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## **The Extent and Significance of Debt Slavery**

### **ABSTRACT**

The phenomenon of debt slavery has either been greatly underestimated or, on the contrary, overestimated through confusion with other ways of dealing with the debtor, like pawning, for instance, or the possibility of reimbursing debt through labor. After carefully defining debt slavery, the article shows how widespread it has been, and explains its social significance as follows: inequalities between rich and poor, already present in most primitive societies, may be redefined in terms of masters and slaves. The transformation, or threatened transformation, of a debtor into a slave considerably strengthens the power of the dominant. The article concludes with a hypothesis about the origins of the state.

For reasons that will not be elucidated here, the extent of debt slavery, particularly in primitive societies, has been seriously underestimated.<sup>(1)</sup> We much too readily take for granted the idea that war was the main, if not exclusive, source of slaves, and slavery. The following two examples should enable us to free ourselves of this notion.

In the case of the Yurok Indians living in what is now northwestern California, war slavery was so infrequent that Kroeber himself, our main authority on this population, denied its existence.<sup>(2)</sup> He did point out another type of "slavery" (further on I shall examine whether this is the appropriate term), well-known among these people, and resulting from insolvent debt. After application of a highly developed system of fines, whoever had broken a taboo, especially relative to mourning, or offended a man, accidentally caused a fire, or destroyed wealth, had to provide compensation in the form of appropriate payment; if he was unable to do so, he was put into a form of bondage to the injured party.

(1) By primitive societies I mean stateless ones. The precautionary quotation marks and oratorical qualifications that generally accompany this term seem to me superfluous.

(2) Kroeber (1925, pp. 32-33) claims that the Yurok took no adult male prisoners and exchanged wives and children at the end of hostilities; also that foreigners found wandering in their territory were put to death. This

opinion, apparently uncontested even until recently (Pilling, 1978, p. 143), is nonetheless directly contradicted by the memoirs of a Yurok Indian woman (Thompson [Che-na-wah Weitch-ah-wah], 1916, p. 142 and p. 183), who describes a war with the Hupa during which each of the tribes took slaves, among them a few foreigners, particularly of Hupa origin.

Such bondsmen constituted a significant proportion of the population –between 5 and 10 % by Kroeber's estimation. The conditions they were subject to do not appear particularly lenient: they could be transferred from one master to another as payment for a life or in the form of dowry (though there seems to be no evidence that they were sold);<sup>(3)</sup> they were forced to work, and could be threatened with death and indeed killed if they tried to flee (but were not sacrificed for ritual purposes or as an example); if such a man was married to a woman of the same condition, their children belonged to the master; finally, it would have been useless for them to flee because they would not have been any better treated by foreigners.

The second case is the Ila, a Bantu population of southern Zambia (former northern Rhodesia), well documented by Smith and Dale (1968, I [1920], pp. 398-412). The main source of slavery at the time they observed this group was a system of fines and hostage-taking for offenses that can only seem to us extremely slight if not absurd. The primary victims seem to have been guests. If a guest was too familiar with the women present, or took things he erroneously thought he had been permitted to take, accepting them as gifts or hospitality, he was then asked to reimburse the host. If he could not, his person was seized; and if no family claimed him, or if he refused to or couldn't pay, he was held captive or sold. At best, debtors could appeal to another party to pay their debts; this amounted to choosing one's future master. Smith and Dale provide a detailed account of this internal, domestic-type slavery, first because it was particularly shocking to Western eyes, but also because the other source of slavery, tribal wars, was in principle inoperative during the *Pax Britannica*. Here we no doubt encounter a bias common to all ethnological studies. There is reason to believe that war slavery was more widespread than what observers attested to during the colonial period. But there is no reason to believe that systems of fines and seizure developed suddenly over a few decades as a result of colonization. Such systems were well organized, with their own logic, and we find them in many societies in Africa and elsewhere. Colonization gave debt slavery more weight; it did not create it. Finally, internal slavery as observed among the Ila was consistent with general modes of African slavery. A slave was removed from his or her kinship structure,<sup>(4)</sup> became alienable, could not own property but did receive a small wage (this could actually amount to something considerable: livestock, or even slaves), could marry (but children born into slavery belonged to the master), could be punished (ears lopped off or tendons cut) and might be put to death.<sup>(5)</sup> A slave's best hope was to become the master's right-hand man or (male or female)

(3) Their monetary value was, however, fixed –two strings of seashells– while the price for a man (blood money) or a woman (bridewealth) was ten or more (Kroeber, 1925, p. 27).

(4) In a more recent study, Tuden (1970, p. 51) explains that slaves were characterized as

people "who didn't know where their ancestors came from". They called their masters "maternal uncle" (*ibid.*, p. 52), as in other African matrilineal societies, just as slaves in patrilineal systems called their masters "father".

(5) Smith and Dale (1968, I [1920], p. 410); Tuden (1970, p. 54).

favorite.<sup>(6)</sup> In 1970, according to Tuden's researches, 40 % of the Ila population descended from slaves.<sup>(7)</sup>

The most remarkable aspect of these two examples is the figure estimates, a rare and perilous exercise in ethnological study of precolonial societies but which here at least serves to show that the phenomenon was hardly marginal. The argument I shall be making is not essentially quantitative, however. The importance of debt slavery cannot be measured purely in terms of numbers. The very fact of its existence reflects something about a society's institutions, foundations, structure. Debt slavery, however widespread the practice, is a feature of a society that accepts not only personal dependence but also the idea that *one can lose one's freedom for financial reasons*. It characterizes a society in which poverty is closely related to the alienation of freedom.

### Definitions and concepts

Debt slavery is *a form of bondage* resulting from a *situation* of debtor insolvency. The first problem is that slavery has not been the only form of bondage used to deal with insolvents.<sup>(8)</sup> The second problem is that debt is not the only situation leading to such forms of bondage. It is well known that among the world's poorest people, the practice of selling oneself or one's children into slavery has been common, and there are yet other ways that people become dependent on the powerful, the general cause of such dependency being none other than the extreme poverty of those who resign themselves to that status. It is therefore necessary to situate debt slavery within a larger and

TABLE I. – *Modes and sources of bondage for financial reasons*

Sources \ Modes	Slave	Pawn	Free laborer
Debt	Debt slavery	Pawned for debt	Labor to repay debt
Sale	Sale into slavery	Pawned for a loan (sale with option to redeem)	Wage-earning
Gambling	Slavery due to gambling	?	Put into service for a limited period

(6) In this people's language, there was a special word to designate the loyal slave; Smith and Dale rendered it as "the master's friend". Indeed acquiring the slave's fidelity seems one of the major ways of using him or her; there are a great many examples worldwide. On this point as on others, the Ila seem in no way exceptional. However, nothing in the sources attests that an Ila slave was ultimately integrated into a lineage, whereas this was very frequent in African lineage-based

societies.

(7) Tuden (1970, p. 49).

(8) This is precisely what Finley had in mind in several of his most original and interesting articles (1965, 1984a, 1984b). Unfortunately, the best-known of these, published in French as "*La servitude pour dettes*", was necessarily a source of confusion for the French reader, for whom *servitude* is synonymous with *esclavage*. Finley wanted to draw attention to forms of bondage *distinct from* slavery.

more meaningful field, on the one hand by considering the diverse forms of bondage that have existed and on the other by describing the main situations they give rise to. In the two-dimensional table below, debt slavery occupies only one space.

### ***Forms of bondage***

#### ***Slavery***

The term slavery is specific, and must not be allowed to lose that specificity. Not every bondsman or every insolvent debtor forced to work for his creditor is a slave; nor can he or she be considered a slave from the mere fact of such constraint. Here I shall be correcting the thoughtless and at times abusive use that has been made of the term, particularly in ethnology, the study of ancient history, and the history of the non-Western world.

The notion of slave can be usefully defined as an existing status that differentiates it from other social categories. The legal content of this status has varied from one society to another, but was everywhere based on a common principle: in one way or another, a slave is an outcast. He or she is excluded from a social feature or dimension considered essential by the society in question. Once again, that dimension differs from one society to another, as does the form of exclusion: in primitive societies (if we accept that such societies are characterized by the predominance of kinship), the slave is excluded from kinship ties; in ancient societies, he was excluded from both kinship and citizenship; in Islamic societies, he was excluded from kinship and, depending on his origin, could also be excluded from the religious group, and so forth. For a more precise definition, accompanied by a critique of different existing positions on the issue, the reader may refer to my article "*L'esclavage comme institution*", wholly devoted to defining the term "slave".<sup>(9)</sup>

#### ***Pawning***<sup>(10)</sup>

Africanists have long been familiar with a phenomenon they called *mise en gage* or pawning, which consists of placing someone in the service of a creditor as collateral for a debt (or guarantee for a loan). The pawn, sometimes called "hostage", less often, "pledge", must serve the creditor, and owes him all or nearly all his or her work hours. This form of bondage has often been confused with debt slavery, especially since the pawn could well become a slave over time if the debt was not reimbursed (and did in most cases). Debt slavery and pawning are, however, two entirely different institutions.

(9) Testart (1998a).

(10) I shall here be summarizing the main

conclusions of "*La mise en gage des personnes*" (Testart, 1997a).

In effect, the pawn does not meet one of the decisive criteria for slavery: *(s)he is not excluded from his/her kinship structure*. Pawns continue to belong to their lineages; keep their names; may still participate in lineage councils and management of lineage affairs, in rituals particular to the lineage; may marry and have legitimate children. The person in whose service a pawn is placed and who has numerous legal claims on him or her –the right to his labor, and in the case of woman, the right to sexual relations– does not, in this case, have one of the rights he has over a slave; namely, the power of life and death. His right to inflict punishment is also limited.

*Finally, every pawned person is immediately freed upon payment of the debt.* This constitutes another difference from the slave's situation: the slave can, of course, be "redeemed", but only if the master agrees, whereas reimbursement of the debt instantly frees the pawn, even if this goes against the wishes of the person (s)he has served.

Nonetheless, pawning represents a particularly heavy form of servitude. The main principle is that *the pawn's labor, the services of all kinds performed by him or her, does not go toward reimbursing the debt for which (s)he was pawned*. In other words, the debt is not effaced or reduced by the pawn's labor. It often happens that the debt increases, since interest continues to mount and labor cannot be used to reduce that interest. The obvious result is that the pawn is generally not able to attain his or her freedom and must work all his/her life for a debt that, at the start, might well have been very slight.

The complexity of the pawn's situation is due, then, to the fact that *legally* (s)he remains a free person,<sup>(11)</sup> retains his/her place in the kinship structure with all the consequences thereby implied, enjoying kinship rights, etc., and is always *legally* able to free him or herself by reimbursing the value of the debt owed. In reality, however, the pawn is in bondage, most often without any hope of being freed, and living in material and social conditions analogous to, if not worse than, those of slavery.<sup>(12)</sup>

### *Paying off debt with labor*

The main principle of pawning is that the pawn's work benefits a creditor *without working off the debt*. Labor in this case has no value, or in any case is not assessed quantitatively. This principle stands in direct opposition to the idea that services rendered by debtor to creditor help pay off the debt, a notion expressed in popular commonsensical terms –like all versions of common sense, ours is affected and informed by social conditions– in the story of the

(11) Contrary to what holds for the slave, the pawn has no legally recognized status. His general status remains that of a free person, but one heavily burdened with obligations. While the slave fits into the framework of what we may call status-based dependence, the pawn falls within that of actual or empirical

dependence (Testart, 1997a, p. 46 and pp. 55-56).

(12) A pawn could not be adopted by his/her creditor-pawner, whereas this is what often happened to slaves in lineage-based societies.

out-of-pocket restaurant-goer paying for his dinner by washing dishes in the restaurant kitchen. This principle is obvious for our society, where work has measurable value and can thus be used to work off a debt. If we add to this the principle that the debtor can be made to work for the creditor, we have a form of forced labor –one completely different from what I here call pawning.

In ethnography and historical studies, forced labor takes indirect forms that are often difficult to bring to light. Such labor is, however, clearly represented and may be contrasted in all features to that of the pawn. A man forced to work to reimburse his debt will be able, unless the debt is exorbitant, to work it off over time; at the end of that time he will be released from all constraints.

In this case we can no longer speak of bondage, though there is forced labor. Reimbursement of a debt through labor is a process that, normally, does not alienate the debtor-laborer's freedom. The qualifier "normally" does, however, imply one major reservation, that of degree; that is, how quickly labor reimburses debt and what value is attributed to time spent working. If it is accorded absurdly little value, if the debtor must toil for twenty years, or, worse yet, if his debt is transferred to his heirs, this is a grotesque parody of the principle that labor reimburses debt. There can be no value leading to release unless it is specified by customary or legal provisions that limit the time during which creditor can impose constraints on debtor or institute a fair price for labor performed.

### *Sources of bondage*

Here we shall be considering only situations that lead to bondage because of debt; that is, situations in which a human being, presumed free, *barter[s] his or her freedom, for whatever reason* –the most common and widespread is poverty– *for resources*: food or money. One of the essential notions of debt slavery lies in this sort of exchange between freedom and goods, this sharing or continuity, this interaction –so appalling to our modern mentality– between a good reputed to be inalienable and another which, though not without value, never has more value than any other good for which it could be exchanged.

### *Debt*

We shall not be considering purely moral debts, for which no person has ever been reduced to slavery, bonded or even undergone bodily constraint. In the strong sense of the term, the only one I shall use here, a debt *is that which can be reclaimed*. In legal terms, it is payable or due. Debt results either from an exchange (deferred exchange, credit) due to an obligation to provide compensation –something in return for something else– or, more directly, from a unilateral obligation: fine, kin-imposed obligation, tax, and so forth. It cannot

result from a gift, since the obligation to offer a counter-gift is purely moral and the giver can never by right demand a counter-gift from the receiver. <sup>(13)</sup>

The question of responsibility is at the core of the problem, since there can only be debt slavery when the debt is guaranteed by the debtor's very person. In a society such as ours, debt is insured by the entirety of the debtor's property, but only that property may be seized. The debtor remains (legally) free, in accordance with the principle that every person "is born and remains free". It was in accordance with this principle that debtors' prison was abolished in the 19<sup>th</sup> century. That a debt should be insured *by the debtor's person* is the general foundation in which debt slavery took root, together with other forms of bondage for debt and even the notion of physically forcing debtor to work for creditor.

Before leaving this point it seems essential to mention that a debt could be guaranteed by one or more persons other than the debtor. He could hand over his children, wife, or a slave in place of himself. In this situation, common in the societies under study here, highly complex phenomena come into play where the effects of the debt incurred by the debtor and for which he is normally responsible are *transferred* to one or more of his dependents. This is the well-known case called in Roman law "noxal abandonment", wherein a fault committed by a slave with regard to a third party –fault for which the master is responsible– is cleared by handing over the slave to the injured party. It is still very common in Africa to have an insolvent debtor deliver a child to his creditor. These questions, which touch on slavery law and law in general, family structure and the intrinsic forms of dependence such structure implies, are fundamental, but remain outside the scope of this article.

### *Selling oneself*

There is a profound analogy between being put into bondage for debt and selling oneself into slavery. In the first case, the debtor becomes a bondsman *after* enjoying certain goods; in the second, the seller sells himself *before* enjoying the goods acquired through that sale. Apart from this and a few other superficial differences, in both cases we are dealing with a bartering of freedom for resources.

Selling oneself into *slavery* is rare, and poses specific problems to be discussed further on.

Pawning oneself –voluntarily putting oneself in pawn in exchange for material resources or money– is, strictly speaking, the case of putting up collateral for a loan in the form of the borrower's very person. But as often happens when the loan is taken out without any intention to reimburse it, it takes on the character of a sale –not into slavery, but a sale that can only be called

(13) I have elsewhere expressed reservations with regard to Mauss's statements on the "obligation to reciprocate", as well as his affirmation, contradicted by both fact and logic, that

failure to offer a counter-gift in the potlatch was sanctioned by debt slavery (Testart, 1997b, 1998c).

pawning.<sup>(14)</sup> Since the pawn retains the right to redeem himself (strictly speaking, to free himself by paying back the value of the loan), this is at most a case of sale with option to repurchase. It is important to clarify this, because sale into slavery is in principle, and for lack of legal stipulations to the contrary, final. This criterion makes it possible, in certain difficult cases, to distinguish between two types of sale. Lastly, it should be noted that in contrast to selling oneself into slavery, pawning oneself has been a widespread practice. And it poses no real problems, since the pawn, who retains the right to his person, also legally retains a right to his property and can therefore legitimately enjoy all property acquired through this sale. This a slave cannot do, except in exceptional cases and if the master allows him to.

As for selling oneself with respect to the third labor situation identified in Table I –working off debt– it should be noted that this is nothing more than working for a wage. The same applies here as for pawning oneself: only particularly hard contract conditions (being in pawn for many years, pittance wages, and so forth) make it true bondage.

And as in the preceding case, one can also sell one's children, and even one's wife.

### *Gambling*

The term is “gambling”, not “gambling debts”. When gambling results in debt and it is clear the loser cannot pay, the winner takes him into slavery (generally, he is sold into slavery). This situation is not essentially different from debt slavery. It is different when the gambler, having already lost all his property, gambles his own person (or that of his wife or children). There is no responsibility principle applicable to debt payable with one's own body, and the goods-physical person continuum so characteristic of debt slavery no longer holds. A close legal study would point up other differences. Anthropological study could bring out yet other differences, both cultural and psychological. The mentality of a gambler who directly stakes his person in the game is closer to that of the warrior, who risks losing his life in war or being taken into slavery, than to that of the poor person ready to sell himself to survive. Despite these differences, which we shall not dwell on here, it is clear that this case is very similar to debt slavery: the gambler puts his freedom into the scales against goods, even if they are not his, and even if the idea of risk and the challenge implied by that risk can be said to confer a degree of nobleness on the business.

(14) As my jurist colleagues have been good enough to point out to me, juridically speaking, this is self-contradictory. Nonetheless, there is no other way of putting it (Testart, 1997a, pp. 42-45). To speak correctly, we would have to refer to “voluntarily pawning oneself in exchange for money”, and even this unwieldy

formulation would not suffice since the money in question, necessarily granted in the form of a loan –this is how pawning works– is taken without the receiver having any intention to reimburse it. Such “loaning” of one's person is in fact a sale, in the sense that a sale involves the transfer of a good.



Just as in the preceding case, the loser can become the winner's slave or merely owe him a limited time of service. What is not so certain is that gambling can lead to a pawn-like position. Not only are there no examples of this, but the very idea seems self-contradictory, since the pawn is by definition in debt, whereas the man who has lost his person and put it back up again as payment for that loss is not in debt. This difference also makes it difficult to see what the losing gambler could redeem himself in exchange for.

### *What of penal slavery?*

This rather imprecise expression in fact covers three very different situations:

- 1) The person at fault (necessarily a serious fault, a crime) is condemned to slavery *without the possibility of redeeming himself out of it*;
- 2) The person at fault is condemned to slavery *but may redeem himself out of it* if he has the means;
- 3) The person at fault is condemned to pay a fine; if he cannot pay, he is taken into slavery.

In the last two cases, slavery appears as merely a secondary consequence of the delinquent's inability to pay. In fact, the penalty is nothing other than a fine. The third case, on the other hand, is the strict equivalent of debt slavery. The second case is very similar –a mere nuance distinguishes 2 from 3. Neither 2 or 3 should be termed penal slavery, as they are in fact financial coming-to-terms that can lead to slavery only because debt slavery as an institution already exists. <sup>(15)</sup>

Only the first case can rightfully be called penal slavery. Here slavery is indeed the sentence, *applied to the person*, effectively downgrading his status. The sentence reflects the seriousness of the crime committed; it cannot be commuted and even less expunged. Penal slavery is of a different nature than debt slavery, which is always enslavement for financial reasons.

## **A necessarily brief overview of distribution of the phenomenon worldwide**

The purpose of this overview is to show how widespread debt slavery has been. There are, of course, innumerable unanswered questions on the matter. The reasons for this are obvious, and have as much to do with how incomplete or partial the sources are as with the intrinsic complexity of the subject: bondage phenomena tend to be both hidden by those who profit from them and ex-

(15) In the sense that we speak of "coming to terms" for murder in the form of *Wergeld* or blood money.

aggregated by those who claim to have gotten rid of them, be they kings, as traditional protectors of their subjects, or colonial powers, as promoters of a new freedom. My hope is that this overview will be better than nothing, even if should only prove a review of the difficulties involved in assessing the issue.

The main, and most delicate, problem will always be distinguishing a true debt slave from a pawn or the person who reimburses his debt through labor. Often these very different statuses have been confused, sometimes by the most perspicacious observers. Errors include assimilating the "pawn" to a slave, and not perceiving the progressive nature of ancient legislation permitting reimbursement through labor. Disentangling this skein has never been easy, and even if the result is satisfying, it will remain paradoxical. Pawning may well be attested to in a society, in law and in empirical reality; it can just as well coexist with true debt slavery. The first pitfall, then, is confusing different legal institutions. The second is concluding that if one form is present, the other must be absent.

### ***Black Africa***

Africa is where the pawning of persons was first noticed, at least as early as the nineteenth century.<sup>(16)</sup>

Two clarifications. First, Islam will not be considered here given that debt slavery goes against Islamic law (only infidels can be reduced to slavery). This rule seems to have been respected in black Africa, and the problem of debt slavery is not relevant for the ancient states of Ghana, Mali, the Songhai, or the nineteenth-century Fulani states. Second, slavery does not seem to have existed in the inner eastern swath of Africa, from Sudan to South Africa, essentially pastoral regions –"livestock areas", as the anthropologists called them– with the exception of the lower Zambeze River area.

Everywhere else, in western Atlantic and central Africa, in a vast region whose center is the tropical forest but that extends beyond it in all directions, mention is made of pawning debtors, with the fundamental rule that the debtor cannot work off the debt. This applied to both lineage-based societies and kingdoms.

(16) For a general overview in addition to Verdier's (1974), see Seidel (1901, *passim*); Ffoulkes (1908, pp. 403-405); Delafosse (1912, III, pp. 55-57 and p. 85); Johnson (1921, pp. 126-130); Basden (1921, p. 108; 1938, pp. 253-255); Talbot (1926, III, pp. 632-633 and pp. 697-698); Rattray (1929, pp. 47-55); Meek (1937, p. 205); Herskovits (1938, I, pp. 82-85; 1952, p. 229); Aubert (1939, p. 36 and pp. 125-126); Perrot (1969, pp. 483-484);

Nadel (1971, pp. 462-464); Vansina (1973, p. 368); Bonnafé (1975, p. 552); Terray (1975, pp. 401-402); Holsoe (1977, p. 289); Miller (1977, pp. 223-227); Memel-Fote (1988, pp. 199-200), and so forth. It did not seem worthwhile here to reproduce the entire bibliography of my article (Testart, 1997a). On precolonial African slavery, the best sources are still the collective works edited by Meillassoux (1975) and Miers and Kopytoff (1977) respectively.

In this same zone, most observers agree that the pawn fell into slavery after a certain amount of time, when it seemed improbable that his debt would ever be redeemed.<sup>(17)</sup> There were nonetheless many exceptions to the automatic transformation of pawn into slave, most of which are to be found in state societies. The best known were the ancient kingdom of Abomey, where no one born within the kingdom territory could be a slave,<sup>(18)</sup> and that of the Ashanti, where a pawn could only become a slave if the creditor-pawner paid a supplement.<sup>(19)</sup> There is nothing to indicate that in the Yoruba world a pawn could ever fall to the condition of a slave, and in the Mossi kingdoms, nothing attests to the institution of pawning (or, therefore, debt slavery).

Parents selling children into slavery is a practice that has often been observed in Africa and often described. The clearest accounts concern matrilineal societies, in which, accordingly, maternal uncle had the right to sell sister's son or daughter.<sup>(20)</sup> Western observers have long noted this "avuncular power" (from *avunculus*, meaning maternal uncle) as being analogous to the Roman *patria potestas*. There were also patrilineal (or bilineal) societies where the uncle had the same right to dispose of his nephew. Finally, though there were very few of them –or rather, this power shows up much less clearly– there were patrilineal societies in which the father is said to have had the same rights over his sons.<sup>(21)</sup> Perhaps we should assume that Western observers were more struck by the strangeness of matrilineal than patrilineal filiation, and that they were led to underline what surprised them most, not mentioning what seemed ordinary and familiar. This critical view may explain the distortion we see in the data. Perhaps, however, the explanation lies beyond filiation, in the specificity of the avuncular relation. The question deserves much more attention than these mere notes, but we can say that selling kin –whether children or adults– is, like debt slavery, and usually after an intermediate pawn-like condition, amply attested to for numerous societies of black Africa.

## East Asia

Bondage for debt and selling one's person are much attested to in Asia, outside of Islamized regions, the Mongolian world, and Siberia. There are, however, so many technical difficulties in speaking about this region (espe-

(17) See Jonghe (1949, pp. 90-96), on several peoples of the Congo basin; Holsoe (1977, p. 289 and p. 291); and MacCormack (1977, p. 195); on the Vai and Sherbro of Liberia and Sierra Leone, etc.

(18) Le Hérisse (1911, p. 45 and pp. 55-56); Herskovits (1938, I, p. 83).

(19) Rattray (1929, p. 53). The formal procedure involved declaring the former pawn nameless and no longer a member of his lineage. The lineage publicly disowned him,

effectively transforming him into a slave.

(20) On the Ashanti see Rattray (1929, p. 18 ff). On the BaKongo, BaTeke and other peoples of the lower Congo region see Kopytoff (1964, p. 91); MacGaffey (1970, pp. 215-216); Vansina (1973, p. 32 and p. 366); Dupré (1982, p. 216 and p. 219); Bonnafé (1987-88, II, p. 32), etc.

(21) See Paulme (1940, pp. 108-109); Goody (1969, p. 72), etc.

cially concerning the legal stipulations in different traditions) that I have chosen to discuss them in a separate text. <sup>(22)</sup> Here I shall simply present the main conclusions.

1) Debt slavery, or at least selling oneself or one's dependents (children or spouse) into slavery was legal in Siam and probably in other kingdoms located in the Indian sphere of influence.

2) In India, these forms of bondage were legal but only for the lower castes; brahmins were the only exempted caste.

3) The situation was different in China, where, from ancient times, the rulers seemed to have fought against any form of private bondage for their subjects, though with only limited success, as selling girls (and sometimes wives) was practiced until the twentieth century, particularly in the south. Japan and Vietnam had similar policies, though they seem to have been more firm, particularly in Vietnam, which instituted a controlled system of staggered reimbursement payments to be effected in the form of work. Korea adopted its own system in the sixteenth century, where only bondage of women for reasons of poverty was legal.

4) In the Malais sultanates, Islamic law was applied to the letter; there was no debt slavery, though there was a legal, and quite severe, form of pawning.

5) In non-state societies, such as the hill tribes studied by British anthropologists (the Naga of Assam, the Kachin of upper Burma, and so forth), certain groups known to be slave-holding such as the Lolo of southern China, the "proto-Indochinese mountain people" studied by French ethnologists (Bahnar, etc.), the weakly Islamized populations of Sumatra and pagan societies elsewhere in Indonesia, and the Ilfugao of the Philippines, it is striking that, in all the cases for which we have reliable data and in all places where slavery was practiced (this does not include small, more or less dominated ethnic groups subsisting on the margins of the state), the institutions of debt slavery and selling of self into slavery are also to be found.

While debt bondage seems to have existed all the way to the eastern borders of Indonesia, New Guinea is a whole different world. There slavery has been absent, as in Australia. It can only be found sporadically on a few Melanesian islands. So there has been no debt bondage there, except on the Island of Choiseul –a remarkable exception. <sup>(23)</sup>

### ***The Pacific Coast of North America***

Here I shall be quite brief; the reader may consult an earlier article of mine on the question of debt slavery on the northwest coast. <sup>(24)</sup> One of the most

(22) Testart (2000), "*L'esclavage pour dettes en Asie orientale*". On bondage for debt throughout this region, Lasker is an excellent, highly original reference.

(23) This is according to Lécivain's recent

synthesis (1999).

(24) Testart (1999b). On the absurdity of potlatch debts, see my 1998c article. On the possibility of selling one's wife into slavery see 1998d (p. 276).

flamboyant cultural areas of North America, renowned for its art and sumptuary distribution rituals –the famous “potlatch”– the northwest coast is also the area in which Indian slavery was most developed. But whereas sources abound on war slavery, those useful for establishing whether there was debt slavery (most often concerning gambling debts) are few.<sup>(25)</sup> At most there was, in the far north, among the Tlingit, a kind of forced labor to be performed for the creditor, but it worked off the debt.<sup>(26)</sup> Elsewhere, purely mythical or legendary references tell of a person who loses everything –honor, rank, face– but nothing suggests he was a slave.

As we move southward the cultural features change. Among the Yurok, Karok, and Tolowa in the north of what is now California, there has been no potlatch; that is, no ostentatious gift-giving.<sup>(27)</sup> Here it would seem that debt reigns. I mentioned in the introduction the multiple causes and occasions that could suddenly, brutally turn a person into an insolvent debtor bonded to his creditor. But what was the debtor’s status? The question is difficult to answer, precisely because Americanist studies did not observe any “pawn” status. None of the observers even mention that possibility; all speak of “slaves”. In my view, these were not slaves. First, Kroeber says that the master did not legally have the power of life and death over his supposed “slave”; this is quite striking given that Indians everywhere appropriated this right over their slaves. Driver (1939, pp. 413-414) specified thus: “If slave continually got into trouble and cost master too many fines [since the master was monetarily responsible for his slave], master sometimes killed him. But *master had to pay compensation to slave’s family for the life.*”<sup>(28)</sup> Given that the person still had a family, that he had not been expelled from his kinship structure, he was no slave. All the information, including the master’s being responsible to the bondsman’s family, corresponds exactly to the pawn situation that existed in Africa and Asia.

For the rest of North America, we have no indication of possible debt slavery.<sup>(29)</sup> Bondage there was, particularly for gambling debts, but it was only temporary, even if the period may seem long.<sup>(30)</sup>

(25) Donald (1997, p. 117), has already noted this, and his own work on slavery on the west coast of North America is a crucial reference. On slavery for gambling debts, the only direct references are Boas (1969 [1928], pp. 71-73); Swanton (1909, p. 79); Ray (1938, p. 52); and McIlwraith (1948, I, p. 159).

(26) Emmons (1991, pp. 45-46); Oberg (1934, p. 151).

(27) On debt bondage among the Yurok and the Karok, Kroeber (1925, pp. 32-33), remains the main reference. See also a letter by Kroeber partially reproduced by MacLeod (1925, p. 273). On the Tolowa see Gould (1978, p. 133).

(28) My italics. Driver’s work is one of the great “surveys” conducted by Americans in the

1930s. When these works are based solely on field data, as is Driver’s, they can provide invaluable information.

(29) In anthropological parlance, of course, North America extends south to northern Mexico. The question of debt slavery in Meso-America, among the Mayas and Aztecs, raises such documentation problems that I have chosen to leave it aside here.

(30) On this subject MacLeod’s 1925 article is still the best reference. The only problematic region is that of present-day Washington and Oregon, with extensions inward into what Americanists call the Great Plains. Several sources –nineteenth-century Western observers– mentioned by MacLeod (1925, p. 372) spoke of

### *The ancient Near East*

The extent and importance of Near Eastern institutions and practices in response to debt are observable in a significant number of documents at our disposal dating from as early as the second half of the third millennium. They attest to bondage for debt and sale of one's person or children. But here no more than elsewhere does sale mean sale into slavery. The period under consideration was of course extremely long, and the source difficulties are obvious. The sources we have are purely epigraphic; moreover, they are almost entirely of a legal nature, consisting in codes and individual contracts.

It is customary to start here with the Code of Hammurabi, given its date, renown, and completeness –and despite the fact that we cannot be certain it was ever really applied.<sup>(31)</sup> The opposition *awilum/wardum* is clearly marked as one of statuses; all Assyrian tradition understood and accepted the contrast between “freeman” and “slave”. The Code is interesting and perhaps original in the fact that an insolvent debtor bonded to his creditor is never designated by the term *wardum*, only *niputum*, “he who has been seized”<sup>(32)</sup> –that is, he whom the creditor has seized– or, if he has been transferred (given or sold) to a third party, *ana kissatim*.<sup>(33)</sup> The renowned Article 117 stipulates that the debtor, or his wife, or his children, thus bonded, can only be so for a period of three years; in the fourth year they are to be freed. Clearly this is not slavery, or even pawn status, because the principle of that institution is that labor does not work off debt. The principle applied in this article is that work redeems debt at the end of certain time period, here arbitrarily fixed at three years. The Code of Hammurabi was exceptionally favorable to the debtor.

bondage “for life”. This may be an exaggeration, perhaps due to the fact that the pawn was (in reality) rarely redeemed though he was (legally) redeemable. But we cannot rule out the hypothesis that true debt slavery existed in this region. Only a systematic, critical examination of all sources would enable us to say. Nor will I affirm anything about the southeastern United States, a complex region of which there has been very little ethnographic study.

(31) The Code of Hammurabi dates from the eighteenth century BC. Many translations exist, including Driver and Miles' (1952); Finet's (1973); and Szlechter's (1977).

(32) The translation is open to question. The word can also be rendered as “pledge” or “pawn”. The most common English translations, “seized” or “distress”, are inexact, as noted by Driver and Miles (1952, p. 210, n. 9), because “[the] person was almost certainly put to work and possibly paid off the debt or the

interest on it by his labor”. This interpretation probably describes the pawn in the sense we are giving that term here. The idea of seizure is also incorrect, because in our traditional legal language only things are “seized” (indeed, our law permits only the seizure of things), whereas *niputum* applies exclusively to persons –not to barley, for example (Art. 113) or cattle (Art. 241); that is, it applies to *animate creatures that can be used without being destroyed*, that can be made to work. What is uppermost, therefore, is the idea of using the debtor for his labor, and not our legal idea of seizure, a mere procedure.

(33) Here the translation is even more questionable: it may also be said of a *niputum* that he is taken “into control or bondage” (Driver and Miles, 1952, pp. 212-214). Szlechter (1977, p. 110) translates the term “sub-pledge”, as in the expression “sublease”; this is consistent with his translation of *niputum* as “pledge”.

Other articles are likewise favorable. The creditor may not take barley from the debtor's home without his consent (Article 113), nor may he seize a head of cattle (Article 241); this implies that the debtor cannot be dispossessed of either subsistence or labor means. The creditor can seize a person only –the debtor, perhaps, or in any case his wife, children, or one of his slaves (Article 115 and following). Except for the last case, it is clear that these people were not in slavery, not only because they were automatically freed after three years, but because if they died of mistreatment in the creditor's house, the creditor had to pay with the death of one of his own kinsmen –his son if it was the debtor's son who had lost his life (Article 116). In sharp contrast, if a slave was seized and died for the same reasons, the creditor had only to pay reparation in the form of a third of a stick of silver (also Article 116). Those who were "seized" thus remained members of their kinship structure, and the creditors they were bonded to were penally responsible to their kin. Article 118 stipulates that a slave seized for debts and sold by the creditor can no longer be reclaimed by the debtor, and this makes the sale firm. (The only exception is a concubine-slave who has given the debtor children; she remains redeemable at the same "price" [Article 119].) All this seems to indicate by default that the debtor's son or wife could, on the contrary, always be redeemed –sufficient evidence that, legally, they were free persons.

The Code of Hammurabi, then, offers no evidence of the existence of debt slavery in the pre-Babylonian period –at least none to suggest it was considered legitimate. What it suggests instead is the absence of this form of slavery. But what has come down to us in the form of written contracts suggests quite the contrary.<sup>(34)</sup> The fate of the debtor or the person in need, or his son or wife, seems to have been decided by freely consented clauses in a contract. All possible arrangements seem to have existed. The person could be pawned to others with the pawner having at all times the option to "redeem", or simply pawned, meaning by definition entirely redeemable; but there were also clauses in certain contracts referring to loss of pawn status or alienability, with no mention of possible redeemability, and to pure and simple sale that seems to have been definitive. Here it is difficult to see any difference from real slave status. In truth, the Code of Hammurabi has no explicit provision *prohibiting* debt slavery, or the selling of one's person or a person one controls into slavery. It does leave open a means of escaping definitive bondage. The intention is there, though it is not perhaps made explicit. What should we conclude from this? That reducing an *awilum* to a slave was illicit whereas actual contracts attest to a long tradition of slavery, which continued despite the will of the public powers? This would indicate a situation similar to that existing in China. Or should we conclude that the situation in Ancient Assyria was similar to that in Siam, where the existence of a legally sanctioned pawn

(34) I am highly indebted here to a detailed presentation made in February 1999 by Jean-Jacques Glassner in a seminar entitled "*Problèmes de l'esclavage dans les sociétés*

*primitives et dans les royaumes anciens*". Mendelsohn (1932, pp. 7-27) may also be consulted, though this text is a bit outdated and fails to make careful legal distinctions.

arrangement did not prevent a kind of total contractual freedom wherein it was possible for anyone to sell himself or his family definitively into slavery?

Article 117 of the Code of Hammurabi is echoed in the prescriptions of the Hebrews regarding a bonded debtor: he must be freed after six years of service –that is, at the beginning of the seventh year (or, in some interpretations every seven years, at a fixed time in the sabbatical year).<sup>(35)</sup> But Hebraic law is explicit where the Code of Hammurabi was not. A long passage in Leviticus gives us a clear, sharp opposition between “the heathen that are around you, the strangers” and “the children of Israel”. The first can be bonded “for ever”, bought as a “possession” to be “inherited” (Lev. 25. 44-46). But the same cannot be done with “your brethren, the children of Israel”: “If thy brother that dwelleth by thee be waxen poor and be sold unto thee, thou shalt not compel him to serve as a bondservant: but as a hired servant, and as a sojourner, he shall be with thee, and shall serve thee unto the year of jubile: And then shall he depart from thee, both he and his children with him, and shall return unto his own family, and unto the possession of his fathers shall he return. ... they shall not be sold as bondmen ... After [thy brother] is sold, he may be redeemed again.” (Lev. 25. 39-48).

Everything concerning Hebrew debtors is specified in Leviticus: the respect owed them, the time limits on their service, their remaining among their fathers’ kinsmen, their inalienability, their redeemability –so many traits that make it impossible to consider them slaves. Debt slavery was illicit among the Hebrews. This did not, of course, mean it didn’t exist, any more than it prevented creditors from maintaining debtors in bondage over and above the seven years permitted. As in Mesopotamia, there was a whole series of royal decrees to free debtors –proof, then, that they were not free. But here at last we have a distinct and probably the most ancient example of a society that did not accept, or no longer accepted, taking its own members into slavery for financial reasons.

I shall end this section by referring to the Assyrian laws, which, on the contrary, seem to show that debt slavery was seen as legitimate.<sup>(36)</sup>

### *Classical Antiquity*

Solon is widely understood to have abolished debt slavery in Athens. The issue is a familiar one in Greek historiography, starting with Aristotle, who, in *The Athenian Constitution*, evokes the situation in Athenian society before Solon: “The poor were enslaved [edouleuon] to the rich –themselves and their children and their wives.” (II, 2). The description echoes Solon’s own words:

(35) The main relevant Biblical texts are Ex 21.1-11; Lev 25.39-41; Dt 15.12-18; Jer 34.14. See also Vaux’s classic commentary on the Hebrew text (1958, I, pp. 128-130 and pp. 261-270), including uncertainty about the

relation between sabbatical and jubile years. These points concern only Hebrew debtors; foreigners could be taken into slavery for life.

(36) *Les lois assyriennes* (1969, pp. 215-217).



"Black Earth ... once was enslaved [*douleuoussa*] but now is free." (XII, 4). Admittedly the word *doulos* and its derivatives can have a wide range of meanings, and may be purely metaphorical, a metaphor readily used in ordinary political propaganda. And of course we have no clear notion about the *pelatai*, *hektemoroi* (sometimes translated as "sixth-parters" or "sixthers" because they owed either one-sixth or five-sixths of their harvest, depending on the interpretation) or *agogimoi* (those who were "led away", probably sold at a great distance because they had not paid) that Aristotle speaks of.<sup>(37)</sup> Still, it seems fair to say that in the Golden Age of classical Athens, these odious forms of debt slavery belonged to the past. Athens sought to be the land of freedom (for its own citizens, that is), and thought of itself as such, by opposition to Achaemenid Asia but also in contrast to a kind of political pre-history during which citizens had been massively reduced to slavery. Perhaps what we have here is a myth, analogous to all founding myths whose underlying assertion is that the past was nought but oppression and darkness. But despite the difficulties we have reconstituting this particular past, all the information we have on the classical period concurs that there was no debt slavery in Athens.<sup>(38)</sup>

This does not mean that people didn't work to pay off their debts or even that there was no equivalent of pawns.<sup>(39)</sup> Still, all persons were (legally) free, no one was *doulos*. At this point a word should be said on the expression *paramonê*, employed in modern times with reference to persons who "dwell with" (*paramenein*) a master and serve him.<sup>(40)</sup> In *paramonê* for debt, attested to in the Hellenic world but not incontestably shown to have existed in Greece itself, the debtor put himself in the hands of his creditor and "carried out a service for him that resembled that of a slave [*doulikê chreia*], doing all he was ordered to, and being present day and night unless 'Phraates' [the creditor] gave permission to leave", according to the provisions of a private contract

(37) Of the many commentaries on these terms, Finley's (1965, pp. 168-171; 1984a, pp. 174-175) seem clearest.

(38) One exception is commonly allowed: a person who was made a slave abroad and was redeemed by a co-citizen "became the property of the person who freed him if he did not pay the ransom" (Glotz, 1904, p. 263, following Demosthenes, *C. Nicostratus* 11). But the exception only applies to this very particular context and would seem to be explained by contamination, as it were, with the ordinary source of slavery –war. Moreover, the prisoner bought out of slavery seems always to have been a redeemable slave. Many authors have likened the prohibition of debt slavery to the prohibition against a father selling his children (with the exception of a guilty daughter; Glotz, 1904, p. 354 ff). The two taken together mean that there was no slavery for financial reasons.

(39) It seems we should hypothesize that

both of these situations existed. How else to account for a passage from one of Menander's comedies (quoted by Finley, 1984b, p. 206) concerning a girl who has been made a servant because of her father's debts? It is significant that in the scene, two slaves are conversing. One asks the other if the girl is herself a slave. "Yes –in part– in a way", comes the response. The comedy reflects the essence of debt bondage in all its ambiguity: not slavery, but very like.

(40) Discussed in Finley (1984b, p. 207 ff). The relation of *paramonê* to emancipation of slaves does not concern us here, though from what we know from certain African cases, the freed slave could find himself tied to his former master through a debt that is was difficult to reimburse (in Africa this was usually the master's having given him a wife or putting up the money for him to buy one).

found on a Greek parchment dated 121 AD and found at Dura-Europos. Clearly the person was in a situation of bondage, but his service (or servitude) “resembled that of a slave”, by which we may understand that he was *not* a slave. By the terms of this contract, the debtor agreed to remain in that condition “until reimbursement of the money”; here we recognize the principle of working to reimburse a debt.<sup>(41)</sup> From all these features –being assigned to live in the creditor’s home; required labor and obedience, if not slavishness; the idea that one could not work off a debt– we can conclude that the person in *paramonê* was exactly what Africanists and specialists of Asia have called a “pawn”.

Rome raises other problems. Ancient Roman historiography seems to have followed the Greek models: first there were abuses, leading to citizens becoming if not slaves, at least prisoners of their creditors, mistreated, abused, even tortured –a situation that endured until the Lex Poetelia, generally dated 326 BC. This is approximately what Livy recounts: a history in which freedom followed on oppression.<sup>(42)</sup> Nowhere does he suggest that debt slavery existed after the Lex Poetelia. There is in fact no clear indication that it existed before the law: Livy speaks only of *addicti* ou *nexi*, assigned to the creditor or kept by him and working for him; not at all of *servi* (slaves). An *addictus* was someone who had been taken away by his creditor following conviction by a magistrate; in this way the term was synonymous with *adiudicatus*, he who has been adjudicated to the plaintiff). As for the *nexus*, the person tied by the *nexum* (the words come from *nectare*, to tie, which may be understood both in its juridical sense of legally binding and in its more literal one), this is one of the hardest questions raised by ancient Roman law,<sup>(43)</sup> as difficult to understand as the content of the Lex Poetelia.<sup>(44)</sup> Nonetheless, we can affirm with certitude that *addicti* and *nexi* were legally free.<sup>(45)</sup> We may therefore conclude that the Lex Poetelia in no way abolished “debt slavery”, as is affirmed, but rather that it abolished what were already less extreme forms of bondage for debt, forms that I shall not specify here but that may be imagined by analogy to pawning or forced labor as ways of redeeming one’s debts. The conclusion is sometimes drawn that *only* these forms were abolished, not debt slavery. This reasoning seems peculiar, for if the above-mentioned forms of bodily constraint were enough to provoke the anger of the Roman people –Rome rose up

(41) Given that here labor seems to have taken the place of debt interest, we can legitimately speak of antichresis.

(42) Livy, *History of Rome*, II, 23; VIII, 28.

(43) Recent attempts to clarify the point may be found in works by two specialists of Roman law, Watson (1975, pp. 111-123) and Villers (1977, pp. 69-71). Villers offers a simple, smart presentation of the question and a careful selection of references within an abundant bibliography.

(44) MacCormack (1973) and Magdelain (1990, pp. 707-711) have recently examined the law; the latter text is quite critical of it.

(45) In the case of the *nexus*, this is made quite explicit in an oft-quoted text by Varro: “*Liber qui suas operas pro pecunia quam debet dat, dum solveret, nexus vocatur.*” Of the *addictus* Quintilian (quoted by Wallon, 1988, p. 367) declared: “The slave cannot obtain liberty against the master’s will; the *addictus* recovers it through payment, even against [the master’s] will. There is no law for the slave; the law applies to the *addictus*. What is particular to the free man, what belongs to none but him, first name, name, nickname, tribe –all that is retained by the *addictus*.”

twice, in 496 and 326 BC— and if in Livy's time they still aroused both author's and readers' indignation, it seems unimaginable that it was somehow considered legitimate and normal to reduce a free citizen to slavery because of debt.

When Cicero enumerates the reasons for which a citizen can be deprived of his citizenship, he makes no mention of indebtedness.<sup>(46)</sup> The problem is that Roman law as reconstituted by the principle legal tradition of our time is understood to have allowed for the possibility of debt slavery.<sup>(47)</sup> This seems to me an illusion, springing from both confusion about different possible types of sale,<sup>(48)</sup> and the way that law has been reconstituted, particularly through extrapolation of the Twelve Tables based on a text written several centuries later, by Aulus Gellius, the source of the all-too-famous mention of the debtor who could be sold *trans Tiberim*, the only real argument in favor of the existence of debt slavery in Ancient Rome. The discussion is too technical to engage in here, and I would merely state that there was no legitimate debt slavery in classical Rome.<sup>(49)</sup>

Though we may agree that debt slavery existed in certain barbaric kingdoms,<sup>(50)</sup> the phenomenon became extremely rare in the course of the Middle Ages. Most of the best-documented cases seem in fact to have involved pawning.<sup>(51)</sup>

(46) See in particular *For Caecina*, 33, 98-100. "Our ancestors jurisprudence [...] established that no Roman citizen could lose his liberty against his will" (Cicero, *On his house*, 29, 77). On the question of penal slavery as punishment for failing to be counted in the census or performing one's military duty, for example, Cicero judged that the condemned man had himself renounced his freedom (*For Caecina*, 33, 99). These texts, as well as others showing how well protected the attribute of citizenship was, may be found in Cazanove and Moati (p. 121 ff).

(47) See Buckland (1908, pp. 401-402); Monier (1970, I, p. 215); Girard (1929, I, p. 111).

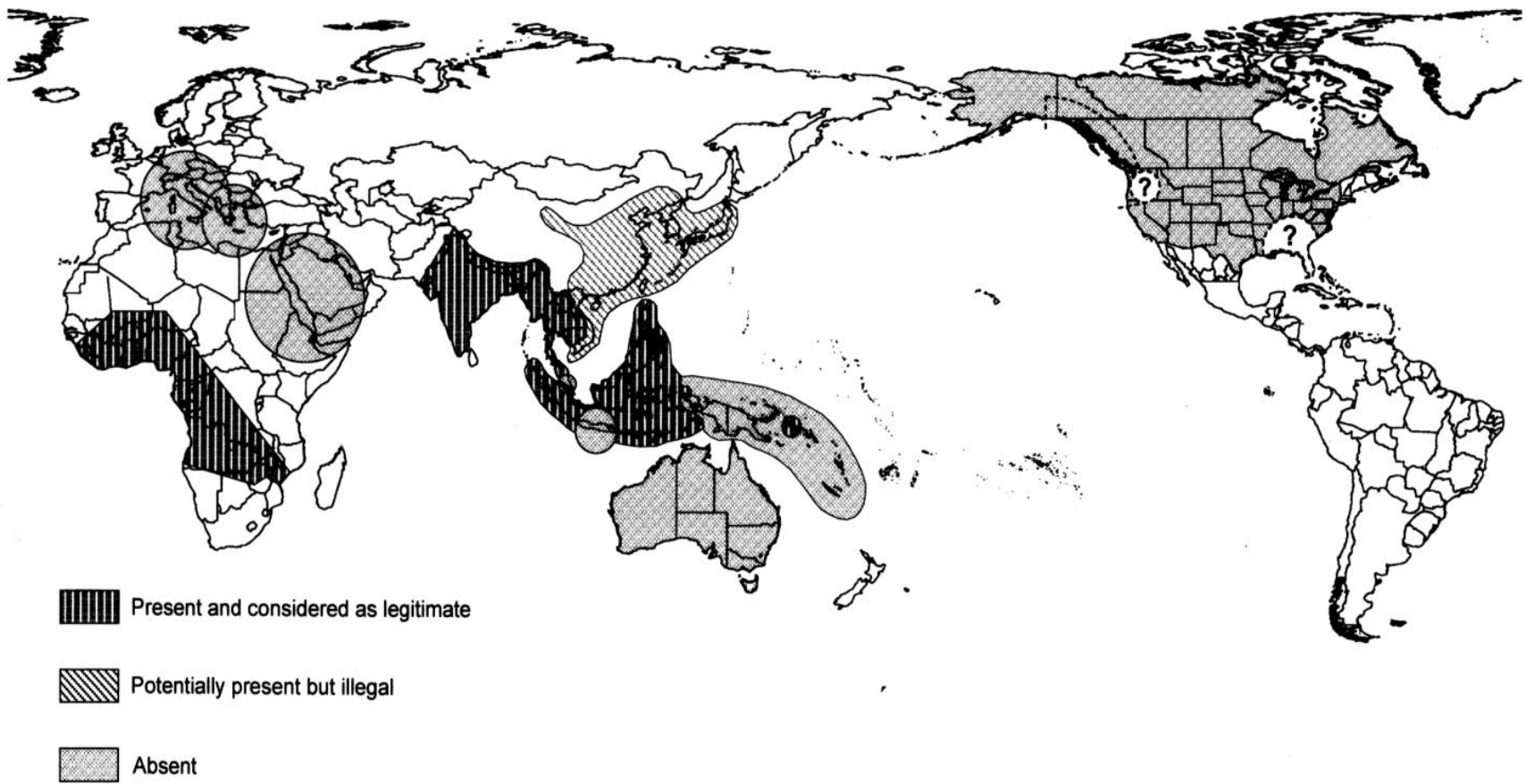
(48) Need I repeat that sale of a person does not imply slave status? In ancient Rome, a father could sell his son *in mancipio*; in the Middle Ages, serfs were sold; in Thailand persons were sold with permanent option for repurchase by seller; among the ancient Hebrews, a debtor who was sold was not a slave, and so forth.

(49) That there were cases of illicit debt slavery, as well as selling of self into slavery by impoverished citizens as the only way to survive, has been fully demonstrated in a recent

article by Paul Veyne (1991, pp. 247-280). This article also shows, in my view, that such sale was against the law.

(50) First among these was the Visigoth kingdom. The phenomenon also existed under the Merovingians, but not in the Catalanian-Aragonian state, nor in Majorca in the thirteenth century, nor later in time (Verlinden, 1955, pp. 77-78, 275, 425, 677 and 719; King, 1972, p. 192). It should also be noted that under the Visigoths, parents were obligated to redeem a child who had been displayed for sale purposes or sold (King, 1972, p. 239).

(51) Heers (1981, pp. 19-22). Aside from the fact that most cases cited fall into the redeemable category, mention of slaves who continued to claim noble status seems to me contradictory. The problem as always is that the *servus* of the Middle Ages (from which our term "serf" is derived) and the *servus* of Antiquity were not the same. In a case recounted by Verlinden (1955, p. 276), it seems that the man who committed himself to service was only redeemable for the first three years, after which time, if he had not paid off his debt, he became a slave. It should also be noted that the case concerns a Saracen.



MAP I. – *Debt slavery and/or enslavement of self or kin*

Unfortunately, there is no space to continue this overview. I have, however, presented the main regions of the world for which the question of debt slavery may be raised. The conclusions reached, based on admittedly frail evidence and forever subject to change as new information is discovered, are represented on the map on the facing page, which should be considered a mere sketch of the situation.

### Social implications of debt slavery

In Western tradition, from Solon to Shakespeare's *Merchant of Venice*, debt slavery has been seen as an unjust institution, a hateful practice, an unacceptable legal abuse.<sup>(52)</sup> It amounts to oppressing the poor. But what exactly is hateful in it? Not that there are poor people, because inequality of wealth is not what arouses indignation, but that a person should be put into bondage because of his or her poverty; that a human being belonging to the same community as his own relative, a "brother", as mentioned in the Bible, should be subjugated by his brother. The meaning of war slavery is quite different. Violence between communities that are foreign to each other is one of the ordinary ills of war, as are rape and plunder; and enslaving the vanquished readily passes as civilizational progress –preferable, in any case, to killing, torturing, or sacrificing them. War slavery only came to be considered scandalous late in history, with the appearance of international law, continuous with the right of nations (*jus gentium*). What is scandalous in debt slavery is the oppression of poor or weak persons *within* a community, the oppression of those who are close, if not the closest: a relative. This is how the issue has been assessed in the West since Solon. But it is not the same everywhere. Truth on this side, in Europe; falsehood elsewhere. What principles, elsewhere, have permitted and justified subjugating the poor man and selling one's son?

(52) In *The Merchant of Venice*, the Jewish usurer Shylock only agrees to lend money in exchange for the borrower's consent to surrender a pound of his flesh if he cannot pay back on time. The play inspired Kohler's renowned study (1919 [1883]). The problem is resolved in pure tragi-comic style by a judgment permitting the terrible bargain to go forward, but stipulating that not a drop of

Christian blood may be shed, as this would go against Venetian law –a pleasant way of indicating that this kind of contract was illegitimate. In my view, debt slavery, and therefore the idea that the debtor could be forced to fulfill his obligations with his own physical person, is a kind of ghost that continues to haunt the Western conscience.

***What characterizes a society that accepts debt slavery?***

*Such a society seems defined by three main characteristics*

First, it accepts dependence in general; it is a society of which we can say that it is entirely constructed in terms of dependence. The idea is clearly expressed by Rattray regarding Ashanti society, where “a condition of voluntary servitude was the essential basis of the whole social system. In that country there existed no person or no thing without a master or owner”.<sup>(53)</sup> There follows a list of terms, each representing a different mode of dependence. Next to the term for “pawn” and those for “slaves” (different by source or fate), we find the word *akoa*, which applies to the relation of uterine nephew to maternal uncle; of sister, wife, and children of this nephew to same uncle; of subject to local chieftain; local chieftain to a higher one; higher chieftain to the King of the Ashanti; and finally the king himself with regard to the supreme god. It was a society in which the main social relations were expressed not through opposition between freemen and dependents (freemen/slaves, *sui juris/alien juris*, etc.) but by multiple oppositions between different modes of dependence. We can say that this society was structured entirely in terms of dependence because it left no place for the concept of freedom, let alone holding freedom to be a fundamental concept.

Rattray’s text clearly shows the two main types and spheres of dependence. The first is political: everyone is dependent, in one codified way or another, on the king; statuses and positions are precarious in regimes where there is nothing to counterbalance or oppose the prince. This is well known, and many similar forms have been observed in ancient Near Eastern kingdoms and more recent Asian ones. But it is the second type that I should like to emphasize. No person was free, even if adult, even married: he or she could always be sold by his/her maternal uncle. This feature –and other analogous ones such as father’s selling son, husband’s selling wife– was not specific to kingdoms; it was also a reality of lineage-based societies in Africa and of Asian societies which, though they cannot be said to be based on lineage, were nonetheless stateless.

Second, a society that accepts debt slavery is one that accepts enslavement for solely financial reasons. It is therefore a society in which wealth plays a fundamental role. But what is that role?

The mere fact of slavery (war slavery alone) is not unrelated to wealth.

1) Since a slave is always a dependent from whom profit may be made –by selling him, making her work, etc.– the position of master always implies the possibility of accumulating wealth.

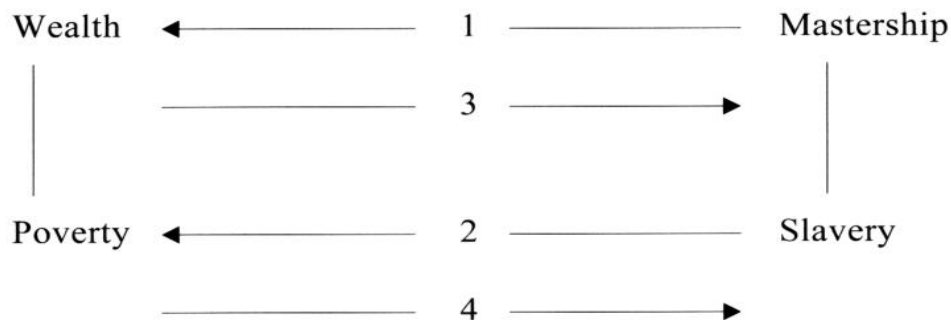
(53) Rattray (1929, p. 34). According to an Ashanti proverb “If you have not a master, a beast will catch you”.

2) Likewise, and symmetrically, the condition of slave generally implies poverty (unless master shows slave favor by permitting him/her the use and enjoyment of a small amount of wealth).

3) In a slaveholding society, wealth always implies the possibility for the rich man to become a master by buying slaves.

4) However, for the poor person, poverty only implies the possibility of becoming a slave if the society in question allows debt slavery or the sale of self or relatives into slavery.

If this last condition is realized, then we have a perfect equation between dependence and wealth inequality, in that each of the terms of one of the two oppositions (master/slave; rich/poor) can metamorphose into the terms of the other opposition :



Third, a society that accepts debt slavery is one that facilitates the internal emergence of powers of a sort unknown in a society that does not practice debt slavery. What are those powers?

Wealth in itself does not constitute power over persons; it only does so if certain institutions exist and are operative. Those institutions are wage-earning, clientelism, and debt slavery. The wage-earner is dependent on his remuneration, but remains legally free. He or she can change employers, and the employer usually only has power within a limited framework and for a determined length of time. In the second case, only habit, calculation, or loyalty (in the ancient sense of *fides*) keeps the client in that position with regard to his or her “boss”. In these conditions, wealth confers power only through the certainty that a wealthy person will always be able to find people who will agree to do the bidding of someone who can pay or assist them; it does not in itself confer the power to command people. In fact, wealth is first and foremost power over things –means of production, or money in general– and only indirectly power over people –unless, of course, wealth works in (generally abusive) conjunction with political power. Corruption has always been with us; it was part of the Roman world, it is part of ours. But this too is only indirect power. Direct power over people is the power to command them to do

things. This is particular to political powers-that-be; the sovereign, or anyone who possesses similar power by delegation. It is also the power of master over slave.

This explains why debt slavery rather than any other institution confers the greatest weight on economic power. It transforms what is essentially indirect power into direct power. It makes possible a polarizing of society in terms of dependence and domination. The institution of slavery already enabled the rich man to become a master, allowing him to command certain persons. Debt slavery goes further, enabling the rich man to bend the poorest and weakest persons of his society to his will (in addition to captive or purchased foreigners). This not only enlarges the sphere in which such a man may "recruit"; it extends his potential influence to the entire community, through the threat of possible slavery for reasons of debt or poverty that he can hang over the heads of some, and the protection he can give others against that same threat. It is in this way that he acquires clients. We see that the specificity of this kind of power lies in the way it combines all social relations –those of rich man to wage-earning employee or mercenary, boss to client, master to slave– and in the possibility of extending each of these relations to the whole of the social body.

Such power may be independent of all political control; it may be purely private. It may belong to a number of individuals. Society is then divided into a multitude of poles around which the poor, needy, guests, clients, and slaves gravitate. Those who have been there the longest and been the most faithful in fact reinforce the power of the person who has them under his control.

### ***The State against debt slavery***

In the overview above, the reader will surely have noted the propensity of most states to limit or abolish debt slavery.

A state may take measures ensuring that the debtor is not bonded for life, permitting him to reimburse his debt through labor –this was the case in Vietnam– or, in a move that has virtually the same result, arbitrarily limit the duration of bondage, as we saw with the ancient Hebrews and in paleo-Babylonian society at the time of Hammurabi.

It may order the release of persons who have sold themselves, and this even after authorizing such sale. This was the case during the Han Dynasty in China.

If the institution of pawning for debt exists, the State may prohibit the transformation of the pawn into a slave –the case in the ancient kingdom of Abomey.

Finally, a state may regulate the transformation of pawn into slave, preventing that transformation from being automatic by requiring a formal contract as well as a supplementary payment. This was the case in the ancient Ashanti kingdom.



The reasons for state intervention are obvious. A king's subject, a citizen of the polis, is neither subject or citizen if he becomes a slave. A slave has but one master. He pays no taxes, <sup>(54)</sup> and owes no military service. Every time a freeman was taken into slavery, the political powers-that-be lost a source of fiscal revenue and a soldier. <sup>(55)</sup> Debt slavery, in itself, together with the sale of one's person or kin into slavery, weakens the central power.

Meanwhile, the State's loss is others' gain. While the creditors and rich persons to whom a man may sell himself are private individuals, having them as dependents increases their power, since slaves are not only easily exploitable for their labor, but can also readily become the master's dirty-workers. <sup>(56)</sup> The most reliable among them may be armed, become a personal guard, a group of loyal retainers continuously kept in check by the same method of alternating threats with promises of release. Debt slavery and selling one's person or kin into slavery always facilitates the emergence of multiple power centers. When these centers emerge within the social fabric and are beyond state control, they can eventually undermine or destroy it.

These practices are only dangerous, however, if the former subject falls under the control of a private power. Only private slaveholding represents a threat to the public power. That threat disappears in the case of a royal monopoly on slavery, for instance, just as it disappears if the state claims a pre-emption right, whereby it takes as its own slaves those persons it has lost as subjects.

This last solution was applied in Siam, as explained by Lingat. Several pages would have to be quoted for us to understand the details of Siamese administrative organization and take into account the different categories of dependents. The essential points are as follows: "[...] The people were subdivided into a few groups placed directly under the control of a high-level state functionary (*mun nai* or simply *nai*) whose duty it was to provide conscripts for public services when needed. [...] He was appointed to verify the presence of these persons, note births and deaths, hunt for fugitives, ensure that his group did not become impoverished and did not escape his direct authority. [...] He was to lend them money if they became destitute [...] for if he let his men fall into others' debt, his authority could be thwarted by the creditors, whether they were mere moneylenders or fiduciary holders. [...] In case

(54) I have insisted several times on this point (Testart 1997a, pp. 46-47; 1998a, p. 40). I view it as one of the most effective criteria for defining what a slave in a kingdom was.

(55) This was clearly stated by Diodorus of Sicily in a comment on the decision by the Pharaoh Bocchoris (24th dynasty) to prohibit debt guaranteed by the debtor's person: "Citizens bodies should belong to the state, so that the state can use the services owed it by its

citizens in times of both war and peace. It would be absurd, in Boccharis' view, for a soldier, perhaps at the very moment of leaving to fight for his country, to be taken away by a creditor for debt, and for private individual greed to thereby endanger the salvation of all." (quoted in Finley, 1984b, p. 214).

(56) On this use of slaves and the threat it constitutes to the central power, see my article 1998b (pp. 32-34).

of insolvency, however, the creditor could have his debtor definitively adjudicated to himself as his slave. <sup>(57)</sup> Thenceforward, such a slave could only serve his master. He was crossed off the rolls of statute laborers. <sup>(58)</sup> He was lost for service to the king. We therefore understand why the law reserved to the overseeing functionary the 'privilege,' as Loubère put it, of leasing these people's. The freeman who had fallen into destitution would turn first of all to the functionary for help, and if he was to sell himself, it was preferable to sell himself to *him*. In this way the functionary would keep the statute laborers in his group until their total insolvency made them his personal slaves. Only if the functionary was not rich enough to help his people and buy off their debts could they turn for help elsewhere. But the functionary also had to conduct investigations to be certain that the statute laborer who sought to be his slave was truly forced to it by destitution [...]. An eighteenth-century text severely punished all irregularities in this procedure [...].” (Lingat, 1931, pp. 83-86). At the beginning of the chapter Lingat noted “the extreme ease with which a person's condition may shift from free to servile”. Here he specifies: “We see how the organization of ancient Siamese society in fact left little room for individual freedom in this matter, and how inexact it would be to say that any man had the right to sell himself freely. First, a man compelled to labor—a freeman, that is—was deprived of choosing his master. His overseeing functionary was for all intents and purposes the designated, necessary acquirer. Next, it was only acceptable for him to make himself a slave to ensure his survival in case of verifiable destitution” (*ibid.*, p. 86).

Most states did not permit free members of the community to fall into slavery and thereby escape state authority. Or if they did, they used the institution to their own advantage: new slaves were slaves of the powers-that-be or their agents.

And in cases where the state did neither one of these things, this is probably to be explained by its own weakness. This is clear in the case in the ancient Tio kingdom on the central Congo River, which, following Vansina's remarkable study (1973), strongly calls to mind the “feudal” period of our own Middle Ages: the omnipotence of barons against whom the king had no real power. The Tio kingdom is also one of the clearest examples of the maternal uncle having the right to sell his uterine nephew. And finally it applies to informal or honorary kings with many privileges but very little power, such as the Batak in Sumatra, another well-documented case where the labor of a debtor pawn could not be used to work off debt interest, which, on the contrary

(57) By “definitive slave” Lingat meant a true slave who could no longer be redeemed on the basis of anything he did (the non-redeemable *that* of ancient Siamese law), by opposition to the fiduciary bondsman whose condition resembled the pawn's (redeemable *that*). The fact that official Siamese terminology used the same word for slave and pawn has given rise to numerous misinterpretations

and makes all discussion difficult. It should be noted that a redeemable *that* still had to perform his royal service; his time was split between it and service to his creditor.

(58) Though unfortunate because of its many feudal connotations, it is customary in East Asian studies to use the term “*corvée*” for the service in the form of personal tax owed by every subject to the sovereign.

grew until such time as it reached the monetary value of a slave –precisely what the pawn then became.<sup>(59)</sup>

***Conversely, did debt slavery help give rise to the State?***

The state has an obvious interest in limiting or abolishing debt slavery, and in most cases acts in accordance with that interest. It is therefore highly unlikely that the debt slavery we find in non-state societies can be explained as an effect of the influence of state societies. The opposite seems much more likely. Indeed, my general hypothesis is that debt slavery is probably part of ancient social practices that preexisted the emergence of the state. All the data support this hypothesis, not only how widespread debt slavery has been outside state societies, but also the persistence of the practice in regions such as China, or countries that came under Chinese power and influence, where it was prohibited and combated by the public powers.<sup>(60)</sup>

We might also note the sharp difference between the Old World and the New (see map). Debt slavery and sale of one's person or kin are practices that persisted in Africa, India, and Southeast Asia up until colonization. In countries with Chinese traditions, we may conclude that these were ancient practices that endured more or less illegally through historical time. For the ancient Middle East, Greece, and Rome, we cannot preclude the possibility that these practices existed before the legislation with which we are familiar. Finally, if we leave aside the exceptions noted above, the practices did not exist in Melanesia or North America.

What does this difference mean? Wealth was no less important in Melanesia or North America than in Asia. (This is not the place to give a synopsis of the innumerable ethnographic studies demonstrating this point.) Owning prestigious goods is the sign of social success *par excellence*: wealth is needed to give festive receptions, practice sumptuary distribution, meet kinship obligations (particularly funerary ones) or alliance ones (buying a bride and/or providing a dowry), and this is true everywhere that ritual exchanges are practiced, not to mention forms of commerce bearing on less valued products. People went into debt in these places as much as those. But what happened to the insolvent debtor or the needy person without kin to help him? In Melanesian and North American societies, he became what ethnologists have rightly called a kind of client –unless he fell into the category of “rubbish man”, an expression from English ethnology. He entered into the sphere of influence of

(59) Loeb (1935, pp. 38-40).

(60) We cannot, of course, exclude the possibility that the State helped reinforce this tradition –entirely against its will. The exorbitant taxes levied in China, Siam, and elsewhere impoverished the masses; in response, they sold mouths they could no

longer feed. But this is only an auxiliary or secondary cause. There were many periods of generalized poverty in Western history, but that never led to people selling themselves. Furthermore, this cannot be a cause in non-state societies, where there were no taxes.

those who anthropologists of Melanesia have called the “big men”. On the northwest coast of America, ethnological tradition calls such persons “chiefs”, but it is striking that these “chiefs” had no political functions or prerogatives. It is not that they were without power. That power came from their wealth, the opulence of their dwellings, to which many people –mostly kinsmen but not exclusively– contributed through their labor. It came from their prestige, their ability to distribute goods of all sorts around them in conspicuous if not extravagant manner –food, and sumptuary goods. Wealth and prestige mutually reinforce each other. Quite naturally, there, as in all societies, prestige came to the wealthy. And wealth came to the prestigious because of the exceptional importance in American northwest-coast societies of the phenomenon of honorary gift-giving: people gave a great deal, and even more so when the recipient was prestigious.<sup>(61)</sup> Lastly, prestige and wealth attracted those who lacked them. Gravitating around prestige and wealth, those without them formed a more or less shapeless magma about which ethnography has not always had much to tell us. Such people appear to have been free to come and go, to find a generous benefactor or detach themselves from an overly proud one. They were not slaves.

The difference between these sorts of clients and debt slaves is the difference between empirical and legal dependents. Yes, the strong man had considerable power over the first type, but it was power that he had to use carefully. Over the second type, the master enjoyed much more complete power. The first type must not be alienated; the second may be, and readily so.

In my view, the power of a man in control of considerable wealth, who already had numerous slaves in addition to his numerous descendants, who probably disposed of a troop of armed retainers, and whose influence extended largely beyond the circle of his immediate dependents, since the practice of debt slavery or sale of one’s person can bring down those who are not yet slaves –that power clearly prefigures the power of the sovereign. He had the same direct power over his subjects as a king, and it hovered over the whole of the community, since everyone could ultimately be subject to it. Only analogous powers, in competition with his, could limit that power. But if a power struggle were instead to eliminate those other powers, how could that man not become the absolute master? In other words, debt slavery and sale of self or kin into slavery were factors that facilitated the emergence of royalty.

To justify this hypothesis, let us consider an obvious correlation. Since ancient times, there have been many States in Africa; indeed, it sometimes seems that lineage-based societies occupied only interstitial spaces. This is even more true for the Indian subcontinent. In Southeast Asia, meanwhile, from Assam to Eastern Indonesia, large traditional kingdoms and smaller sultanates proliferated. It is in these three regions that debt slavery or sale of self or kin into slavery was practiced. In the two regions where these practices

(61) On the potlatch as honorary gift-giving, see my recent article 1999a.

were absent, the state, too, was absent, or nearly so: unknown in Melanesia, extremely rare in North America. Whichever way we look at it, this correlation is extremely strong. There is a “family resemblance” between the practices discussed in this article and subjection to a king; there is what could be called a kind of complicity between these two types of institution. But though related, they remain distinct. Though the correlation is there, the geographic breakdowns are different. As mentioned, it is unlikely that debt slavery came into existence on the foundation of the State. It is more likely that the state came to be on the basis of societies that accepted debt slavery and sale of self or kin into slavery –if, as I believe, these practices reflect something fundamental about social structure.

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