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**Death, obligation and the origins of slavery.**

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## **Death, obligation and the origins of slavery.<sup>1</sup>**

### **Abstract**

Despite the fact that slavery existed historically in almost all known societies, historians have as yet been unable to identify any shared values from which the institution could have arisen. This article reconstructs slavery as a form of debt or obligation, by suggesting that slavery occurred when an individual with no apparent alternative but that of imminent death offered the sum total of his life services in exchange for the chance to survive. Slavery may then have emerged in response to the threat of famine, as a result of judicial punishment, or through situations of conflict, for example. The slave *trade* was likely to have been a later development, as groups requiring additional labour supplies sought to sell or exchange subject individuals for an agreed price. This transfer of a life debt, which encapsulated within it all the future labour services of the debtor (slave), supported the development of a market in lives that is now recognized as the cornerstone of slavery as an institution. Distraint on the body of the debtor was the earliest form of debt recovery. Enslavement then appears as a peculiarly exploitative form of distraint, with obligation as its primary justification.

**Key words:** debt, obligation, slavery, distraint, slave trade, dependence, labour, law

**JEL classification:** N30; P48

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It has often been argued that the fight against modern forms of slavery and slave-like practices is hampered by the lack of a universal definition that makes such practices readily identifiable. The position has been little easier for those studying the history of slavery. Wide variations in the conditions in which slaves lived and worked, for example, and the plethora of dependencies that existed cross-culturally in the past, have made the notion of slavery as a historical institution problematic. Historians in any case are rarely comfortable in dealing with universal explanations; while recognising that human bondage existed in 'almost all known historical societies and cultures', they have not yet been able to identify 'any specific set of shared social values' from which the institution arises.<sup>2</sup> Yet the very fact that slavery has existed across practically all known temporal and geographical boundaries makes the search for the key elements in social interaction that create and justify enslavement so crucial.<sup>3</sup> One such element is now emerging. A survey of global enslavement practices from the third millennium BCE to the present day reveals at least one commonality in the records of enslavement - the idea of obligation or debt. The extent to which slavery as a legitimate social practice may be linked to concepts of indebtedness is therefore the subject of the discussion below.<sup>4</sup>

## I.

Currently, the central organising concept of slavery, at least from a legal perspective, is that of ownership. According to the *Oxford English Dictionary*, a slave is

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<sup>2</sup> Ehud R. Toledano, *As If Silent and Absent: Bonds of Enslavement in the Islamic Middle East* (Yale, 2007), 1.

<sup>3</sup> Evidence of slavery can be found in the earliest written records of the Middle East, and appears in the ancient civilisations of Africa, Asia, Europe and America as well as the modern civilisations of the east and west. The literature is immense, but see for example, Robert McC. Adams, *The Evolution of Urban Society: Early Mesopotamia and Prehispanic Mexico* (1966, paperback edition New Brunswick, 2005); Bernard J. Siegel, *Slavery During the Third Dynasty of Ur*, *American Anthropologist*, 49, 1, Part 2 (January, 1947); I. Mendelsohn, 'Slavery in the Ancient Near East', *The Biblical Archaeologist*, 9, 4 (1946); M.I. Finley, ed., *Slavery in Classical Antiquity: Views and Controversies* (Cambridge, 1960); idem, *Ancient Slavery and Modern Ideology*, ed. Brent D. Shaw (Princeton, 1998); K. Bradley, *Slavery and Society at Rome* (Cambridge, 1994); William Christie Macleod, 'Debtor and Chattel Slavery in Aboriginal North America', *American Anthropologist*, 27 (1925); W.E. Maxwell, 'The Law Relating to Slavery Among the Malays', *Journal of the Royal Asiatic Society, Straits Branch*, 22 (1890); David A.E. Pelteret, *Slavery in Early Medieval England: From the Reign of Alfred until the Twelfth Century* (Woodbridge, Suffolk, 1995); John S. Moore, 'Domesday Slavery', *Anglo-Norman Studies*, 11 (1981); Ruth Mazo Karras, *Slavery and Society in Medieval Scandinavia* (Yale, 1988); Diane Rapaport, 'Scottish Slavery in 17th-Century New England', *History Scotland*, January-February (2005); Henry Woodd Nevins, *A Modern Slavery* (1906; BiblioBazaar Reproduction Series, n.d.).

<sup>4</sup> Continuing work is exploring the implications of this: if we can link slavery to debt, then changes in the nature of debt, and in the ways it is both conceived and recovered are likely to have impacted on the institution of slavery.

primarily defined as 'one who is the property of, and entirely subject to, another person, whether by capture, purchase, or birth'. Such understandings, moreover, are built into universal laws that sought to eradicate slavery on a global level. It was in 1926, in the first article of the Convention to Suppress the Slave Trade and Slavery, that the international community, through the League of Nations, first decided to adopt the condition of ownership as its primary means of identification: 'Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised'.<sup>5</sup> This definition was upheld by the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, in September 1956.<sup>6</sup>

Such notions have apparently been with us for some time. Siegel claimed that during the Third Dynasty of Ur (20-21st century BCE), prisoners of wars and foreign slaves were 'characteristically chattels', even though 'the inland slave was differentiated in a number of ways from other forms of property and was considered legally and socially as a human being.'<sup>7</sup> Mendelsohn took a similar line with regard to the slaves of the Ancient Near East: 'Legally the slave was considered a chattel. He was a commodity that could be sold, bought, leased or exchanged.'<sup>8</sup> In Ancient Egypt too, it has been argued that 'slavery in the full sense is certainly to be found. There are persons who are the property of others, in the sense that those others have full and exclusive rights to make use of them by sale, exchange, hire and so forth, as of other moveable property.' Nevertheless Bakir was aware that the definition he applied to 'slave' was anachronistic, derived from a backward projection of the meaning it was to acquire later under the influence of Roman law. While there seems to have been a fundamental understanding of people as either free or unfree in Ancient Egypt, the unfree included people with various degrees of liberty, some of whom could be sold and others who could not.<sup>9</sup>

In the west at least, this was to change under the influence of Rome. The relativistic concept of property that obtained in Ancient Greece, in which there was no clear distinction between possession and ownership, was increasingly anathematic in

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<sup>5</sup> <http://www.unhcr.org/refworld/docid/3ae6b36fb.html> [accessed 16 Mch 2012]

<sup>6</sup> <http://www2.ohchr.org/english/law/slavetrade.htm> [accessed 16 Mch 2012]

<sup>7</sup> Siegel, *Third Dynasty*, 49.

<sup>8</sup> Mendelsohn, 'Ancient Near East', 80.

<sup>9</sup> Abd El-Mohsen Bakir, *Slavery in Pharaonic Egypt* (Le Caire, 1952), 8, 124.

the Roman context.<sup>10</sup> Slaves - along with land - constituted a major form (and marker) of individual wealth; and given the degree to which Romans depended upon slavery for their social, economic, and even cultural success, it is not surprising to find that Roman jurists sought to clarify the division between free and slave in an attempt to gain control over the latter. They chose to do this through the introduction of the legal fiction of absolute ownership, 'a new legal paradigm in which there could be no room for ambiguity in deciding what was and what was not the object of property'.<sup>11</sup> The emergence of the notion of *dominium*, or absolute ownership, was, according to Patterson, of key significance. Though problems remained in defining the slave as *res* (thing) the description not only served to demarcate slavery from a range of servile positions that were similar to it (*nexus, auctoratus, addictus* for example), but also sealed the identity of the slave as a chattel, which, 'like any other chattel, might be the subject of all ordinary transactions'.<sup>12</sup> Singularly powerful in its application, this notion of the slave as an object has become the central plank of definition and understanding in the historiography of slavery, to the point at which chattel slavery has become synonymous with the institution itself.<sup>13</sup>

Yet in a significant departure from this traditional understanding of slavery, Patterson's skilfully argued comparative study of the institution has invited the reader to consider it 'as a relation of domination rather than as a category of legal thought'.<sup>14</sup> While he agreed that 'the notion of property certainly has an important place in any discussion of slavery', he asserted that 'it is in no way one of the constitutive elements'; property, he noted, merely forms part of the conceptual apparatus of the idiom of

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<sup>10</sup> Citing the work of Cicero, Plato and Aristotle, Jones claimed that in the case of the Greeks, it was evident that a man could possess without owning. Walter Jones, *The Law and Legal Theory of the Greeks* (Oxford, 1956), 201.

<sup>11</sup> Orlando Patterson, *Slavery and Social Death A Comparative Study* (Cambridge, Massachusetts, 1982), 29-31. As objects, slaves were often likened to animals or livestock. See for example, the letter of slaving captain James Irving to his wife Mary in 1787, where he referred to the slaves in his cargo as 'Black Cattle'. Suzanne Schwarz, ed., *Slave Captain: The Career of James Irving in the Liverpool Slave Trade*, second edition (Liverpool, 2008), 87.

<sup>12</sup> W.W. Buckland, *The Roman Law of Slavery The Condition of the Slave in Private Law from Augustus to Justinian* (Cambridge, 1908; reprinted 1970), 10-11.

<sup>13</sup> The nineteenth century saw a marked extension of the category of debt bondage as distinguished from 'true' slavery, and some attempts at its regulation. This reflected new anti-slavery sentiment and legislation but also reveals the difficulty Europeans had in applying the concept of the transatlantic slave to global slavery more generally. The distinction between the two was made on the supposedly 'temporary and qualified nature of debt-bondage', and the fact that the bondsman had the right to buy back his freedom. Yet in most societies slaves were able redeem themselves for the right price. Anthony Reid, 'Introduction: Slavery and Bondage in Southeast Asian History', in Anthony Reid, ed., *Slavery, Bondage and Dependency in Southeast Asia* (St Lucia, Queensland, 1983), 11.

<sup>14</sup> Patterson, *Social Death*, 334.

power.<sup>15</sup> His invitation is persuasive. The notion of power provides a much broader, and consequently a much more useful context in which to outline the definition of a slave than the standard legal concept of ownership, and Patterson's work has had a major impact on the study of slavery. The question of why some individuals would wish to control the actions of others - a question that remains at the heart of the slave-master relationship - is then at one level relatively straightforward: impressment to labour. Drawing out an explanation for the desire to control, however, is only half the solution, since it does not reveal the justification that appears to have been inherent within it. An unequal power relationship would certainly have been a necessary condition for the creation of a slave relationship, but would it have been a sufficient one? Given that slavery was present in such a wide and varied range of social settings, we also need to understand the mechanisms that authorised such abject subordination. For it appears that 'something in human nature made slavery possible everywhere, and it took major transformations in our thinking to get rid of it.'<sup>16</sup>

## II.

Part of our difficulty in conceptualising the nature and form of slavery in the present results from our lack of knowledge about how enslavement came into existence in the past. There have been a number of attempts to remedy this. Currently the view that has reached some level of orthodoxy, or at least popular acceptance, was that originally articulated by Karl Marx, but perhaps most fully elaborated by Fredrich Engels, in the late nineteenth century. Slavery, according to this conceit, was 'invented' once human labour was able to produce a surplus over and above its maintenance cost. Humanity, moving beyond the mere immediate sufficiency of the simple hunter-gatherer, had put in place a system of future provision with the introduction of 'cattle breeding, metalworking, weaving and, lastly, agriculture'. Now wars were able to satisfy this new demand for labour: instead of being killed or adopted into the victor's tribe, captives were converted into slaves.<sup>17</sup> Such views were still in vogue a hundred years later. As Robert Fogel repeated on the opening page of his volume on the rise and fall of American Slavery in 1989:

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<sup>15</sup> Patterson, *Social Death*, 17-21.

<sup>16</sup> Toledano, *Silent and Absent*, 1.

<sup>17</sup> Frederick Engels, *The Origin of the Family, Private Property and the State In the Light of the Researches of Lewis H. Morgan*, ed. Eleanor Burke Leacock (New York, 1972), 118.

Slavery is not only one of the most ancient but also one of the most long-lived forms of economic and social organization. It came into being at the dawn of civilization, when mankind passed from hunting and nomadic pastoral life into primitive agriculture.<sup>18</sup>

Comparisons have also been drawn between the domestication of animals and the emergence of slavery.<sup>19</sup> But the notion that men were inclined to enslave their fellows only when a more clearly demarcated need for labour arose in the context of agricultural development has been somewhat undermined by the discovery that forms of slavery also existed within hunter-gatherer societies. Slavery in socio-economic groups of this nature, however, was clearly limited and small-scale; and though the anthropological study of social formations has indicated that slavery may not have emerged as an economic institution at the same time as, and in order to facilitate, the exploitation of newly-devised agricultural systems, there is no doubt that 'the more complex the economy, the greater the inequality' within that economy, and the more likely it was that slavery would be present.<sup>20</sup>

A further way in which enslavement may have emerged as a social status has been the focus of recent work by John Edwards Philips, as part of his call for 'a new way of thinking about the problem of slavery'.<sup>21</sup> After setting out evidence for the presence of slavery in a variety of social and economic settings, Philips has used this universality in support of his claim that slavery is 'in origin, a relationship of psychological dependence induced by lack of connection to the surrounding society and resulting shame and loss of control'. Unable to exist in isolation, early humans developed a form of 'natural "sporadic" slavery', which served as a means to 'integrate new members into a society'. What had initially emerged out of the natural processes of human bonding,

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<sup>18</sup> Robert William Fogel, *Without Consent or Contract The Rise and Fall of American Slavery* (New, York and London, 1989), 17.

<sup>19</sup> David Brion Davis, *Inhuman Bondage The Rise and Fall of Slavery in the New World* (Oxford, 2006), 30.

<sup>20</sup> In Murdock's *Ethnographic Atlas* of the 1960s slavery was reported in only 3 per cent of hunter gather societies, in comparison with 43 per cent of advanced agricultural societies. See Jack Goody, 'Slavery in Time and Space', in James L. Watson, ed., *Asian and African Systems of Slavery* (Berkeley, 1980), 25. Goody gave no indication, however, of exactly how slavery in these studies was defined. See also Orlando Patterson, *Freedom Volume I: Freedom in the Making of Western Culture* (1991), 11-12.

<sup>21</sup> John Edward Philips, 'Slavery as a Human Institution', *Afrika Zamani*, 11 and 12 (2003-4), 29.

however, was later extended for the purpose of economic gain.<sup>22</sup> The slave, in Philips' analysis, appears in the guise of an isolated alien, seeking the security and benefit of human contact in the harshest form of dependency.<sup>23</sup>

As a discursive feature, alienation - like ownership - has been a major factor in understanding the nature of slavery in the past. Claude Meillasoux, for example, advanced a two-fold concept of the slave as an outsider. Slaves were interlopers firstly because they were captured from within an alien social group, but they were then additionally subjected to processes of de-socialisation, de-civilisation and even de-personalisation in order to locate them securely as subordinates within their new situation. In this way the captive taken in war became an alien in the host society.<sup>24</sup> In the analysis of Myers and Kopytoff too, and regardless of the way in which he or she entered the condition of bondage, the slave was characterised as a stranger who originated from outside the kinship group, beginning his or her period of enslavement as an alien, and only gradually becoming assimilated into the kinship structure.<sup>25</sup> Patterson also relies heavily on a view of the slave as an alien, but his focus is more particularly concentrated on the symbolic way in which the slave *becomes and is identified as* an alien, rather than the physical boundaries (of kin or society) that designate him or her as an outsider. And certainly in many cases slaves were not in actuality acquired from outside their own society, but instead from within it, usually as a result of some form of social transgression. Patterson therefore identified two distinct forms of alienation that resulted in enslavement: the intrusive mode, in which captured persons from outside the community were 'ritually incorporated as the permanent enemy on the inside'; and the extrusive mode, in which 'the dominant image of the slave was that of an insider who had fallen, one who had ceased to belong and had been expelled from normal participation in the community because of a failure to meet certain minimal legal or socioeconomic norms of behavior.'<sup>26</sup>

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<sup>22</sup> Philips, 'Human Institution', 34.

<sup>23</sup> Joseph Miller has also linked the emergence of slavery with community, although his more pessimistic outlook sees its beginnings in the immolation of captive aliens as a way to forge collective identities amongst 'relatively amoral creatures operating primarily with only hominid predation'. Joseph C. Miller, *The Problem of Slavery as History A Global Approach* (New Haven, 2012), 44.

<sup>24</sup> Claude Meillasoux, *The Anthropology of Slavery The Womb of Iron and Gold*, tr. Alide Dasnois (London, 1991), 99-115.

<sup>25</sup> Suzanne Miers and Igor Kopytoff, eds, *Slavery in Africa Historical and Anthropological Perspectives* (Madison, Wisconsin, 1977), 22-40.

<sup>26</sup> Patterson, *Social Death*, 38-45.

Patterson's view is informed by his study of a number of broad categories in the historiography of enslavement: as a result of capture in war; by kidnapping; through birth; for tribute or tax payment; through debt; through abandonment or sale of children; as a result of self-sale; as a judicial punishment.<sup>27</sup> It seems unlikely that all of these categories would have been present at the dawn of slavery, but the institution in some form or other may well have existed for as long as human beings have lived together socially. Signs for 'slave-girl' appear in the first proto-literate tablets of the fourth millennium BCE, for example, and by the Third Dynasty of Ur there are a number of legal documents that provide evidence of the purchase and sale of slaves.<sup>28</sup> The period of the Third Dynasty, dominating the last quarter of the third millennium BCE, and preceding that of the famous Hammurabi, found the southern Mesopotamian peoples engaged a highly complex contract economy, with a written literature and a vast ruling bureaucracy and temple organization, based on agriculture and metallurgy. It is then not surprising to find a range of enslavement narratives that embraces many of the categories listed above: capture in war; birth; voluntary entry into servitude; and enslavement as a criminal punishment – the murder of a free man in the Third Dynasty resulted in death for the culprit and the enslavement of his whole family.<sup>29</sup>

Current historiography tends to allocate principal importance to intrusive methods of enslavement, although records indicate that during certain historical periods extrusive methods were able to deliver a substantial quantity of slaves.<sup>30</sup> During the Third Dynasty, for instance, Siegel argued that a large body of 'inland slaves [were] sold out of economic distress';<sup>31</sup> and while war captives and imported foreign slaves made up a considerable part of the slave population of the Ancient Near East, most of the Babylonian, Assyrian, Canaanite and Hebrew slaves came originally from the free-born native population. The 'basic source of supply for the ever mounting number of

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<sup>27</sup> Though kidnapping is often listed as a method of enslavement, authors rarely note that it has always been considered an illegal practice with sanctions. See for example, Deuteronomy 24, 7, where those guilty of kidnapping fellow Israelites for sale or slavery were to be executed; or Equiano's claim that a man convicted of kidnapping a boy 'had to make recompense by a man or woman slave.' Olaudah Equiano, *The Interesting Narrative and Other Writings* [1784], ed. Vincent Carretta (London, 2003), 33.

<sup>28</sup> Siegel, *Third Dynasty*, passim; David Brion Davis, *Slavery and Human Progress* (Oxford, 1984), 14.

<sup>29</sup> Siegel, *Third Dynasty*, 24.

<sup>30</sup> An overview of the historiography of African slavery, for example, highlights the fact that warfare, kidnapping and banditry together have been held to account for 'the vast majority of new slaves in history'. P.E. Lovejoy, *Transformations in Slavery: A History of Slavery in Africa*, second edition (Cambridge, 2000), 3; J. Walvin, *Black Ivory: A History of British Slavery* (1992), 26. For the role of violence in modern slavery see Kevin Bales, *Disposable People: New Slavery in the Global Economy* (Berkeley, 2000), 244-6.

<sup>31</sup> Siegel, *Third Dynasty*, 49.

slaves', according to Mendelsohn, 'was the native defaulting debtor', who generally came through one of three routes: having been sold by his or her parents; having voluntarily given him or herself up self-sale; or having become judicially enslaved as a direct result of default.<sup>32</sup> Nor was this a feature that was peculiar to ancient societies, but one that can be identified in medieval and early modern sources as well as those of more modern societies across the full range of geographic locations.<sup>33</sup> This suggests that at some level labour services could be mandated to the servicing of a loan, allowing slavery to operate as a form of debt recovery, in which the control of labour was granted for the purpose of fulfilling some outstanding debt or obligation.

Interestingly, it is precisely this concept - when conceived outside the narrow remit of monetary obligation - that is encapsulated within the idea of war as a rationalisation for enslavement. The history of enslavement as a consequence of war can be traced from the earliest surviving records right up to those of modern day.<sup>34</sup> Given early understandings of humanity as barbaric, it is not surprising to find that war has been upheld not only as a cause of the emergence of enslavement as an institution, but also as its validation. In the *Mahabharata*, for example, one of the major Sanskrit epics of Ancient India, war is offered as an early vindication for the institution of slavery: 'the vanquished is the victor's slave - such is the law of war'.<sup>35</sup> In Roman law, too, slavery - as defined by Justinian in the sixth century - was given authority precisely because it was thought to originate in war.<sup>36</sup> Little changed during the following millennium: according to Sir George Peckham, attempting to validate the trading

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<sup>32</sup> Isaac Mendelsohn, *Slavery in the Ancient Near East* (Westport, Connecticut, 1949, reprinted 1978), 23, 1-33; Mendelsohn, 'Ancient Near East', 76-79. Much of this Mendelsohn suggests was caused by the very high interest rates on loans, which varied from 20 per cent to as much as 80 per cent per annum.

<sup>33</sup> While judicial enslavement is no longer legal, voluntary self-sale continued into the twentieth century at least, and the sale of children into bondage has been and continues to be a major social problem. See for example, John Gerassi, *The Great Fear in Latin America*, new revised ed. (London, 1969), 98; C. Martin Wilbur, *Slavery in China During the Former Han Dynasty 206 B.C.-A.D. 25*, Anthropological Series Field Museum of Natural History, 34 (Chicago, 1943), 85; and more generally in Gary Craig, ed., *Child Slavery Worldwide*, special issue of *Children & Society The International Journal of Childhood and Children's Services*, 22, 3 (2008); and in Gwyn Campbell, Suzanne Miers, and Joseph C. Miller, eds., *Children in Slavery Through the Ages* (Athens, Ohio, 2009).

<sup>34</sup> See for example the continuing difficulties in Sudan in Jok Madut Jok, *War and Slavery in Sudan* (Philadelphia, 2001).

<sup>35</sup> Sailendra Nath Sen, *Ancient Indian History and Civilisation*, second edition (1999), 559. Sen notes that slavery as a result of capture in war is discussed in other ancient Indian texts, including the *Arthashastra*.

<sup>36</sup> Buckland, *Text-Book*, 62.

activities of the English in the late sixteenth century, it had always been the case “That [those] such as should fortune to be taken in warre, should be servaunts or slaves.”<sup>37</sup>

At the root of all this validation, however, lay the belief that slavery was socially acceptable because it provided what was presumed to be a desirable alternative to death.<sup>38</sup> Certainly in early Islamic thought, slavery was understood to be ‘in the last analysis, only a kind of substitution for actual death’, and many European commentators, heavily influenced by christian notions of charity, accepted, and even supported the transatlantic slave trade in the belief that the Africans that were bought as slaves were war captives who would otherwise have been put to death.<sup>39</sup> This was not only a familiar argument in the canon of contemporary pro-slavery writings, but remains influential in modern historiography. As Stephanie Smallwood has recently argued, by the 1660s the demand for slaves on the Gold Coast had effectively shifted the practice of executing captive men, women and children that had been apparent half a century earlier: ‘it no longer was customary to neutralize the threat posed by surplus prisoners of war by executing them’ when they could be sold for a profit and similarly excluded on a permanent basis.<sup>40</sup>

The thesis of substitution is also to be found at the heart of arguments held by commentators taking a wide-ranging comparative approach to the origins of slavery. But a belief that the definition ‘slave’ in the proto-literate period had its philological basis in the expression for ‘foreign country’ led Robert Adams to extend the substitution argument to incorporate the idea of destitution alongside that of conflict. For Adams, slavery as an institution may have its beginnings ‘either in the taking of war captives or in the impressment of seminomadic groups who drifted into the [urban] settlements after their herds fell below an acceptable minimum for subsistence’.<sup>41</sup> His views underscore earlier comparative work in which ‘all the situations which created slavery. . . were those which commonly would have resulted, either from natural or social laws, in

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<sup>37</sup> Sir George Peckham, *A true reporte, of the late discoveries...by...Sir Humfrey Gilbert, Knight* (1583), Cii.

<sup>38</sup> Patterson rightly indicated that the ‘most distinctive attribute of the slave’s powerlessness was that it always originated (or was conceived of as having originated) as a substitute for death, usually violent death’. See *Social Death*, 5.

<sup>39</sup> Cited in Richard Hellie, *Slavery in Russia 1450-1725* (Chicago, 1982), 354.

<sup>40</sup> In 1722 it was apparent that those captured in war would still be put to death if a market could not be found. Stephanie Smallwood, *Saltwater Slavery A Middle Passage from Africa to American Diaspora* (Cambridge, Massachusetts, 2007), 21, 103. See also later discussion on the fates of war captives.

<sup>41</sup> McC. Adams, *Evolution*, 96.

the death of the individual'.<sup>42</sup> Slavery as a substitute for mortality may then have been the outcome of war, but also significant was the prevention of death as a result of starvation – the loss of material assets and earning power for those living close to subsistence level had catastrophic consequences that left individuals and families with few or no acceptable options.<sup>43</sup>

Slavery may also have been the instrument of social retribution, following a civil or criminal transgression. There is evidence that slavery in some cases took the form of direct punishment, but it could also appear indirectly as a result of shifts in the judicial process. Early private Roman law recognized the right of the victim to seize the body of the perpetrator to exact vengeance as required; later developments saw the right to kill mitigated by the notion of retaliation, and then by redemption, in which the victim accepted a payment in exchange for his right to vengeance.<sup>44</sup> This process was also a feature of the European states that developed after the fall of Rome. Emphasis was placed on a set of fixed or agreed indemnities known as composition, 'imposed or approved by order of a court and paid by an offender to his victim or his victim's kin, in default of which he could be delivered to his adversary for retaliation or enslavement.'<sup>45</sup> Such a choice was apparently still available to debtors in some parts of Asia in the late medieval period. According to Nicolo Conti, travelling in Sumatra and Java in the fifteenth century, 'Debtors are given up to their creditors to be their slaves. But he who, rather than be a slave, prefers death, seizing a naked sword issues into the street and kills all he meets, until he is slain by some one more powerful than himself'.<sup>46</sup>

The decision to accept enslavement as a survival mechanism, however, would have been followed not by a return to normal life, but instead by a life foregone in the service of a 'saviour'; in this way physical death was replaced with a type of social death,

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<sup>42</sup> Ali Abd Elwahed, *Contribution A Une Théorie Sociologique De L'Esclavage* (Paris, 1931), 243.

<sup>43</sup> In Roman law, not only was slavery understood to be analogous with death, ending 'all public and private relations', but in addition there was no temporary slavery: 'if it was to end otherwise than by death this must be by a juristic act.' Buckland, *Text-Book*, 72.

<sup>44</sup> Max Kaser, *Roman Private Law*, tr. Rolf Dannenbring (Durban 1965), 135-6. As Minow notes, although generally understood as the violent precursor of more measured legal systems, 'Vengeance is also the wellspring of a notion of equivalence that animates justice.' Martha Minow, *Between Vengeance and Forgiveness* (Boston, 1998), 10.

<sup>45</sup> J. Thorsten Sellin, *Slavery and the Penal System* (New York, 1976), 33-4.

<sup>46</sup> This did not, however, end the debt, since 'then comes the creditor of the dead man and cites him by whom he was killed, demanding of him his debt, which he is constrained by the judges to satisfy.' See 'The Travels of Nicolo Conti, in the East, in the early part of the fifteenth century', in R.H. Major ed., *India in the Fifteenth Century. Being a Collection of Narratives of Voyages to India...* (reprint of the Hakluyt Society, first series, 22, 1867), 16.

in which the slave effectively offered his or her life - the sum totality of his or her future action without restriction - in return for survival. Nor was this life necessarily guaranteed. Patterson has argued that in such circumstances 'execution was suspended only as long as the slave acquiesced in his [or her] powerlessness', and certainly the ability of the master to retain the right to determine the fate of a slave was inherent in many slave systems.<sup>47</sup> If we accept this argument as valid then the implications arising are clear: those in a position to grant life are owed a duty of repayment. In other words, the decision to actively prevent the death of someone sets up a debt or obligation that only the total submission of that person to his or her 'creditor' is able to repay.

### III.

Considering enslavement as the consequence of a debt offers a new way to explore the emergence of slavery as a human institution, in addition to deepening our understanding of its nature. The words 'debt' and 'obligation' have broad and interconnected meaning.<sup>48</sup> Though both in law currently refer to a formal promise through which an individual constrains him or herself to a particular course of action, 'debt' is usually taken in the modern sense to indicate an amount of money borrowed as the result of a commercial transaction, while 'obligation' is more frequently understood through the lens of duty, an action to which an individual is morally, rather than legally bound.<sup>49</sup> Both nevertheless appear as examples of institutional constraints, 'devised by human beings to create order and reduce uncertainty in exchange'.<sup>50</sup>

Douglass C. North, looking through the lens of institutional economics, has suggested that the development of all socio-economic institutions occurred as a direct

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<sup>47</sup> Patterson, *Social Death*, 5.

<sup>48</sup> Obligation: 'The action of constraining oneself by oath, promise, or contract to a particular course of action; a mutually binding agreement'; 'obligation, *n.*' *OED Online*. June 2003. Oxford University Press. 28 Mar. 2009 <<http://dictionary.oed.com/cgi/entry/00329175>>; debt: 'That which is owed or due; anything (as money, goods, or service) which one person is under obligation to pay or render to another'; 'debt, *n.*' *OED Online*. June 2003. Oxford University Press. 28 Mar. 2009 <<http://dictionary.oed.com/cgi/entry/00299371>>.

<sup>49</sup> Graeber has recently argued that the difference between a debt and an obligation is that 'a creditor has the means to specify, numerically, exactly how much the debtor owes.' D. Graeber, *Debt: the First 5,000 Years* (New York, 2011), 14. Yet this distinction was not always apparent. Individuals in colonial Africa were prepared to take 'longstanding disputes over property matters with close kin to the State's courts. Many of the "debts" were a combination of social, political, and economic obligations. Some were created and preserved in order to cement "relations of obligation and dependency", the recipients of "loans" being thereafter primarily clients rather than debtors.' Martin Chanock, 'A Peculiar Sharpness: an Essay on Property in the History of Customary Law in Colonial Africa', *Journal of African History*, 32 (1991), 84.

<sup>50</sup> Douglass C. North, 'Institutions', *Journal of Economic Perspectives*, 5, 1 (1991), 97.

result of 'the deliberate effort of human beings to control their environment'. The positioning of this effort has shifted over time, away from our natural environment and towards its social equivalent through the application of technological and intellectual knowledge, but the intentionality remains. Human beings impose structure on their lives in order to diminish uncertainty through 'an accumulation of prescriptions and proscriptions . . . a complex mix of formal and informal constraints . . . imbedded in language, physical artefacts, and beliefs that together define the patterns of human interaction.'<sup>51</sup> The fact that humans developed into social animals, moreover, suggests that survival was more likely to be the outcome of group than individual activity.<sup>52</sup> But living within a group setting brought with it the need for various forms of economic and social exchange: on the one hand between individuals within that group; and on the other between members of that group and others outside of it. Current theoretical work on the evolution of cooperation, whether it be in anthropology, psychology, economics or mathematics, 'is heavily skewed toward models of reciprocity', at least in part because humans, as Lee Alan Dugatkin has noted, are 'quite good "score-keepers"'.<sup>53</sup> Since living as part of a community clearly requires a continuing series of exchanges, the notion of reciprocity appears unsurprisingly as a vital feature of the human conceptual apparatus.<sup>54</sup> In every society for which we have a record, there seems to have been a

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<sup>51</sup> Douglass C. North, *Understanding the Process of Economic Change* (Princeton, 2005), 1.

<sup>52</sup> Darwin resolved the apparent paradox of natural selection and co-operation by arguing for the presence of 'inclusive fitness theory' that utilised natural selection at the level of the group rather than the individual. Lee Alan Dugatkin, *Cooperation Among Animals An Evolutionary Perspective* (Oxford, 1997), 5-6.

<sup>53</sup> Dugatkin, *Cooperation*, 167.

<sup>54</sup> The literature on reciprocity is considerable, and despite disagreements over its function, commentators have generally accepted the critical importance of the concept in relation to human sociability and stability. For Mauss, reciprocity existed in all social formations, inspiring economic actions through a complex mix of neither 'purely free' nor 'purely interested and utilitarian' motives, but central to the interplay between individual freedom and social obligation, in which gift-exchange was used to establish relations of domination and control; for Polanyi, keen to locate economic action in social relationships, reciprocity was a key mechanism in the ordering of production and distribution; for Levi-Strauss, reciprocity was one of three universal mental structures, 'integrating the opposition between the self and others'; and for Sahlins, all transactions from altruism to theft were reciprocities. Gudeman's more recent exposition is perhaps most relevant here. He sees reciprocity as an expression of community – as 'contingent, negotiated, vulnerable'- as 'part of a system of practices in which participants express, conserve, lose, and gain position in the sphere of social value'; in other words as a way to manage and distribute resources after, rather than prior to, their allotment. He further argues, with particular relevance for situations of enslavement, that 'in many situations reciprocity is an exchange of inequivalents'. Stephen Gudeman, *The Anthropology of Economy* (Oxford, 2001), 147, 86-90. See also Marcel Mauss, *The Gift Forms and Functions of Exchange in Archaic Societies*, tr. Ian Cunnison (London, 1966), 69-81; K. Polanyi, *The Great Transformation* (New York, 1944), 43-55; C. Lévi-Strauss, *The Elementary Structures of Kinship* (1949; second ed. and tr., London, 1969), 52-68, 85; Marshall Sahlins, *Stone Age Economics* (London, 1974), 185-275.

understanding of reciprocity, in which the expectation ran that good would be repaid with good (and bad with bad) in a veiled system of 'fair' exchange that was designed to maintain both individual and social equilibrium.<sup>55</sup>

It then seems likely that the notion of debt developed as a social strategy to manage tensions arising from unequal access to resources, to mitigate any resulting conflict, and to return the balance of resource ownership to the pre-existing status quo.<sup>56</sup> Those unable to survive satisfactorily through their own efforts would then have had little option but to apply to others for access to resources, offering some goods or labour services in return.<sup>57</sup> It may even have been the case that goods were offered by those in possession of a surplus with a specific intent to secure labour services.<sup>58</sup> Such dependency, in its initial phase, may have been restricted to weaker or less powerful individuals, especially women, and it could therefore be significant that the earliest word to reference slavery was that of 'slave-girl'.<sup>59</sup> But regardless of any gendered format, dependency arrangements would in every case have involved a loss of honour, and consequently status, for the dependent as a result of the debt incurred; in this way debt embodies within it a system of self-regulation. Mauss noted in his early discussion of obligation, that the person who is unable to return a loan 'loses his rank and even his status as a free man'.<sup>60</sup> The desire to honour outstanding obligations, moreover, has

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<sup>55</sup> The fairness of reciprocal arrangements is often a point for discussion. Hauser sees reciprocity is an act of self-interest 'because it is driven by the expectation of a fair return'; see Marc D. Hauser, *Moral Minds How Nature Designed Our Universal Sense of Right and Wrong* (New York, 2006), 311. However, fairness is a subjective concept, in which the most powerful partner to the exchange usually has the greater faculty for carrying his or her interpretation.

<sup>56</sup> It has been argued that credit – and consequently debt, its alter ego – 'existed from the very earliest phases of economic activity, even before the evolution of barter proper'; see Sidney Homer, *A History of Interest Rates* (New Brunswick, 1963), 17.

<sup>57</sup> Inequitable access to resources could have arisen as a result of the possession of personal physiological or psychological traits, such as strength, size, speed or intelligence.

<sup>58</sup> Finley argued, for instance, that some of the cases in which men appear to sell their children for a given sum constituted examples of a fictive debt, designed to secure labour services. M.I. Finley, 'Debt-bondage and the problem of slavery', in idem, *Economy and Society in Ancient Greece*, ed. Brent Shaw and Richard P. Saller (London, 1981), 153-6. Ekechi claimed that in Igbo society, as elsewhere in Africa, 'a wealthy person could give loans to several individuals and thereby obtain their services as farm labourers. The work thus performed served as interest on the loan.' Felix K. Ekechi, 'Pawnship in Igbo Society', in Paul E. Lovejoy and Toyin Falola, eds., *Pawnship, Slavery and Colonialism in Africa* (New Jersey, 2003), 168. See also Bruno Lasker, *Human Bondage in Southeast Asia* (Chapel Hill, 1950), 114.

<sup>59</sup> See earlier for the discussion of slave girls in the earliest proto-literate tablets. Moreover, Pulleybank has argued that the institution of chattel slavery appeared in Imperial China in the Warring States period at the same time as the word for 'slave' emerged from an earlier word describing 'child' or 'wife and children'. E.G. Pulleybank, 'The Origins and Nature of Chattel Slavery in China', *Journal of the Economic and Social History of the Orient*, 1, 2 (1958), 193-5, 218.

<sup>60</sup> Mauss, *Gift*, 41, and see 63 for the moral ramifications of the debt, which when unpaid 'debases the man who accepted it'. In the case of the slave the debt was so overwhelming that it had the potential to be

been linked - in the fields of philosophy and psychology - to a sense of self, in which empathy and self-esteem are able to influence behaviour.<sup>61</sup> Thus 'once the disposition to reciprocate is acquired, and becomes a socially important equilibrium device for social intercourse, acting it out becomes crucial to self-esteem'; the result is the desire to provide restitution.<sup>62</sup>

As economies and societies expanded and developed, so there would have been a proliferation of dependencies linked to debt and obligation, and a broadening of the social hierarchy, in which the level of labour services the debtor needed to provide varied according to the level of the debt incurred. Indeed the range of terminologies used to identify debt-labour relationships has often operated as a major stumbling block to historians attempting to identify slavery in the past. In the earliest societies of Greece and Rome, for example, there appears to have been a shading of one status into another, which - though somewhat lost in the classical period - became visible again in the Empire and was transferred into the medieval world.<sup>63</sup> The 'non-liberty both of slaves and of certain "paysans" existed simultaneously' in medieval Byzantium, for example, where the differential status of the *paysans* was related explicitly to a system of obligations: 'the status of the dependent is defined with regard to the person towards whom he has debts'.<sup>64</sup>

While there is no doubt that the recipient would have been in a 'state of dependence upon the donor', levels of dependency, and their attendant degrees of status, would have been affected by two factors.<sup>65</sup> First, by the relative bargaining power of each of the parties to the exchange; and second, by the legal context in which that exchange was created. The number and form of possible dependencies that could have emerged as a result of inequitable relationships was considerable, but in practice most societies would have developed schemas of dependency that delivered categories of subjection which contained within them some variety of debt. Within this

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dehumanising, insofar as it empowered those who enjoyed domination over others to mistreat their slaves with impunity.

<sup>61</sup> Hauser, *Moral Minds*, 182-3, 195.

<sup>62</sup> Lawrence C. Becker, *Reciprocity* (London, 1986), 84.

<sup>63</sup> M.I. Finley, 'Between Slavery and Freedom', *Comparative Studies in Society and History*, 6, 3 (1964), 248-9.

<sup>64</sup> Youval Rotman, 'Formes de la Non-Liberté dans la Campagne Byzantine aux VIIe-XIe Siècles', *Mélanges de l'Ecole Française de Rome, Moyen Âge*, 112, 2 (2000), 500, 504.

<sup>65</sup> Mauss, *Gift*, 58. Although Mauss is intending to be general in his claim, his context is that of the Hindu classical period (first millennium CE), and the presence of similarities between principles of Brahminic law and certain customs in Polynesia, Melanesia and America.

schematization, slavery would have constituted the most extreme form of dependency, in which an individual with no apparent alternative but that of imminent death, offered the sum total of his or her life services in exchange for the chance to survive.<sup>66</sup> In the extrusive context, slavery could then have resulted from either destitution or the conviction of an offence that justified capital punishment, assuming of course that labour was an acceptable exchange.

#### IV.

While establishing clear parallels between the emergence of enslavement and obligation is problematic, early classifications of slavery provide some grounds for confidence. There is certainly evidence that indebtedness provided a driving ideology for a state of subordination, and also that in some cases the power relationship functioned to ensure that the subordination materialised as a form of enslavement. In Ancient India, in the Mauryan period (c.300 – c. 200 BCE) for example, there appear to have been nine types of slavery, from birth and capture in war to self-sale and judicial enslavement.<sup>67</sup> The organising narrative, however, was one of obligation, and the nature of that obligation was dependent upon the status of the debtor. The *udaradasa*, or ‘slaves for the stomach’, for instance, were compelled to choose slavery as a result of poverty, but while the higher status Aryans among them served only for a designated period of time, the lower status Melchhas had no option other than permanent enslavement. Similar levels of differentiation are noticed in relation to cases of self-sale, a form of enslavement that was primarily occasioned by the completion of heroic deeds: ‘if a person was rescued from a dangerous situation by another person then the former could become the later ones slave either to repay or because of his distress situation [sic]’.<sup>68</sup> There was no question of enslavement if the rescuee was wealthy, however, and

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<sup>66</sup> The decision of those who were reduced to enslavement did not necessarily end with their own servitude, at least in the case of women. Any resulting offspring would frequently suffer the same fate, in large part because such children were dependent upon their mother – and thus her master - for survival, but also because status inheritance was closely linked with legitimacy, usually through some form of marriage. See P.D. Richardson and J. Spicksley, ‘Birth, debt and slavery: the transmission of slave status from mother to child’, in preparation.

<sup>67</sup> Anglo-Saxon society also had a range of words to denote the nature of the origin of the slave: through birth; crime; necessity; capture in war; age; lack of legal personality; occupational function. See Pelteret, *Early Medieval England*, 48.

<sup>68</sup> Rekha Rani Sharma, ‘Slavery in the Mauryan period (c. 300 B.C. – c. 200 B.C.)’, *Journal of the Economic and Social History of the Orient*, 21, Part 2 (1978), 189.

though an Aryan may have lost his own liberty through self-sale, his children retained their freedom. It was also forbidden for Aryan children below the age of eight to be mortgaged (or sold).<sup>69</sup> Later studies demonstrate that the ideology of debt as an enslavement mechanism was not restricted to ancient civilisations. David Feeny's work on the evolution of property rights in man in Thailand during the nineteenth century offers further evidence about the complex nature of dependency and debt, and the survival of older attitudes to labour. In the nineteenth century there were three categories of commoners who owed *corvée* obligations to the monarch, and no less than seven categories of slaves, of which only capture in war, according to Feeny, was unrelated to issues of financial debt.<sup>70</sup>

Economic debts incurred by individuals who transgressed accepted social boundaries could be substantial, leaving those perpetrators with restricted access to resources with few options. In medieval Francia, legal formularies indicate that in return for payments made to release them from the threat of execution, criminals agreed to enslave themselves to their benefactors as a means to provide compensation; the implication is that few would have done so had they enjoyed access to the amount demanded by the court.<sup>71</sup> In early modern Africa too, rich men accused of adultery, for which sale into slavery was a frequent punishment, rarely ended up as slaves; they were able to extinguish their obligations through a cash settlement.<sup>72</sup> Moreover, criminal activities could also have more devastating consequences if the *victim* was a wealthy man. William Bosman, chief factor to the Dutch at Elmina in the early eighteenth century, remarked that 'if any person here presume to debauch another's wife, if the injured person is a rich man, the offender must not only die, but such a crime is, besides that, sufficient to plunge his whole family into slavery.'<sup>73</sup> In this sense, slavery was not

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<sup>69</sup> Sharma, 'Mauryan period', 187-9.

<sup>70</sup> The summary provided by Feeny listed the following legal categories of slave: slaves in which the owner enjoyed full title; the children of slaves in the master's household; slaves inherited or received as gifts from their parents; gifts of slaves; slaves rescued from danger or legal penalties; slaves supported in times of dearth; slaves acquired as a result of capture in war. David Feeny, 'The Decline of Property Rights in Man in Thailand, 1800-1913', *Journal of Economic History*, 49, 2, The Tasks of Economic History (1989), 290.

<sup>71</sup> Alice Rio, 'Freedom and Unfreedom in Early Medieval Francia: The Evidence of the Legal Formulae', *Past and Present*, 193 (2006), 28. Rio notes that 'the idea of debt is very strong in self-sale formulae, both for crime and for actual unpaid debt, which were not strongly differentiated'.

<sup>72</sup> A Ilha de Bissau Segundo O Padre Manuel Álvares (1616) in Avelino Teixeira da Mota, *As Viagens do Bispo D. Frei Vitoriano Portuense à Guiné e a Cristianização dos Reis de Bissau* (Lisboa, 1971), 60.

<sup>73</sup> William Bosman, *A New and Accurate Description of the Coast of Guinea, Divided into The Gold, the Slave, and the Ivory Coasts* (1705), 480.

simply a function of the nature of justice at any given time and place, but also of the power relations that accompanied an unequal distribution of resources.

If enslavement could have occurred in response to asymmetric levels of resource holding *within* communities, the expansion in human numbers and the increasing proximity of communities would also have made resource management an issue *between* social groups. Two other scenarios for enslavement would then have presented themselves. In the first, individuals or small groups unable to access the resources they needed to survive in their own community may have requested such resources from others, agreeing to provide unlimited labour services in return. Voluntary slavery was 'a common phenomenon' in the Ancient Near East, 'especially among strangers who had neither kin nor friends to tide them over in times of distress', and it appears that such actions were also a feature of African life.<sup>74</sup> At the beginning of the seventeenth century in the area of Sierra Leone it was said that a man in trouble might go to his own king or a neighbouring king to ask protection 'and offer himself to be taken as a slave'; such individuals became captives, even if they were formerly free, and the king had the right to use or sell them.<sup>75</sup> In early modern Russia too, those 'who later sold themselves into slavery often had wandered all over Muscovy before doing so'.<sup>76</sup> Such actions even appear as a form of best practice in early sixteenth century English political philosophy: in Sir Thomas More's vision of Utopia, bondage was upheld as an appropriate response to the problem of the poor labourer who traded his freedom for the opportunity to work in a community other than his own.<sup>77</sup>

In the second scenario, stronger, more powerful individuals or groups seeking access to resources may have attempted to remove them from exogenous groups by force. Fighting would have ensued, and those vanquished in the battle put to death, unless some other fate awaited them. A number of war captives became sacrificial

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<sup>74</sup> Mendelsohn, *Slavery*, 14.

<sup>75</sup> J.D. Fage, 'Slaves and Society in Western Africa, c. 1445-1700', *Journal of African History*, 21 (1980), 307. Persons sought enslavement in Africa in this way for political protection as well as economic security. The memoirs of Job Ben Solomon [1734] indicate that slavery was the normal, if undesirable, response to a request for protection in Senegal at least - his grandfather introduced the following ruling: 'Among other Institutions, one was, that no Person who flies thither for Protection shall be made a Slave'. See the 'Memoirs of the Life of John Ben Solomon' in Elizabeth Donnan, ed., *Documents Illustrative of the History of the Slave Trade to America Volume II The Eighteenth Century* (Washington D.C., 1931), 420.

<sup>76</sup> Hellie, *Slavery in Russia*, 405.

<sup>77</sup> Thomas More, *Utopia* [1516], The Project Gutenberg eBook, ed. Henry Morley (2005), 'Of their slaves, and of their marriages'. In Utopia, enslavement could also result from capture in war, judicial process and the purchase of those condemned to death.  
<http://www.gutenberg.org/files/2130/2130-h/2130-h.htm> [accessed 19 Mch 2012]

offerings in elaborate religious rituals, for example, but more often they were set to work in return for sparing their lives.<sup>78</sup> Since individuals would have been offered enslavement as a substitute for death only in the presence of a demand for their services, it seems plausible to link the emergence of slave trading to the creation of a market in labour, whether or not this had occurred prior to, or as a result of, the transition around the eighth millennium from hunter-gatherer to pastoral and agricultural societies.<sup>79</sup> It seems important to point out here, however, that - as formulated in this argument - it was not their status as captives that made such individuals slaves, but the debt they had accrued in being allowed to live; it was only recognition of that debt through the annexation of labour services as a means to provide reparation that served to locate them securely within the category of 'slave'.<sup>80</sup> In other words, slavery required for its existence two conjoined elements - the symbiosis of debt and labour - and only when the labour of the captive was controlled by, and designed for the benefit of, his or her creditor did the captive become a slave. The price of the captive within a system of commodity exchange was also significant, since it operated to reify and transfer the outstanding debt from one captor or master to another; this price - in representing the life value of the captive - encapsulated within it the right to assert complete control over the labour power of the debtor through the commodification of his or her debt.<sup>81</sup> The characterisation of enslavement as a process rather than an event forms part of a recent study of the atlantic slave trade, and can in addition help explain the use of what has previously been understood as euphemistic terminology on the

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<sup>78</sup> A variety of outcomes were possible for war captives depending upon the needs of their captors; Patterson, *Social Death*, 106-115. John Matthews commented in 1787 that the fate of African captives taken in war was 'in a great measure determined by the season of the year', so that those taken after the harvest were rarely allowed to live, while those taken before the beginning of the rice season were kept as slaves to cultivate the ground, being sold after to neighbouring tribes, or kept 'as labouring slaves'. Donnan, ed., *Documents II*, 569. It would also have been affected by the number of captives taken at any one time. Rodney noted that 'after recruiting some Sape youths as soldiers, the Manes [who had invaded Sierra Leone in 1545] sold as many as possible to make the restless population manageable.' Walter Rodney, *A History of the Upper Guinea Coast, 1545-1800* (Oxford University Press, 1970), 102.

<sup>79</sup> North, *Economic Change*, 87.

<sup>80</sup> As Equiano noted war captives kept by the community as slaves were set to work, even if that work was relatively easy: 'Those prisoners which were not sold or redeemed we kept as slaves: but how different was their condition from that of the slaves in the West-Indies! With us they do no more work than other members of the community, even their master'; Equiano, *Interesting Narrative*, 39-40.

<sup>81</sup> João Mascarenhas, a Portuguese merchant held captive on the Barbary Coast in the early seventeenth century, recognised the moment of his sale as the point at which he had become a slave. 'Certainly there is no worse moment in life than that where a captive waits to discover what master will have him, since a man cannot know a greater misfortune, nor, for the punishment of his sins, a grander misery than that of being a slave'. Robert C. Davis, *Christian Slaves, Muslim Masters White Slavery in the Mediterranean, the Barbary Coast, and Italy, 1500-1800* (Basingstoke, 2004), 69.

coasts of West and West Central Africa.<sup>82</sup> While the Portuguese chose to describe the individuals they bought to ship across the Atlantic as 'resgates', a term associated primarily with ransoming, the French referred to their intended purchases as 'captifs'; neither customarily defined such prisoners as slaves.<sup>83</sup>

The sale of those intrusively enslaved had yet more ramifications outside their own community. Debt as a concept, at least in its informal beginnings, had to be supported by a measure of trust.<sup>84</sup> As Francis Fukuyama has recently argued, communities are formed 'not on the basis of explicit rules and regulations but out of a set of ethical habits and reciprocal moral obligations internalized by each of the community's members. These rules or habits gave members of the community grounds for trusting one another.'<sup>85</sup> While such customary constraints may have been a significant factor in the willingness of members to accept debt as a justification for enslavement within their own communities, such trust did not necessarily extend beyond them. Transaction costs would therefore have been higher, as a greater level of policing or control would have been necessary to maintain such individuals in a state of base servitude in their new locations.<sup>86</sup>

In this context too can be seen the beginnings of the process of objectification or commodification that eventually resulted in the Roman concept of a slave as *res*. Two elements were significant. First, in order for slaves' lives to become traded as commodities the debt that had acted to subordinate them had to be valued and

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<sup>82</sup> Smallwood has recently articulated the different stages of enslavement in the transatlantic trade from African captive, through Atlantic commodity to American slave. See Smallwood, *Saltwater Slavery*, esp chs 2 and 6.

<sup>83</sup> 'Curiously, the word *resgate* (hostage or ransom) and *resgatar* (to ransom or liberate) were the terms used to describe the process of acquisition, the original notion being that the African was received in hostage to prevent his slaughter by his fellow Africans and to liberate him from his pagan state through the teachings of Christianity. The original significance of the terms, going back to medieval Portuguese-Moorish relations, had no reality in the African trade, and may have been unconsciously used as a euphemism to hide the trade's unsavoury character.' James Duffy, *Portuguese Africa* (Cambridge Mass., 1959), 140.

<sup>84</sup> Entering into a venture with someone requires 'an assessment of trust to both launch and maintain the relationship'. Hauser, *Moral Minds*, 286.

<sup>85</sup> Francis Fukuyama, *Trust The Social Virtues and the Creation of Prosperity* (London, 1995), 9.

<sup>86</sup> The Bobangi, for example, 'distinguished between *montamba*, a slave who had been sold by his kin group, and *montonge*, a captured slave. Slaves in the former category were unlikely to run away because they had no place to go....A captured slave, on the other hand, had quickly to be taken far from the point of capture so that he could not return home nor his kinsmen reclaim him.' Robert W. Harms, *River of Wealth, River of Sorrow The Central Zaire basin in the Era of the Slave and Ivory Trade, 1500-1891* (New Haven, 1981), 32.

quantified so that it could be made available for exchange.<sup>87</sup> In this sense, domination and commodification became inextricably linked in order to provide a 'good' that could be governed by the rules of exchange and ownership. Second, although the purchase of a slave involved the transfer of subjection rather than individual being, the fact that this involved an abrogation of all right to independent action had significant ramifications for the status of the slave and his or her ability to participate fully within the community as a person: our consciousness and its ability to allow us to make decisions is understood to constitute one of the major factors that marks us out from other creatures.<sup>88</sup> And there were further implications. Once an individual came to be understood in the same way as a commodity, debt not only had the power to create slaves, but also to expand their significance, as currency, as tribute, and as a store of value. Those having the ability to generate slaves were then in a position to generate wealth as well as improve their status.<sup>89</sup>

## V.

It is now possible to attempt a reworked definition of slavery that recognises its emergence - along with a range of other dependencies - in a response to inequalities in the ability to access key survival resources, initially within groups, but later between them also. Enslavement now appears as a peculiarly exploitative form of distraint, the result of an obligation that was created by a decision to save the life (or prevent the death) of someone in order to utilise the talents of that person for the provision of some form of labour.<sup>90</sup> In accounting for the chance to avoid death, however, the debtor was understood to have handed over his or her life in service, effectively exchanging one life for another, by fully abrogating all rights to independent action until the obligation was repaid. In this reversal of the classic Faustian pact, the bargaining position of those

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<sup>87</sup> 'In a commodity exchange, the reciprocal independence of the transactors, and the alienability of the objects transacted, means that the exchange relation established is between the objects rather than the subjects. Thus commodity exchanges objectify social relations between people and they appear as a quantitative relation between the objects exchanged.' C.A. Gregory, *Gifts and Commodities* (London, 1982), 45.

<sup>88</sup> Hauser, *Moral Minds*, 308.

<sup>89</sup> Fukuyama argued in *The End of History and the Last Man*, that 'every human being seeks to have his or her dignity recognized (i.e. evaluated at its proper worth) by other human beings. Indeed, this drive is so deep and fundamental that it is one of the chief motors of the entire human historical process.' Once subsistence levels are satisfied, economic activity in a social context is often undertaken for the sake of recognition, Fukuyama, *Trust*, 6-7.

<sup>90</sup> What is being transferred is the life capacity of the debtor, so that it can be argued that even slaves who appear as decorative rather than productive were there to provide labour services.

faced with imminent death was virtually zero, allowing the creditor to make unlimited demands on the labour services of the debtor.<sup>91</sup> The result was abject dependency, the lowest possible status and a concomitant loss of honour. While current opinion tends to favour the emergence of slavery as a result of intrusive methods of enslavement, most commonly war, here it has argued that the first attempts at enslavement may well have arisen in response to extrusive conditions in which the individual had little option but to offer up his or her independence in exchange for access to the resources needed for survival, or to escape a capital punishment. In this re-imagining of slavery the emergence of the slave trade appears as a later, or at least separate, initiative, driven by new demands for labour that encouraged communities to sell or trade their war captives, along with others that were under threat of death. Moreover, this transfer of a life debt encapsulated all the future labour services of the debtor, allowing the development of a market in lives that became the cornerstone of slavery as an institution. The exploitative potential of such a system was enormous, but did require additional safeguards: higher transaction costs resulting from the absence of trust following commodity exchange paved the way for the harsher treatment of slaves created intrusively, while the process of commodification itself reduced imagined obligations to market objects through which lives could be bought and sold with impunity. Such highly asymmetric power relations were underpinned in the first instance by discourses of justice, but could ultimately be secured through the threat and, where necessary, the application of violence.

There is a considerable body of evidence that can be brought to bear on the argument that debt has been both the primary reason and the primary justification for the introduction and extension of slavery. It has already been noted that typologies of slavery provide evidence of indebtedness as a driving ideology, but further support includes: the fact that some early philological forms of slavery emerged within a context of dependency<sup>92</sup>; the existence of debt slavery in relation to number of status

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<sup>91</sup> See also the arguments of Gerard Mellier, the treasurer of France for Brittany, in support of the slave trade, as outlined in Robert Harms, *The Diligent A Voyage Through the Worlds of the Slave Trade* (Perseus Press, 2002), 13-20.

<sup>92</sup> See the earlier discussion in Pulleybank and the dual meaning of the Greek word 'pais', in Mark Golden, 'Pais, "Child" and "Slave"', *L'Antiquité Classique*, 54 (1985), esp. 93-7. Boswell also points up the problems involved in interpretation that result from the fact that terms for 'boy', 'girl' and 'child' for example, 'are regularly employed to mean "slave" or "servant" in Greek, Latin, Arabic, Syriac, and many medieval languages.' John Boswell, *The Kindness of Strangers The Abandonment of Children in Western Europe from Late Antiquity to the Renaissance* (London, 1988), 27-8. There is also a sociological similarity in terms of

positions<sup>93</sup>; the existence of a considerable amount of debt slavery in early civilisations, as well as many later ones<sup>94</sup>; the conceptualisation of slavery as a remedy for destitution, both in theory and practice<sup>95</sup>; the attempts by various sectors of a range of societies to restrict the legality of debt-slavery<sup>96</sup>; and the release of a slave only through some symbolic or financial repayment.<sup>97</sup> We may therefore now have access to the 'specific set of shared social values' that caused slavery to exist in almost all known historical societies - the right to repayment of a properly constituted debt. Distraint on the body was the earliest form of debt recovery.<sup>98</sup> Indeed the ability of creditors to exercise rights over persons in order to reclaim outstanding debts through labour appears to lie at the heart of dependency relationships in the past, and may well prove

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the power relation between children and slaves: while a master is understood to have given life to his slaves, a father has given life to his children.

<sup>93</sup> In his volume on Ptolemaic slavery, Westermann noted that debt slavery existed in relation to a number of status positions, ranging from 'mild' debt-bondage to full-blown slavery. Cited in Yoram Barzel, 'An Economic Analysis of Slavery', *Journal of Law and Economics*, 20 (1977), 106.

<sup>94</sup> Enslavement as a result of debt has been identified in practically every society where slavery was known, although it remains more prevalent in those that were commercially advanced. For a survey see Patterson, *Social Death*, 124-6. The fact that Muscovite slavery was largely driven by debt in some form or other caused Hellie to argue for its 'essentially antique nature'. Hellie, *Slavery in Russia*, 357. For accounts of the links between slavery and gambling in more recent history see S.A. Winsnes, ed., *A Reliable Account of the Coast of Guinea* (1760) by Ludewig Rømer (Oxford, 2000), 181; and Leland Donald, *Aboriginal Slavery on the Northwest Coast of North America* (University of California Press, 1997), 117-8.

<sup>95</sup> Hellie argued that slavery was necessary in Muscovy because of 'inadequate alternative relief or welfare institutions', Hellie, *Slavery in Russia*, 377; during the Yi dynasty in a relentless period of drought, flood, pestilence, and famine - especially that of 1671 - the government urged people to pick up and care for abandoned babies thrown into ditches or left on roads, ordering that those who did so were allowed to adopt them or make them slaves; Takashi Hatada, *A History of Korea* (Santa Barbara, California, 1969), 87. In England in 1547 *An Act for the punishing of vagabonds, and for the relief of the poor and impotent persons* provided for runaway servants and vagabonds to be first temporarily and then permanently enslaved - the part of the act relating to enslavement was repealed two years later; 1 Edw. 6, c.3., 3 & 4 Edw. 6 c.16. In 1698 Andrew Fletcher called for an acceptance and promulgation of slavery, 'that no man might want the necessities of life, nor any person able to work be burdensome to the commonwealth'; Andrew Fletcher of Saltoun, *Selected Political Writings and Speeches*, ed. David Daiches (Edinburgh, 1979), 46-66. See also Michael J. Rozbicki, 'To Save Them from Themselves: Proposals to Enslave the British Poor, 1698-1755', *Slavery and Abolition*, 22 (2001).

<sup>96</sup> Again Patterson is a good place to start in looking for societies aiming to restrict slavery for debt - see *Social Death*, 125-6. See also Finley, 'Debt-bondage', 156-66. There is a distinction to be made in this context too, that I have not been able to address here, between those who suffered immediate enslavement for the debt they contracted - usually the poorest who effectively exchanged resources for slavery - and those in default who were sold in to slavery to recover a debt.

<sup>97</sup> For cases and causes of manumission in Rome and elsewhere see Bradley, *Slavery and Society*, 17, 159-165. Moreover, 'if a man be enslaved his debts cease to bind him, and his liability does not revive if he is manumitted'; Buckland, *Roman Law*, 3. The Qur'an recommends freeing slaves in order to expiate sins as well as an act of simple benevolence, but it also calls on masters to allow slaves to purchase or earn their own freedom. Bernard Lewis, *Race and Slavery in the Middle East An Historical Enquiry* (Oxford, 1990), 6.

<sup>98</sup> In Rome, the pledging of lands or property was a later legal development: originally a creditor's rights over the goods of his debtor were in fact 'a consequence of the rights he exercised over his person'. Cited in M.I. Finley, 'La Servitude pour Dettes', *Revue Historique de Droit Français et Etranger*, fourth series, 43, trad. S. DuParc (1965), 175.

capable of providing a new window onto current forms of bondage. Accepting the hypothesis that slavery emerged in response to, and as a means to repay, a debt has implications for both historical and modern understandings of slavery. Historically, it is then possible to argue that extrusive and intrusive slavery emerged essentially from the same root - the debt-labour linkage - and it is only because the latter derived from a system of commodity exchange in which captives appeared as items for sale, that the debt mechanism at the heart of the process has been obscured. Recognizing ownership as a consequence rather than a marker of enslavement may also have significant ramifications in the sphere of modern day slavery studies, in which there are often claims about the utility of debt. In Kevin Bales' cutting exposition of contemporary enslavement, for example, a key aspect of such practices 'is the slave's loss of control over his or her life and ongoing "obligation" to the slaveholder'.<sup>99</sup>

As the manifestation of the most exploitative form of labour relations, in which labour had to be bound indefinitely and in its totality to the redemption of a debt, slavery appears first and foremost as the ultimate method of restraint, arising out of a system of asymmetric power relations that was supported by an imbalance in levels of access to resources.<sup>100</sup> Moreover, it was in this guise that it received its justification. Debt not only provided the idiom in which power was clothed, but also its legitimacy.

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<sup>99</sup>Bales, *Disposable People*, 19. Bales outlines two other dimensions: the threat of violence, 'which holds the slave in place'; and the temporary nature of enslavement, although as he notes this is not always of short duration.

<sup>100</sup> Maisels has argued that the real basis of social stratification is 'control over basic subsistence resources such as land, water and, of course, the labour that makes them productive.' Charles Keith Maisels, *Early Civilizations of the Old World The Formative Histories of Egypt, The Levant, Mesopotamia, India and China* (London, paperback ed., 2001), 345.

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