocation of a sacred dimension to a place (or object) and what its limits were reveal how the notions that divine property, ownership, and possession bore were open to interpretation.

The potential of such a discussion is reflected in Cicero's speech *On his house/De domo sua*, where he recalls traditions and uses general concepts, the full implications of which were often disputed, to justify the disposal of land and goods. As a result, influential individuals could construct a well-argued speech, embedded in social structures, aimed to undo the transfer of a *res* to the divine. Hence, in the Republican period, we find authors like Varro, who champions a redefinition of Roman memory that attributes local cults to the first kings of Rome and consequently creates a new vision of what was traditional,[9] or intellectuals like Cicero, who subjectively reinterpret what 'belonging to the gods' meant and what the correct consecration ritual of his house to Liberty should have been in order to recover it as his personal possession. Differing perceptions of divine ascendancy over landed property thus highlight the importance of situational perspectives and experiences in a society with well-established customary notions. However, these very notions did not always have closely structured definitions and limits, often colliding with one another, thus letting room for ambivalence, discussions, and practical interpretations.

What we see in Republican times is certainly not a peculiarity of the period since other sources, extrapolated from different historical contexts and

9 Spencer 2011.

genres, show similar mechanisms of transfer to and withdrawal from the divine realm that enable to further advance an understanding of the social reality behind the traditional legal terminology of divine property that late Roman texts try to explain and delimit. Individual perspectives and the definition of what is sacred are critical factors to describe social ideas on ownership and, above all, landed property, which can be justified through different religious procedures and the usage of specific terminologies. In each case, the context is a determining factor, while each source reveals a set of criteria influenced by its historical time and the literary dynamism that an author wants to impose on a narrative filled with religious polysemic vocabularies that have no clear limitations. However, the existence of different meanings and strategies to define divine property and its transfer goes far beyond the textual reality, since it is also materially attested. Such is the case of the rock sanctuary of Panóias in Portugal or the sanctuary of Mater Magna at Ostia, where individuals imposed their religious perspectives through a specific discourse, reflected in their dedications to the gods, which, as in the case of Panóias, could even lead to the establishment of a personal hierarchy among the deities worshipped and, as a consequence, to the introduction of new preeminent gods.[10]

The vision of and communication with the divine, as will be detailed in this volume, thus provides valuable insights into the construction of property, for it transcends the ordinary and forces delimitation of the conceptual boundaries between ideas that are used to configure the criteria of possession and ownership in a finite land system. The intersection between religion and property systems, together with its economic repercussions, has, therefore, numerous ramifications that help to understand the progressive configuration of property throughout antiquity. These include scenarios such as the cession of land to the gods or religious mediation in the inheritance of family estates. More generally even, this historic section of the volume leads to the very beginnings of conceptualizing land as property and the very notion of property itself.

Based on the aforementioned, useful tripartite differentiation of property by Herrmann-Pillath, ownership in the sense of belonging precedes those other two of *property* in the narrow sense of economically holding an object, and *possession* as making use of something by its possessor. While the antique minds seem to have granted ownership of land to the divines

10 For the sanctuary of Mater Magna at Ostia, see Cooley 2015.

assuming that this world, and particularly nature and landed property, are goods that belonged solely and properly to the divines and were lent for use to their creatures who, too, belonged to the transcendents, the development of property practices in relating to land created work-around institutions and legal constructs. One of these practices, as we will see in this volume, is the *mancipatio*. Existing already in the times before in the Roman Law of the Twelve Tables from the fifth century BCE, the regulation of inheritance was modelled on the basis of it. While a *res mancipi*—namely land, just like enslaved people, cattle, and rights such as those of way, waterways, etc.—were not for sale or purchase, the *mancipatio* also made it possible to buy and sell, and through its model being adapted for the *testamentum per aes et libram* also to deviate such 'goods' from heirs. In the Jewish tradition, other workarounds existed, or older traditions were ignored.

For the further development of the notion of property from divine ownership through economic property to possession, individual possession in particular, with a growing understanding of the full right over what is being possessed, this volume traces the first re-conceptualizations of ownership towards property and possession within Christian traditions from the second to the fourth centuries. It was within Christian philosophical and economically powerful circles that a full notion of human ownership of land, hence of landed property, was created. This was based on the theological construct of heritage and testament: As the divine owner had endowed all that he owned to the saving Messiah, Christ, his Son, and as this Son had made the 'sons of God' his heirs, humans were no longer lent that which belonged to the divine, but as God's heirs they were entitled to claim full ownership, property and possession of the land that was given to them. As a result, the Christian Emperor Justinian in the sixth century removed the older Roman workaround constructs and replaced them with the modern concepts of private legal procedures for selling and buying land. Land became a commodity, no longer only the basis for its owners belonging, but also ready to serve as transferable property and for individual's possession. Still, as the discussions of this period show, voices insisted on restrictions and limitations of human ownership with regards to communal grounds, common goods, and the needs of the poor, but a door had been opened widely for more rigorous claims and a further commodification of land that developed over the medieval period and was grasped in modern times.

## Enslavement (the Colonial/Racial/Capital)[11]

One of the most important contributions of this volume is the way in which it addresses the significance of slavery to histories and theories of landed property. In coming together over the course of two years to discuss practices of *relating to land* in our various disciplines (religious studies, philosophy, history, legal studies, sociology, and Black studies), it became apparent that analyses of landed property tend to dismiss and discount both Indigenous and enslaved people's practices of relating to land. These analyses focus on Lockean theory, for example, without acknowledging John Locke's explicit dismissal of both enslaved people's humanity and Indigenous people's millennia of relating to land in the practice of agriculture.[12] Asking the question *How did historical actors relate to land?* presented a conundrum in disciplines that tend to discount the lived experience of relating to land(ed property) as an enslaved person. What happens to the history of *Mancipatio*, for example, when one of the alleged 'objects' of property upholding Anglo-European legal traditions is acknowledged as human, as in Lydia von der Werth's contribution in this volume? How does Lockean theory as propagated by Hector St. John de Crèvecoeur force into relief the violent contradiction of Western European 'locality' offering itself up as a liberatory, general theory of property while denying enslaved people's humanity, as Dirk Schuck elucidates in this volume? How does a history of relating to landed property highlight the limitations of Marxist thought for formerly enslaved Americans who, as William E. B. Du Bois argues, liberated themselves en masse via a 'general strike' known as the American Civil War, yet whose reparations claims, Packo writes in this volume, were systematically denied in favor of securing landed property for white Southern aristocrats?

Scholars in the field of Black studies have spent decades decrying Western theory's commitment to delegitimizing and discounting enslaved and Indigenous people's experiences of relating to landed property. Following Cedric J. Robinson's profound critique of Marxism in *Black Marxism: The Making of the Black Radical Tradition*, Fred Moten, for example, has explicated

11 This is a reference by Denise Ferreira da Silva to "the confluence of juridical, economic, symbolic and ethical histories that constitute the global present"; Afeworki Abay–Bango–Gibson–Thomas 2023; Ferreira da Silva 2022.

12 See M. J. Packo, Anna Möllers, Yann Schosser and Laura Bella Theis, Helen A. Gibson and Dirk Schuck's contributions to this volume. See also Judy 2020 and Burkhart 2019.

"the historical reality of commodities who spoke," and "The commodity whose speech sounds embodies the critique of value, of private property, of the sign."[13] What did relating to land(ed property) mean for enslaved and Indigenous people in what Saidiya V. Hartman terms the *scene of subjection* and Ferreira da Silva refers to as the *scene of subjugation*?[14] While Möllers', Schosser's and Theis's contributions to this volume highlight ways in which Indigenous practices of relating to land fundamentally call into question what J. Kameron Carter terms Lockean "regulated separability," Gibson argues, relatedly, that drawing sacred symbols in dirt and communing via what Ferreira da Silva terms "transformed *elementa*" proffers both an *otherwise* cosmology and infinite possibilities for relinquishing our collective commitment to upholding the *scene*.[15] The final contribution in this volume, by Felicitas Sommer, situates the valuing of landed property in Germany as based in the family farm in a history of National Socialist inheritance, calling instead for new understandings of democratic land governance. Together, these contributions, forged in a spirit of profound collaboration, entail a collective commitment to rethinking *relating to land*.

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13 Robinson 2000; Moten 2003, 6, 12.

14 Hartman 1997; Ferreira da Silva 2022.

15 Carter 2023, 15; Ferreira da Silva 2022, 46; King–Navarro–Smith 2020.

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# Sacred Groves and Gods' Landed Property: Contributions from Roman Imperial Literature

*Sofia Bianchi Mancini*

Abstract

In antiquity, the attribution of places to the gods played a crucial role in religious activities and constituted an arena where individuals experimented with ownership through a wide range of practices that differed in the way each individual envisioned landed property and divine presence. The intertwined understandings of both landed property and divine presence allow us to examine what constituted some of the foundations of people's religious experience: Is the god present? Does it belong to the god? Is it, therefore, accessible to humans? From this point of view, the present contribution reflects on the subjective perception of landed property as a pivotal axis of a historically grounded lived religion, using Roman sacred groves as a case study. Particularly in the intra-textual reality, but especially in the works of imperial poets, there are many instances that show individual applications of religious expressions and descriptions of procedures that frame the divine ownership of groves in specific ways. Context is a determining factor in each case, while at the same time, each author shows a set of linguistic preferences influenced by the literary dynamism he wants to impose on a narrative filled with religious polysemic vocabularies that have no clear limitations.

*Keywords*: Roman Empire, Deities, Natural Spaces, Sacred Groves, Divine Property, Imperial Poetry

## Introduction

In Roman religion, natural spaces such as groves and forests were believed to be the potential landed property of the gods, either as places of worship or as places where communication with the divine was possible. In the absence of a precise and reliable definition of what we might otherwise call 'sacred groves,' many scholarly contributions in recent decades have attempted to understand and describe their nature in the extra-textual and intra-textual realities of Roman times. However, the study of ancient, sacred groves dates back to the nineteenth century, when according to John Scheid,[1] the German scholars Georg Friedrich Creuzer and Jacob Grimm began to theorize about the significance of nature in antiquity. Influenced by the Romantic intellectual movement that conceived of cliffs, valleys, and groves as spaces where divine forces resided and manifested themselves,[2] Creuzer and Grimm noted how ancient tribes worshipped either a particular tree or, more generally, the groves, because it was in these pure and uncontaminated spaces that people could feel the presence of the gods.

Scheid went on to note that twenty years after Creuzer and Grimm, the same reflection was taken up by Carl Bötticher, who, relying on Pliny's *Natural History/Naturalis Historia* Book 12 and Seneca's *Letter/Epistula* 41,[3] claimed that the first dwellings of the gods were springs, caves, stones, and trees, whose cults were based on a divine force revealed in nature.[4] Although Scheid's digression into Romantic literature was intended to show how the German Romantics misunderstood what nature was for people in ancient times,[5] he nevertheless tried to define *lucus*—a term known in Roman literature to designate a sacred grove—as a space that, in Filippo Coarelli's words,

1 Scheid 1993, 16.

2 Locchi 2007, 84.

3 Scheid 1993, 16–17.

4 Plin. *HN*. 12.3-5; Sen. *Ep*. 41.1-5.

5 In fact, Scheid (1993, 17–18) used the same passages from Pliny and Seneca to argue against the identification of trees with gods and thus against a direct tree worship, since according to him, these religious ideas are absent in both authors.

had "an intrinsically sacred character,"[6] and even stated that "les bois sacrés portent la marque du non-humain, du surhumain."[7]

The influence German Romanticism had on the definition of sacred groves in antiquity is also evident in other studies on the topic. For example, in her book *Recherches sur l'expression du sacré dans la langue latine*, Huguette Fugier classified the section on the sacrality of the forest under the heading "Les Arbres" ("The Trees"),[8] blending together references to *lucus*, *nemus* ("grove"/"wood"), and *silva* ("forest") without making a distinction between the three terms. Two decades later, Richard Thomas applied the Romantic idea of nature in his article *Tree Violation and Ambivalence in Virgil*, in which he stated that "tree spirits are obviously hard to detect, and any tree is therefore potentially numinous, any tree felling potentially hazardous."[9] John Bodel, on the other hand, in his 1986 study on the *lex luci Lucerina* (*CIL* IX, 782), claimed that the Romans "regarded violations of sacred groves as religious crimes",[10] thus adopting a stance that, while differing in part from Thomas's, generalizes the distinctive traits of *lucus* in the archaic law from Luceria and applies them to a broader category of sacred groves.

According to Bodel, these sacred natural spaces conformed to a general label, to which ideas about the inviolability of a land that belonged to the gods were added, without any distinction between the various Latin terms. This line of research, reflected in other studies,[11] emphasized the sacrality of the

6 Coarelli 1993, 46. This was either a private exchange of ideas between Scheid and Coarelli or a conversation they had on the occasion of the international colloquium on sacred groves held in Naples in 1989, the proceedings of which were published in 1993. It should also be noted that what Coarelli reported in his contribution, according to Ailsa Hunt (2016, 126), can be found in Scheid 1993, 19 and consequently quoted: "Les bois sacrés possèdent un caractère sacré intrinsèque. Certes, on peut envisage qu'un *nemus* soit consacré à une divinité […] Mais le *lucus* seul possède cette qualité par lui-même, sans l'intervention de l'homme; il a en quelque sorte le statut sacré sans avoir été consacré par un magistrat du peuple romain." (My trans.: "Sacred groves have an intrinsically sacred character. It is true that a *nemus* may be consecrated to a deity […] But the *lucus* alone possesses this quality by itself, without the intervention of man; it has, as it were, a sacred status without having been consecrated by a magistrate of the Roman people."). However, these words do not appear in Scheid 1993, 19, nor in the entire contribution or in any other publication in which he has addressed the same topic or has mentioned it in passing. As far as I can tell, a similar line of thought can only be found in Scheid 1990, 556.

7 Scheid 1993, 18 (my trans.: "sacred groves bear the mark of the non-human, the superhuman.").

8 Fugier 1963, 81–82.

9 Thomas 1988, 263. See also Hunt 2016, 121; Caroll 2017a, 3.

10 Bodel 1986, 26.

11 Dyson 2001, 146; Augoustakis 2006, 634–638.

woods and the consequences of their violation—two interrelated ideas that, as we shall see, ancient sources apply exclusively to a *lucus*. However, Fugier, Bodel, and Thomas were aware of the attempts made by Roman intellectuals like Servius and Festus to distinguish the meaning and function of *lucus*, *nemus*, and *silva* from one another. Yet these explanations had little or no impact on their studies, which, regardless of whether the groves were called *luci*, *nemi*, or potentially *silvae*, still considered them to be one block that shared a sacred inviolability.

Coexisting with this scholarly trend was another stream of studies that instead tried to explain the differences in the Latin terminology for groves by departing from the direct definitions given by ancient Roman grammarians and other literary sources. For instance, in his commentary on Virgil's *Aeneid*/*Aeneis*, Servius writes: "There is a difference between *nemus*, *silva*, and *lucus*; in fact, a *lucus* is a multitude of trees with *religio*, a *nemus* is an ordered multitude of trees, a *silva* is one which is extended and uncultivated."[12] Servius's compartmentalizing of wooded spaces and his subsequent explanation can, in other words, be expressed as follows: *lucus* is *the* sacred grove, *nemus* is a grove harmoniously organized by human hand, and *silva* is a wild and uncultivated space far from the *urbs*.[13] Servius's classification, which, as Jörg Rüpke has pointed out, seems "artificial,"[14] and the lack of detailed information provided by other intellectuals,[15] have led to the need to find alternative explanations by: cataloguing the archaeological evidence and literary references of groves located within sanctuaries;[16] reconstructing and analyzing the etymology of the terms in relation to their ancient mentions, sometimes even through a direct comparison with the Greek words for "groves" and "forest" (i.e., ἄλσος, νέμος, and ὕλη).[17] The different approaches and strategies adopted to solve the semantic problems of *lucus*, *nemus*, and *silva* have led to a cyclical debate that has not yet reached a consensus.

This chapter will contribute to the above-mentioned discussion by providing thorough analysis of two imperial authors: Ovid and Statius. As I will

12 Servius, *ad Aen*. 1.310: *Interest autem inter nemus et silvam et lucum; lucus enim ist arborum multitudo cum religione, nemus vero composita multitudo arborum, silva diffusa et inculta*.

13 Cf. Locchi 2007, 86.

14 Rüpke 2007, 275.

15 Paul. *ex Fest*. p. 119 Müll; Isid. *Etym*. 17.5-8; Calp. *Ecl*. 2.54-55.

16 Plin. *HN*. 16.235, 237; Varro, *Ling*. 5.49; 6.18; 7.6; Cato, *Orig*. 58 Peter; *Agr*. 139. For this approach see, for instance, Stara-Tedde 1995; Pasqualini 1975; Coarelli 1993; Van der Meer 2015.

17 Locchi 2007; Montepaone 1993; Malaspina 1995, 78–84; 2021, 29–31; Caroll 2017b, 153–154.

try to explain, these poets provide enough occurrences of *lucus*, *nemus*, and *silva* to identify patterns of semantic differentiations and their subtle roles in narrative discourse. This, in turn, will help understand how such spaces entailed various layers of ownership, which the poets manipulated by juxtaposing the different terms, thus playing with the limits of the concepts through human perception, ritual performance, and divine punishment.

## *Lucus*, *Nemus*, and *Silva:* A New Proposal

A step towards a more nuanced understanding of *lucus*, *nemus*, and *silva* was taken in 2003–2004 by Ermanno Malaspina, who attempted to go beyond the standard historical references by developing a comparative analysis with other literary sources. On the basis of three passages selected from Virgil's *Eclogues/Eclogae*, Lucan's *On the civil war/Pharsalia* (= *De Bello Civili*), and Ovid's *Metamorphoses/Metamorphoses*,[18] Malaspina showed that, up until the time of Virgil, the sacred grove *par excellence*—namely, a grove that functioned as a place where cultic performances took place—was strictly the *lucus*,[19] a Latin term that generally denotes an unwooded area.[20] The *lucus* was then often contrasted with the *silva*, which, as Livy suggests,[21] was sacred simply because it was a numinous space where, for example, the voice of a god could be heard. According to Virgil, Malaspina continues, the inner meaning and use of *lucus* and *silva*, supplemented by those of another term (i.e., *nemus*), underwent a change: On the one hand, *lucus* acquired the same notion as *silva*, albeit it was sometimes still used in its original sense.[22] On the other hand, *silva*

18 Virg. *Ecl*. 8.85-69; Luc. 3.399-431; Ov. *Met*. 3.155-181.

19 Malaspina 2003–2004, 105.

20 The noun *lucus* etymologically derives from **loukos*, which bears the root **leuk-* (lit. "to be bright"), and it denotes a clearing within a grove or forest (i.e., *nemus* or *silva*). This meaning of *lucus* is confirmed, for instance, by Cato, *Agr*. 139 and Cato, *Orig*. 58 Peter, where we read: *Lucum Dianium in nemore Aricino Egerius Baebius Tusculanus dedicavit dictator Latinus* […]; "Dictator Latinus Egerius Bebius Tusculanus dedicates the *lucus* of Diana in the grove of Aricia […]". On the etymology of *lucus*, see De Vaan 2008 *s.v. lucus*; Otto 2000, 3–4; Coarelli 1993, 47–48; Malaspina 1995, 89.

21 Livy 2.7.2: *silentio proximae noctis ex silva Arsiaingentem editam vocem; Silvani vocem eam creditam* […]; "In the silence of the following night a loud voice was heard coming out of the Arsian forest, which was believed to be the voice of Silvanus […]" (trans. Foster 1919). Cf. Malaspina 2003–2004, 105–106.

22 Malaspina 2003–2004, 107.

and *nemus* began to be employed together with the adjective *sacer* ("sacred"), suggesting that both natural spaces, as well as other ones such as *saltus*, could be equated with a *lucus*.[23] This development led Malaspina to conclude:

La perdita dell'opposizione *lucus-silva* potrebbe rientrare tra questi ed avrebbe comportato per i letterati anche il non piccolo vantaggio di una più ampia libertà nelle associazioni fonetiche, nelle enumerazioni e nella *variatio*.

Per quanto concerne invece le conseguenze di tali trasformazioni, quello del bosco appare connotato sempre di più come un campo semantico bivalente, ambiguo, *anceps* nella definizione del suo valore letterario, culturale ed antropologico, ancor prima che nella delimitazione e nella denotazione di ipo- o sinonimie. Una nebulosa semantica con dei limiti chiari a sufficienza verso l'esterno, ma senza una netta divisione dei compiti tra *lucus*, *nemus*, *silva* e *saltus* al suo interno. Prendendo a prestito la terminologia della linguistica, è come se fosse esistito un arcilessema 'bosco' con *lucus*, *nemus*, *silva*, *saltus* come allofoni, varianti combinatorie ed intercambiabili.[24]

Beyond the passages selected by Malaspina, however, the literary tendency to use *lucus*, *nemus*, and *silva* with flexible and interchangeable notions can only be applied to a limited extent. Each term involves a semantic arrangement that cannot be completely transferred from one to the other,[25] thus creating an internal narrative logic that contrasts the differences that exist in a permanent or transitory state. In other words, depending on the context and condition of a given grove, *lucus* can be called *nemus*, and *nemus* or *silva* can be used to deceive the reader into thinking that what looks like a profane space is eventually the sacred and private land of a god or several divinities.[26] A

23 According to *OLD s.v. saltus*, in the singular the term means "a narrow passage through forest, mountainous country, etc., defile, pass," while in the plural it denotes "a region of woodland interspersed with glades, passes, etc., usually in hilly or mountainous country."

24 Malaspina 2003–2004, 113 (my trans.: "The loss of the *lucus-silva* opposition could be counted among them, which would also have brought intellectuals the not inconsiderable advantage of greater freedom in phonetic associations, enumerations and *variatio*. On the other hand, with regard to the consequences of these transformations, that of the grove seems to be increasingly connoted as a bivalent semantic field, ambiguous and *anceps* in the definition of its literary, cultural and anthropological value, even before the delimitation and denotation of hypo- or synonyms. A semantic nebula with outwardly, clear enough boundaries, but without a clear division of labor within it between *lucus*, *nemus*, *silva* and *saltus*. To borrow terminology from linguistics, it is as if there were a 'forest' archlexeme with *lucus*, *nemus*, *silva*, *saltus* as allophones, combinable and interchangeable variants.").

25 Cf. Brown 1994, 12.

26 As Markus Vinzent notes in this volume, the lack of a clear-cut distinction between sacred and profane is also found in the Greek tradition.

literary mechanism of this kind is not only typical of Ovid, but also occurs frequently in Statius, whose textual composition presents a parallel poetic strategy that suggests that there was a broad basic understanding in the first century CE of what *lucus*, *nemus*, and *silva* meant. This idea can be illustrated by a survey and textual analysis of the instances in which these imperial authors employed the three Latin terms. Indeed, these instances' distribution in the texts shows that *lucus* tends to be *the* sacred space that belongs exclusively to the gods and the ritual sphere. *Nemus*, on the other hand, denotes a place that is either the permanent/temporary residence of a deity, at times even represented as an area that functions as a form of border of its inner sacred part, or is used in a metaphorical sense to represent a *lucus* in its defiled form. Finally, depending on the textual needs of the poets, *silva* can be portrayed either as a geographical reference, as a much larger sacred place than *lucus* and *nemus*, or as a forest in its rough, native condition, which in turn can lead to an allegorical representation of the uncivilized state of the *lucus* when it undergoes a notorious deforestation.

## Sacred Groves in Ovid's *Metamorphoses* and *Fasti*

Starting with the author closest to Virgil, *lucus* is the least-used term for groves in Ovid, occurring twelve and eighteen times in the *Metamorphoses* and *On the Roman calendar/Fasti*, respectively. In direct contrast to *lucus* is *silva*, with ninety-one occurrences in the *Metamorphoses* and twenty-three in the *Fasti*, where it is mostly employed in the plural and rarely in the adjectivized form *silvester*.[27] Between *lucus* and *silva*, we find *nemus* thirty-one and seventeen times in the *Metamorphoses* and *Fasti*, respectively, in both cases excluding a few mentions where *nemus* appears adjectivized through the words *nemorosus* or *nemoralis*.[28] In all instances where *lucus*, *nemus*, and *silva* are used, their sacred dimension is not so much given by the rare insertion of the adjective *sacer*, which, as Malaspina has claimed, began to be juxtaposed with the terms after Virgil, but rather by a variety of contextual factors such as location, divine intervention, or invocation.

27 Ov. *Met*. 2.681; 13.47, 815; *Fast*. 2.279; 3.303.

28 Ov. *Met*. 3.157; 9.165; 10.687; 14.331, 822; *Fast*. 4.815; 6.59.

One of the most specific cases is the collocation of a grove in the Underworld, which is systematically called a *lucus* and denotes its location in a sacred land beyond the human world.[29] In the same context, Ovid provides another characterization, exclusive of a *lucus*, in which the grove is presented as a highly restricted place, surrounded by a *triplici muro* ("triple wall"), suggesting its extreme inaccessibility.[30] The restrictedness of a *lucus* is a characteristic that depends on the sacredness of the place, which, as we can see in lines 92–97 of Book 7 of the *Metamorphoses*, can be expressed in other ways:[31]

'quid faciam, video: nec me ignorantia veri
decipiet, sed amor, servabere munere nostro,
servatus promissa dato!' per sacra triformis
ille deae **luco**que foret quod **numen** in illo perque
patrem soceri cernentem cuncta futuri eventusque suos et tanta pericula iurat:

'I see what I am doing: nor will the
ignorance of the truth deceive me,
but love itself. You will be saved by
my service; but when you have been
saved, give what you have promised!'
He swears by the sacred rites of
the threefold goddess, by whatever
**divinity** might be in that **sacred
grove**, by the all-seeing father of
his future father-in-law, by his own
successes and mighty perils:

In the present passage, Jason speaks to Medea and swears an oath on Diana Trivia, specifically on one of the goddess's faces inhabiting the grove. Even though Jason does not know which facet dwells in the place, the *lucus* is presented as a numinous land belonging to the goddess, thus becoming a violable swearing element of the deity and her rites. What we have here, then, is a *lucus* whose sacred character derives from the oath, the ritual setting, and, most importantly, the presence of the goddess—all features that will return even in Statius. A divine presence implies a numinosity, which is interestingly identified as *sanctus* in Book 15 of the *Metamorphoses*, where we read: *cantusque feruntur / auditi sanctis et verba minantia lucis*.[32] If we follow Macrobius's definition of *sanctus* as a religious concept potentially related to *sacer* and carrying the notion of "untainted,"[33] the *lucus* described in Book 15

29 Ov. *Met*. 1.187-189.

30 Ov. *Fast*. 3.801. A similar depiction can be found in Ov. *Fast.* 3.431, where the *lucus*, this time in the Upperworld, is placed behind a high wall. Even in extra-textual reality, some *luci* are described as being surrounded by walls or clear demarcations. See, for instance, *CIL* V, 8970a; VI, 610; X, 292.

31 For Ovid's *Metamorphoses* and *Fasti*, I propose my own translation, unless otherwise stated.

32 Ov. Met. 15.792-793: "and in the sacred groves songs and threatening words were heard."

33 Macrob. *Sat*. 5–6.

is a grove depicted in its ideal state, namely that of a land undisturbed by human hands and the property of a god or multiple gods. Ownership of a *lucus* is clearly stated elsewhere in the *Metamorphoses*, when Ovid expresses the idea of divine landed property through the verb *teneo* ("to hold"). For example, in lines 359–361 of Book 11, we are told that Nereus and the Nereids "possess" (*tenent*) a *lucus* in which *templa* have been built.[34] These lines not only reiterate the idea of a *lucus* as pertaining to the divine realm, but also show how such a space could be concomitantly owned by multiple gods. A similar case occurs in the *Fasti*:

mille feras Phoebe **silvis** venata redibat
aut plus aut medium sole tenente diem.
ut tetigit **lucum** (densa niger ilice **lucus**,
in medio gelidae fons erat altus aquae),
'hic' ait 'in **silva**, virgo Tegeaea, lavemur!';
erubuit falso virginis illa sono.
dixerat et nymphis: nymphae velamina ponunt;[35]

After hunting a thousand wild beasts
in the **forest**, Phoebe was returning
home, either at noon or shortly after.
As she had reached the **sacred grove** (a
dark **sacred grove** with a thick oak tree
and a deep spring of cold water stood
in the middle), 'Here,' she said, 'in the
**forest**, Tegean virgin, let us bathe!';
she blushed at the false name of virgin.
She spoke to the nymphs as well, and
the nymphs put off their robes;

The present passage tells of Phoebe's arrival at her sacred *lucus*, which is characterized by a thick oak tree and a *fons altus* with *gelidae aquae*. Once there, the goddess invites Calliope to bathe with her and the other co-inhabiting nymphs in what she calls a *silva*. The lexical contraposition of *lucus* with *silva* signals two different semantic areas: On the one hand, Phoebe enters the sacred grove, while *silva* functions as a marker of the wider natural space (i.e., the forest) in which she has been hunting (line 163). On the other hand, while it was not necessary to emphasize the sacred dimension of her grove, she resorts to calling it *silva*, hence highlighting the geographical aspect of the *lucus*.[36] The alternation between *lucus* and *silva* may seem as if they were interchangeable terms. However, this flexibility is partly constrained by the

34 *templa mari subsunt nec marmore clara neque auro, / sed trabibus densis lucoque umbrosa vetusto: / Nereides Nereusque tenent* […]; "temples stand near the sea, not resplendent with marble and gold, but with thick timbers, and shaded by an ancient sacred grove. The Nereids and Nereus hold the place […]." It is worth noting that in 1916 Frank J. Miller proposed to translate *tenent* as "to be sacred".

35 Ov. *Fast*. 2.163-169.

36 Another example is encountered in Ov. *Met*. 5.385-392, where *silva* describes as the natural space, while *lucus* alludes to the area inside which Proserpina dwells.

contextual demands of the excerpt, which dictate the need for alternation even in other Ovidian passages.

When the term *silva* occurs in the plural alongside other natural elements, such as mountains or hilltops, it generally alludes to the basic meaning of "forest," which does not necessarily imply numinous references.[37] In some cases, though, we find *silva*, either in the plural or singular, delimiting specific spaces that Ovid narratively associates with the divine.[38] This feature includes a sacred grove as an inner land surrounded by the forest, and the woodland can, in turn, constitute the border or threshold of the holy place. Exemplary in this regard is the following passage:

| | |
|---|---|
| Monte fere medio est, **cingentibus** ultima **silvis**,<br>purus ab arboribus, spectabilis undique, campus:<br>hic **oculis** illum cernentem **sacra profanis**<br>prima videt, prima est insano concita cursu,<br>prima suum misso violavit Penthea thyrso<br>mater […][39] | Almost in the middle of the mountain, there is an open plain, free from trees, visible from every side, with **woods** surrounding the edges: here, his mother is the first to see him looking at the **sacred rites** with **profane eyes**, the first to rush madly on him, the first with hurled thyrsus to smite her son […][40] |

The narrative is based on Euripides's tragedy, *The Bacchants/Bakchai* (Latin: *Bacchae*), where Pentheus, persuaded by Dionysus, enters Mount Cithaeron to spy on the Dionysiac rites. Ovid presents *silva* as the forest that both populates the hill and protects the inner area where Bacchus's followers celebrate the god. Although the poet does not use the word *lucus* to denote the sacred space, the phrase *purus ab arboribus campus* accurately describes the etymological meaning of what a *lucus* was: a clearing in the forest.[41] Indeed, by stating *oculis sacra profanis*, *silva* acts as the liminal border between the sacred and the profane—a differentiation that Pentheus theoretically respects by standing outside the *lucus*, but which he ultimately violates by the very act of spying on the clearing. In doing so, he trespasses

37 For instance, in inscriptions we only find *silva* as a term that refers to a geographical area. In this regard, see *CIL* XI, 1147; II$^2$/5, 1022 (= *CIL* II, 5439).

38 A similar use is found in Tac. *Ann*. 2.17, where the forest is the site of an omen with flying eagles entering it, and in 2.12, where *silva* is said to be sacred to Hercules during the battle of Arminius.

39 Ov. *Met*. 3.708-713.

40 Trans. Miller 1916, slightly adapted.

41 For the etymology, see above note no. 20.