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Labour Regimes and Labour Mobility from the Seventeenth to the Nineteenth Century

Alessandro Stanziani

Why coercion?

Many economists and economic historians follow Domar's model according to which labour coercion is likely to develop when labour is scarce compared to land. This model was based largely on Russian and medieval European serfdom, but it has been since used to describe several other contexts, not only in Russia, Africa and Asia, but also in Britain and the US as well. Such models are interesting not so much for what they explain but for what they fail to explain.¹ Thus, Domar's model suggests that slavery and serfdom were established when labour was scarce; in contrast, Habakkuk, Postan, North and Thomas stressed that in Western Europe, scarcity of labour accounts not for the strength but for the decline of serfdom and resulting capital intensification. In the first case, labour scarcity led to coercion, in the second it led to increased wages and hence to capital intensification.²

¹ Evsey D. Domar 'The Causes of Slavery or Serfdom: A Hypothesis' *The Journal of Economic History*, 30, 1, (1970): 18-32; Evsey D. Domar and Mark J. Machina, 'On the Profitability of Russian Serfdom', *Journal of Economic History*, 44, 4 (1984): 919-955. Domar's model was strongly inspired by Nieboer, a Dutch ethnographer in the late nineteenth-early twentieth century. Herman Nieboer, *Slavery as an Industrial System. Ethnological Researches* (The Hague: Martinus Nijhof, 1900).

² H. J. Habakkuk, 'The Economic History of Modern Britain,' *Journal of Economic History*, 18, (1958): 486-501; H.J. Habakkuk, *American and British Technology in the Nineteenth*

Similarly diverging views and scant empirical confirmation of Domar's model emerge with regard to the colonial worlds. The cases of Australia and Canada testify to the fact that the colonization of new territories did not necessarily entail massive imports of slaves as in the US.³ In Russia itself, the scarcity of labour was never mentioned in sources contemporary with the emergence of serfdom,⁴ while the abolition of slavery in the British Atlantic colonies had little to do with demographic trends. As Seymour Drescher puts it, there was no fundamental change in demographic patterns in the tropical world beyond Europe in the watershed period of 1760-90.⁵ Wrigley and Schofield show that Britain established its overseas slave system during the very decades when the net emigration rate reached a three-

Century (Cambridge: Cambridge University Press, 1962); Douglass North, Robert Thomas, 'The Rise and Fall of the Manorial System: A Theoretical Model,' *Journal of Economic History*, 31 (1971): 777–803; Michael M. Postan, *Cambridge Economic History of Europe: Expanding Europe in the sixteenth and 17th Centuries* (Cambridge: Cambridge University Press, 1973). More recently see: Robert Allen, *British Industrial Revolution in Global Perspective* (Oxford: Oxford University Press, 2009).

³ Stanley Engerman (ed.), *Terms of Labor. Slavery, Freedom and Free Labor* (Stanford: Stanford University Press, 1999); Martin Klein, *Breaking the Chains. Slavery, Bondage and Emancipation in Modern Africa and Asia* (Madison: the University of Wisconsin Press, 1993).

⁴ Alessandro Stanziani, *Bondage*.

⁵ Seymour Drescher, *Capitalism and Antislavery. British Mobilization in Comparative Perspective* (New York: Oxford University Press, 1987): 11.

century peak (1641-61); in contrast, British abolitionism took off exactly when the net emigration rate sank to a tercentennial low (1771-91).⁶

Yet, it was not just a matter of supply and demand of labour between masters and labouring people. In the period here considered, contract enforcement was a substitute for higher wages: masters used it as long as they could, in order to secure labour.⁷ This was possible because of two farther conditions: first, society considered labour as a service and an obligation vis-à-vis the head of the family, the village, the master, the town and/or the state; second, labouring people had few political, civil and legal rights compared to those of their masters.⁸ In the European context, unequal political rights and the exclusion of labouring people from the benefit of the Glorious Revolution in Britain and its colonies, of the Revolution in France and its colonies as well, allowed masters to limit wage increase, despite the lack of labour. Moreover, in both areas, free labour, even where a contract existed, was considered the property of the employer and a resource for the whole community to which the individual belonged.⁹ Labour was part of the broader public order. In the following pages we

⁶ E.A. Wrigley, R.S. Schofield, *The Population History of England: a Reconstruction* (Cambridge: Cambridge University Press, 1982): 218-221.

⁷ Michael Huberman, 'Invisible Handshakes in Lancashire: Cotton Spinning in the First Half of the Nineteenth Century,' *Journal of Economic History* 46, 4 (1986): 987-98.

⁸ Alessandro Stanziani, *Bondage. Labor and Rights in Eurasia, 17th-twentieth* (New York: Berghahn, 2014).

⁹ Robert Steinfield, *The Invention of Free Labour: The Employment Relation in English and American Law and Culture, 1350-1870* (Chapel Hill: North Carolina University Press, 1991); Michael Postan, 'The Chronology of Labour Services,' *Transactions of the Royal Historical Society*, 20 (1937): 169-93; Tom Brass and Marcel van der Linden, eds., *Free and Unfree Labour: The Debate Continues* (Berne: Peter Lang, 1997).

will discuss the relationship between labour, contract and public order in Britain, then France, then the colonial world. Why these areas?

In this context, the French case is of interest not because it was the land of Colbertism and opposed to liberal England or because nineteenth-century France was the country of free, codified law as compared with Germany, which still lagged behind. On the contrary, France is of interest because its labour norms in the nineteenth century were actually quite well suited both to a capitalist economy and to the heritage of the Old Regime. Highlighting the case of France and comparing it with England leads us to question the differences between liberalism and regulationism—or between free labour and guilds within the capitalist world—and from there to narrow the distance separating free labour from varieties of bondage. Contrary to widespread preconceptions, common law in England was in fact accompanied by a considerable degree of regulation and state intervention, and labour remained subject to punitive constraints until the end of the nineteenth century.

While British and French norms and perceptions translated into various forms of bondage in the Indian Ocean region (thereby helping perpetuate slavery well after its official abolition), slavery nevertheless existed prior to any European intervention. The adopted solution did not result solely from British and French influences, but from the interaction between those influences and local traditions.

These comparisons on the national and imperial level are valid only as a rough approximation. No doubt, legal rules (civil, tax, and customs laws) refer to the national and imperial dimension of these phenomena; yet those rules were only one component of economic action, along with symbolic, cultural, and political aspects. Hence we cannot ignore the importance of local components and the great differences between the dynamics of different regions. Forms of labour varied from one city to the next and from one place to another. This observation is especially relevant in our case, as the institutions and economic

activities of the world we are studying were extremely fluid, multiple, and local, from the eighteenth to the early twentieth centuries. Several institutions coexisted on the local level, and even when a process of national unification took place, institutional pluralism continued. Institutional pluralism was more widespread on the level of empires, where legal pluralism was an important instrument of economic and political action.¹⁰

Labour, Contracts and Public Order in Britain

The idea that capitalism and in particular the British Industrial Revolution was made possible thanks to institutions that facilitated free contracts and (according to some) a proletarianized peasantry is supported by a long tradition. It dates back at least to the nineteenth century and classical economists such as Smith and Marx, continuing with Tawney and Polanyi and in most works of historical sociology and economic history in the twentieth century. Even the world-system approach, while stressing the existence of mixed forms of labour and exploitation on the periphery and quasi-periphery, has always assumed that free wage labour typified the “core”.¹¹ However, in recent decades, several pieces of research have contested the impact of enclosures and the existence of a truly free labour market in industrialising Britain.¹²

¹⁰ Lauren Benton, *Law and Colonial Culture* (Cambridge: Cambridge University Press, 2002).

¹¹ Immanuel Wallerstein, *The Modern World-System: Capitalist Agriculture and the Origins of the European World-Economy in the Sixteenth Century* (New York, London: Atheneum, 1974, 1976).

¹² Robert Steinfeld, *Coercion, Contract*; Simon Deakin and Frank Wilkinson, *The Law of the Labour Market: Industrialization, Employment, and Legal Evolution* (Oxford: Oxford

Until at least the mid-nineteenth century, the term *free labour* did not mean what we are now accustomed to it meaning.¹³ It included indenture, debt bondage, and several other forms of unfree labour.¹⁴ Conversely, the official abolition of slavery did not see the disappearance of forced labour, but rather the emergence of new forms.¹⁵ Thus, from the sixteenth to the nineteenth centuries, laws on runaway slaves and indentured servants were adopted not only in the colonial Americas, but also in Great Britain, where runaway workers, journeymen, and the like were subject to quite similar laws under the Master and Servant Acts and the Statute of Artificers and Apprentices of 1562. Apprenticeship, advances in wages and raw materials, and simple master-servant relations justified such provisions. Since the mid-seventeenth century, the Poor Laws related relief directly to workhouses. Any person lacking employment or permanent residence was no longer considered simply a “poor” person, but became a “vagrant,” and as such was subject to criminal prosecution. Anti-vagrancy laws did not decline but became stricter in the nineteenth century, particularly after the adoption of the New Poor Law in 1834. Between 1834 and the mid-1870s, there were about 10,000

University Press, 2005). Douglas Hay and Paul Craven, eds., *Masters, Servants, and Magistrates in Britain and the Empire, 1562–1955* (Chapel Hill: The University of North Carolina Press, 2004).

¹³. Brass, Van der Linden, *Free and Unfree Labour*.

¹⁴. David Galenson, *White Servitude in Colonial America: An Economic Analysis* (Cambridge: Cambridge University Press, 1981); David Northrup, *Indentured Labor in the Age of Imperialism, 1834–1922* (Cambridge: Cambridge University Press, 1995).

¹⁵. Pieter C. Emmer ed., *Colonialism and Migration: Indentured Labour Before and After Slavery* (Dordrecht, Boston, Lancaster: Martinus Nijhoff Publishers, 1986); Engerman, *Terms of Labor*.

prosecutions for vagrancy.¹⁶

In this context, the workhouse system was far from marginal: it has been estimated that in periods of crisis during the eighteenth and nineteenth centuries, about 6.5 percent of the British population was in a workhouse at any given time.¹⁷ Many have seen a strong influence of Bentham in the New Poor Law of 1834. The commission in charge of the New Poor Law insisted that workhouse labour would be applied for discipline rather than profit.¹⁸ Thus the years following the adoption of the new rules saw increasing number of paupers committed to workhouses for offences: the number of committals rose from 940 in 1837 to 2,596 in 1842, while over 10,500 committals for breach of workhouse discipline were recorded during the same period.¹⁹

Yet paupers and inmates increasingly resisted the Poor Laws and the workhouse principle, resorting to petitions, sabotage, and, in particular among women, self-mutilation. If one adds the massive protests against the Poor Laws in the 1830s, one would have a complex picture in which different central government orientations faced equally various local elites' attitudes and popular protests.²⁰

¹⁶ Sureh Naidu, Noam Yuchtman, 'How Green Was My Valley? Coercive Contract Enforcement in Nineteenth-century Britain,' *NBUR working papers*, 2009.

¹⁷ Derek Fraser, *The Evolution of the British Welfare State*, 4th ed., (London: Palgrave Macmillan, 2009): 67.

¹⁸ British Parliamentary Papers, *Report from the Commissioners for Inquiring into the Administration and Practical Reform of the Poor Laws, 1834*, XXVIII, appendix A.

¹⁹ David Green, 'Pauper Protests: Protests and Resistance in Early Nineteenth-century London Workhouses,' *Social History* 31, 2 (May 2006): 141.

²⁰ Felix Driver, *Power and Pauperism: The Workhouse System, 1834–1884* (Cambridge: Cambridge University Press, 1993).

Indeed, the history of workhouses has been one-sidedly linked to that of prisons, while the link with “normal” labour has been ignored. This link was strong not only for the forms of discipline and rights, but also for the way wages and assistance were related. The Statute of Labourers (1350–51) was enacted two years after the Ordinance of Labourers had been put in place and was followed by a set of laws gathered under the umbrella of the Master and Servant Acts, which multiplied in the sixteenth century and accompanied the Statute of Artificers and Apprentices (1562). During the term of service, the labour of servants was legally reserved for their masters. Even at the expiration of the term of service, servants were not allowed to leave their masters unless they had given “one quarter’s warning” of their intention to leave.²¹ Workers could be imprisoned until they were willing to return to their employers to complete their agreed-upon service. Any untimely breach of contract on the part of the servant was subject to prosecution. The word fugitive was clearly employed for apprentices and servants who left without giving notice. In fact, in early modern Britain, resident servants were like wives and children: all were members of the household and all were the legal dependents of its head. This implies, on the one hand, that servants, children, and wives were entitled to be supported by the head of the household.²² On the other hand, all of them were supposed to be under his authority, the family head benefitting from a higher legal status and more legal entitlements and rights than his dependents and family. Both marriage and labour contracts were actually status contracts: they gave rise to a different legal status for wives and servants, on the one hand, and for masters and husbands on the other.

Dependency was a normal part of a differential system of rank and degree in which everyone, adult and child, man and woman, had and knew his or her place. In general, labour

²¹. Steinfeld, *Invention of Free Labor*, 32.

²². Ann Kussmaul, *Servants in Husbandry in Early Modern England* (Cambridge: Cambridge University Press, 1981).

was seen as akin to domestic service, with the employer purchasing the worker's time.²³ This was a clear, solid institutional bedrock of the industrious revolution. It is important to stress the chronology of these rules: the measures of the Master and Servant Acts grew stricter starting in the 1720s, when penalties against servants who broke their contracts were reinforced. Between 1720 and 1792, ten acts of Parliament imposed or increased the term of imprisonment for leaving work or for misbehaviour. Almost these acts were a new departure: the Master and Servant Acts not only attempted to provide for social and political stability but required tighter control of workers by their masters while guaranteeing "fair" competition among masters (that is, they should not try to entice away other masters' working people). Specific groups promoted these changes: tailors, shoemakers, leatherworkers, mariners, and lace makers. Monetary or raw material investments made by the employer were used to further justify such sanctions against wage earners who left their jobs.²⁴

This trend had its basis in the huge expansion of the putting-out system in the eighteenth century, which added to the mounting need for agrarian labour.²⁵ Competition between sectors and the intense seasonality of labour strongly buttressed these new labour laws.²⁶ The idea that high wages were necessary to encourage technological creativity, as expressed by Habakkuk and many others, is based on the assumption that technological progress was primarily a choice between equivalent alternatives and that these choices

²³. Postan, 'The Chronology of Labour Services.'

²⁴. Donna C. Woods, 'The Operation of the Masters and Servants Act in the Black Country, 1858–1875,' *Midland History* 7 (1982): 93–115.

²⁵. Richard Rudolph, ed., *The European Peasant, Family, and Society: Historical Studies* (Liverpool: Liverpool University Press, 1995).

²⁶. Douglas Hay and Nick Rogers, *English Society in the Eighteenth Century: Shuttles and Swords* (Oxford: Oxford University Press, 1997).

depended on factory prices.²⁷ However, there is no persuasive evidence that technological progress emerged as labour-saving in the eighteenth and the first half of the nineteenth century. Agricultural innovations in particular tended to be labour-using rather than labour-saving: the new techniques of husbandry demanded more labour, not less.²⁸ Recent analyses come to the same conclusion: labour and labour intensity were the main source of agricultural growth before 1850, with human and physical capital playing a secondary role.²⁹ Long after steam had become the dominant form of power employed in manufacturing, the major sources of energy available to farmers continued to be men, animals, wind, and water.³⁰ Labour-intensive techniques linked to the diffusion of knowledge and attractive markets (with increasing agriculture prices) were dominant between the seventeenth and last quarter of the nineteenth century, when this trend reversed (decreasing agricultural prices and increasing

²⁷. Hrothgar J. Habakkuk, *American and British Technology in the Nineteenth Century* (Cambridge: Cambridge University Press, 1962). For a critique see: Joel Mokyr, *The Lever of Riches* (Oxford: Oxford University Press, 1990): 165.

²⁸. Charles Timmer, 'The Turnip, the New Husbandry, and the English Agricultural Evolution,' *Quarterly Journal of Economics* 83 (1969): 375–95.

²⁹. George Grantham, 'Agricultural Supply during the Industrial Revolution: French Evidence and European Implications,' *Journal of Economic History* 49, 1 (1989): 43–72; Giovanni Federico, *Feeding the World: An Economic History of Agriculture, 1800–2000* (Princeton: Princeton University Press, 2005).

³⁰. Patrick O' Brien, 'Agriculture and the Industrial Revolution,' *Economic History Review* 30, 1 (1977): 166–81; Gregory Clark, 'Productivity Growth without Technical Change in European Agriculture before 1850,' *The Journal of Economic History* 47, 2 (June 1987): 419–32.

wages).³¹

This trend was not limited to agriculture. The rate of capital intensification in British industry was relatively limited until the mid-nineteenth century.³² The most frequently declared goal of innovation was either improving the quality of the product or saving on capital, not labour.³³ By 1850, there were relatively few workers employed in factories. Only a small proportion of the workforce worked in technologically advanced industries such as cotton, iron and steel, and metalworking: the full impact of steam power in transport and production was yet to be felt.³⁴ The unmechanized, subcontracted work of the sweating system surely played a greater role in the intensification of work than did mechanization.³⁵

In this context, annual household earnings rather than the daily wages of individuals

³¹. F. M. L. Thompson, 'The Second Agricultural Revolution, 1815–1880,' *Economic History Review* 21 (1968): 62–77.

³². Nicolas R. Crafts, *British Economy during the Industrial Revolution* (Oxford: Clarendon Press, 1985); Jeffrey Williamson, 'Why Was British Growth So Slow during the Industrial Revolution?', *Journal of Economic History* 44, 3 (1984): 687–712; Charles Knick Harley, 'British Industrialization before 1841: Evidence of Slower Growth during the Industrial Revolution,' *Journal of Economic History* 42, 2 (1982): 267–89; Deane and Coale, *British Economic Growth*; Charles Feinstein and Sidney Pollard, eds., *Studies in Capital Formation in the United Kingdom, 1750–1920* (Oxford: Clarendon Press, 1988).

³³. Christine MacLeod, *Inventing the Industrial Revolution* (Cambridge: Cambridge University Press, 1988).

³⁴. Deakin and Wilkinson, *Law of the Labour Market*: 20.

³⁵. Duncan Bythell, *The Sweated Trades: Outwork in Nineteenth-century Britain* (London: Batsford Academy, 1978); James Schmiechen, *Sweated Industries and Sweated Labour: The London Clothing Trades, 1860–1914* (Urbana, IL: University of Illinois Press, 1982).

became the key variable, the participation of wives and children being crucial. De Vries's notion of an "industrious revolution" explains this trend perfectly: even if the author mostly refers to the period between 1650 and 1750, the main features of this model were still relevant up through the mid-nineteenth century in Britain, far after that in other areas of Europe and Asia. Participation of all the members of the household in the labour market and increasing incomes despite falling nominal (and sometimes real) individual hourly and daily wages justified both increasing budget expenditures, the growing labour effort, and the persistent high demand for labour before, during, and after the first Industrial Revolution.³⁶

This also contributes to explain why, contrary to E.P. Thompson's argument, working hours per day increased significantly during the eighteenth century and the first half of the nineteenth century.³⁷ Masters often had an incentive to increase the workday during rush periods to get the goods out and then to lay off or reduce hours in the dead season. As the pace of mechanization was slower than painted in the textbooks, then working hours increased, in particular in the textile mills.³⁸

Seasonal needs in agriculture were a crucial variable. Seasonal local shortages of manpower were overcome by interregional migration and—only later in the nineteenth century—by a transformation of hand-harvesting techniques and tools.³⁹ In fact, the labour

³⁶ Jan De Vries, *The Industrious Revolution* (Cambridge: Cambridge University Press, 2008).

³⁷ Hans-Joachim Voth, 'Time and work in eighteenth century London', *The Journal of Economic History*, 58, 1 (1998): pp. 29-58.

³⁸ Eric Hopkins, 'working hours and conditions during the industrial revolution, a re-appraisal', *Economic History Review*, 25 (feb. 1982): 52-67.

³⁹ E. J. T. Collins, 'Migrant Labor in British Agriculture in the Nineteenth Century,' *Economic History Review* 29, 1 (1976): 38-59; Gilles Postel-Vinay, 'The Dis-integration of Traditional Labour Markets in France: From Agriculture and Industry to Agriculture or

requirements of harvesting were particularly important since labour output peaked sharply at the harvest.⁴⁰ All this helps explain the main features of labour contracts. The labour market did not operate as an ‘‘auction market’.’⁴¹ By the eighteenth century, an oral or written contract for workers other than day labourers was presumed to last a year, particularly in husbandry, unless specific terms had been explicitly negotiated. The requirement of advanced notice was intended to afford employers enough time to replace departing workers and avoid sudden stoppages. Day labourers were often employed at random for some weeks. However, the frequency of departures, mostly in connection with the harvest, proved the relatively limited impact of the law on workers’ behaviour. Masters therefore looked for other solutions, such as the possibility of workers subleasing looms and tools and finding a substitute. This solution was particularly widespread in textile mills, where family members who received a family wage usually worked small spinning mules.⁴²

In general, short-term contracts allowed employers to lay off workers when there was a sudden downturn of trade or if workers became troublesome. Workers were not liable to criminal punishment and could leave immediately. A positive trend in business, with little unemployment, made short-term contracts favourable to workers; the reverse was true when

Industry,’ in *Labour Market Evolution*, ed. George Grantham and Mary MacKinnon (London and New York: Routledge, 1994): 64–83.

⁴⁰ K. D. M. Snell, ‘Agricultural Seasonal Unemployment, the Standard of Living, and Women’s Work in the South and East, 1690–1860,’ *The Economic History Review* 34, 3 (1981): 407–37.

⁴¹ Michael Huberman, ‘Invisible Handshakes in Lancashire: Cotton Spinning in the First Half of the Nineteenth Century,’ *The Journal of Economic History* 46, 4 (1986): 987–98.

⁴² Michael Huberman, *Escape from the Market: Negotiating Work in Lancashire* (Cambridge: Cambridge University Press, 1996).

unemployment rose. The county and police-district records for the years 1857 to 1875 show that some 10,000 people were prosecuted each year for Master and Servant offences. Overall, 5–8 percent of servants were prosecuted, but the percentage peaked at 17 in some areas and even 20 in London in specific years. There were no significant differences between the prosecution rate under the Master and Servant Acts in rural areas as opposed to urban counties, or between agricultural, putting-out, and manufacturing areas.⁴³ Instead, the response to changing economic trends and the rate of prosecution was stronger in the countryside than in town, most likely because of the major impact of seasonal labour shortages on agriculture.⁴⁴ Given the strong family ties between the town and the countryside, only persistently increasing earnings would have encouraged permanent residence in town. But most masters preferred to use coercion rather than attractive wages to keep the labour force, and they thus ultimately encouraged ‘fugitive’ workers. The situation could change only with a new political equilibrium (increasing strength of unions and labour movement) and accelerating technical progress in both agriculture and industry, creating a capital-intensive path of growth. This occurred only after 1850, with the second Industrial Revolution and the increasing expulsion of the working force from agriculture.

French Servants

In the past, historians have been fond of opposing the persistence of guilds and the corporatist spirit in French labour law to the free market of Anglo-Saxon labour.⁴⁵ This contrast is no

⁴³. Douglas Hay, ‘England, 1562–1875: The Law and Its Uses,’ in Hay and Craven, *Masters, Servants, and Magistrates*: 67.

⁴⁴. Naidu and Yuchtman, ‘How Green Was My Valley?’

⁴⁵. Emile Coornaert, *Les corporations en France* (Paris: Gallimard, 1941); Edward P.

longer tenable as the regulation of labour in France is no longer viewed as being in opposition to market growth.⁴⁶ France, for instance, was the first country to abolish lifelong domestic service as well as criminal penalties in labour disputes.⁴⁷ The chronology of these developments requires further explanation.

As late as the eighteenth century, French official texts, estates, guilds and local administrations? considered labour to be a service provision.⁴⁸ Moreover, French case law made no clear distinction between hiring a person for services and ‘hiring’ a thing. Similarly, apprenticeship contracts and domestic service contracts longer than a year obliged individuals to place all of their time in the service of their employers.⁴⁹ Although the French Revolution eliminated lifelong domestic service, it retained two forms of contracts from earlier times: hiring for labour (*louage d’ouvrage*) and hiring for services (*louage de service*). While the former brought the status of the wage earner more in line with the independent artisan, the latter represented an important legacy from earlier forms of domestic service. Cottureau has

Thompson, *The Making of the English Working Class* (London: Vintage Books, 1963); William Sewell, *Gens de métier et révolution. Le langage du travail de l’Ancien régime à 1848* (Paris: Aubier, 1983).

^{46.} Michael Sonenscher, *Work and Wages: Natural Law, Politics and the Eighteenth-century French Trades* (Cambridge: Cambridge University Press, 1989); Philippe Minard, *La fortune du colbertisme. Etat et industrie dans la France des Lumières* (Paris: Fayard, 1998).

^{47.} Alain Cottureau, ‘Droit et bon droit. Un droit des ouvriers instauré, puis évincé par le droit du travail, France, XIXe siècle,’ *Annales* 57, 6 (2002): 1521–57.

^{48.} Jean Domat, *Les lois civiles dans leur ordre naturel*, first edition 1697, reproduced in *Œuvres* (Paris: 1835), vol. 1; and R. Pothier, *Traité du contrat de louage* (Paris: Bugnet, 1861).

^{49.} Sonenscher, *Work and Wages*: 75.

emphasized the importance of hiring for services in nineteenth-century France and its ability to protect wage earners. Such contracts and the overall attitude of *prud'homme* law courts strongly protected workers.⁵⁰ This argument, while not incorrect, is restricted to specific sectors such as the textile industry and certain urban milieus. But what about the other sectors, especially agriculture?

A variety of contractual arrangements to limit mobility existed at the time (bonuses for hardworking labourers, payment by task, etc.) along with general provisions.⁵¹ Thus from the sixteenth to the eighteenth century, agricultural labourers and servants were free to move about and change employers only at certain times of year—that is, according to the critical periods in the agricultural calendar. The seasonal nature of agricultural labour gave rise to a significant amount of regional mobility, which was already considerable in the seventeenth century and remained high until around the end of the nineteenth century.⁵²

This mobility, together with the notion of labour as service is precisely what helps to explain the harsh penalties imposed on labourers and servants. They were not allowed to leave their masters until the end of their contract, and if they left prematurely, they were subject to heavy penalties as well as the loss of their earnings. The master, on the other hand, could discharge them at any time. Of course, the master did not know the value of the service on which he could count, but ‘the servant cannot know the amount of work that will be required of him, nor the quality of the benefits in kind that he will be granted.’ These mutual uncertainties were the source of numerous cases of ‘infidelity’ (on the part of the domestic servant) or of ‘exploitation and bondage’ by the master, as they were described to justices.

⁵⁰. Cottereau, ‘Droit et bon droit.’

⁵¹. Philip Hoffman, *Growth in a Traditional Society. The French Countryside, 1450-1815* (Princeton: Princeton University Press, 1996): 45–46.

⁵². Postel-Vinay, ‘The Dis-integration.’

The domestic servants, for their part, complained of poor or inadequate food.⁵³ The situation changed during the second half of the century, when the rate of disputes went up and the demand for agricultural wage earners and domestic servants increased due to emigration to the cities.⁵⁴

This had an influence on the industrial labour as well the where about of 25 percent of the industrial labour force that moved from one sector to another during the summer in the mid= the nineteenth century. Industrial employers could either shut down in the summer or increase wages. The adopted choice depended on the branch of the industry and the region.⁵⁵ Indeed a national market was still missing in nineteenth-century France (at least until after the 1880s) and peasant-workers considered comparatively local wages in agriculture and industry. This explains why in *départments* where industrial wages were high, agricultural wages followed, and vice versa: workers compared and finally compensated the two wages. For this reason, summer shutdowns were more widespread among firms that paid their workers less than the summer wage for farm labour. This system made of local arrangement and seasonal market left room to all different kinds of farms. Small holders and even communal fields provided seasonal work for the industry and large agricultural units as well. Only between 1860 and 1890 did the earlier practice of combining agricultural and industrial employment

⁵³. *Recueil des usages locaux en vigueur dans le département de la Vienne* (Poitiers: Bertrand: 1865); Antoine Pages, *Usages et règlements locaux, servant de complément à la loi civile et topographie légale du département de l'Isère* (Grenoble: Baratier frères, 1855). See also the 1870 parliamentary enquiry in AN C 1157-61.

⁵⁴. Cottureau, 'Droit et bon droit.'

⁵⁵ Thierry Magnac, Gilles Postel-Vinay, 'Wage Competition between Agriculture and Industry in Mid-Nineteenth Century France', *Explorations in Economic History*, 34 (1997): 1-26.

largely came to an end. During the summer of 1860, at least 500,000 - and most probably 800,000 = workers quit their jobs. By 1890, this number had fallen to 100,000.⁵⁶ Despite important regional and sectoral differences, as a whole the agrarian crisis and the second Industrial Revolution attracted more stable workers, who were mostly unskilled, into the towns and the manufactures.

In Western Europe, between the sixteenth and the end of the nineteenth century, labour was submitted to serious legal constraints, especially through apprenticeship, wage advances, land, raw materials and seeds, and so on. This was so for several interrelated reasons including the fact that labour was considered a service to the community and that labour and labour intensification were the main source of growth. Seasonal and local fluctuations in labour markets were linked with constraints on mobility and unequal rights. National markets still lagged far behind local and international markets. These rules were hard to enforce and they were effective at keeping working people in place than to limit their voice and wages.

If one wants to find an ‘exception’ in the economic growth and its forms in the eighteenth and nineteenth centuries, one has to look not at Britain but at its northern American colonies, and later the US. Since Habakkuk’s work, the argument has been that scarcity of labour led to free markets, high wages and precocious mechanization.⁵⁷ More recently, several authors have developed this argument: factor endowment and in particular the lower land-to-labour ratio in Britain compared to the US had encouraged its agriculture to invest in grain, thus a more seasonal culture which in turn sustained proto-industry and multiple activity. By

⁵⁶ Postel-Vinay, ‘The Dis-Integration.’

⁵⁷ H. J. Habakkuk, *American and British Technology in the Nineteenth Century: The Search for Labour-Saving Inventions* (Cambridge: Cambridge University Press, 1962).

contrast, in the US, scarcity of labour and agricultural diversification reduced pluri-activity and led to a quick concentration of industry.⁵⁸ Unlike Britain, increasing labour demand did not lead to coercion but to its opposite. Social and political equilibria more favourable to labour contributed to this outcome. Yet, this does not clarify the relationships between these dynamics in the North of the American colonies on the one hand, and, on the other hand, slavery in the South of the US, and the persistent importance of the indentured labour in the North itself before, during and after the age of slavery.

Indentured Immigrants vs Slaves

As the definition and practice of bonded labour in the colonies linked to the definition and practice of wage labour in Europe, the development of labour in the two areas was interconnected. The blurred boundaries between freedom and unfreedom, property in person and in her/his labour found new definitions and became closer to our understanding only in the transmutation of the English state into Imperial Britain. The same can be said of France. The British and the French exported specific notions and practices of wage earner: the servant and the indentured labour. This peculiar contract derived from two types of extant contracts: that of the sailor and that of the agrarian labourer.⁵⁹

⁵⁸ Kenneth Sokoloff, David Dollar, 'Agricultural Seasonality and the Organization of Manufacturing in Early Industrial Economies: The Contrast between England and the United States', *Journal of Economic History*, 57, 2 (1997): 288-321.

⁵⁹ Utsa Chakravarti, 'Of Dasas and Karmakaras: Servile Labour in Ancient India,' in *Chains of Servitude: Bondage and Slavery in India*, ed. Utsa Patnaik and M. Dingawaney (New York: Oxford University Press, 1985), 4054; Lauren Benton, *Law and Colonial Culture* (Cambridge: Cambridge University Press, 2002); Marc Galanter, *Law and Society in Modern*

In the French colonies, the contract of *engagement* or indentured service was developed in the seventeenth century. It was initially intended for white settlers whose transport expenses were advanced by employers or their middlemen in exchange for a commitment to work for several years. The *engagés* were subject to criminal penalties and could be transferred along with their contract to other masters. Owing to the close resemblance between wage earners and domestic servants (especially under the *ancien régime*) and the survival of forms of domestic service into the nineteenth century, the contract of *engagement* should not be understood in opposition to these other labour relationships, but as an extension and of them in the colonial situation. In other words, at the time the contract of *engagement* was considered to be a free contract, and the penalties for breach of contract were quite similar to those applied to labourers. Indeed, the notaries of Normandy in charge of drafting the first contracts of *engagement* in the seventeenth century explicitly relied on two types of contracts that already existed: the agricultural daily labourer's contract and the sailor's contract. These contracts provided a particular status to the hired person who offered his services and all his time to his master. It is no accident that contracts of *engagement* explicitly mention hiring for service: the *engagé* rented his services, i.e. the totality of his time, to his master. Terminating a contract was therefore difficult, especially for the *engagé*. Similarly, contracts of *engagement* explicitly invoked apprenticeship contracts: the master had the same requirement to provide for the care of the *engagé* as he did for the apprentice, the same expenses in case of illness, and the same word in the margins: *bondage*.⁶⁰

Two clauses differentiated the apprenticeship contract from the contract of *engagement*: the act of apprenticeship emphasized training in a trade, whereas in the contract

India (Delhi: Oxford University Press, 1989).

⁶⁰ Bibliothèque Nationale de France, section des manuscrits, 'Nouvelles acquisitions de France,' 9328.

of *engagement*, the *engagé* first owed his labour to his master who, in exchange, was to teach him about colonial farming. It was also the master who gave a lump sum to his *engagé* and not the other way around, as in the case of an apprentice.⁶¹

Sometimes the close relationship between *engagement* and apprenticeship was explicit, and the expression *engagement-apprentissage* appeared. In this case, the *engagé* departed and returned with his master to work on all 'his affairs, trade, and commerce'. These *engagés* were not apprentice-settlers but apprentice-merchants, without wages. Indeed, the father or mother of the *engagé* paid a lump sum to the merchant or the settler.⁶² Contracts of *engagement* also borrowed from the sailor's contracts in that they clearly stipulated the length and type of service required and, above all, the penalty for desertion.⁶³

In general, the *engagés* were not allowed to marry without authorization from their masters, but an *engagé* had the right to redeem his indenture and could force his master to agree to do so. Differences nevertheless appear between the *engagés* 'with no trade' and those who left as doctors, carpenters, etc. The latter committed themselves for three years instead of five; they received wages but were not subject to the servitude clauses imposed on the others.

In addition to the trade involved, our understanding of contracts of *engagement* should be qualified in accordance with the destination (French West Indies, Canada, or the Indian Ocean) and the historical period considered. In the seventeenth and eighteenth centuries, the contract of *engagement* concerned mainly whites who went to the French West Indies and

^{61.} For treatments of apprenticeship contracts, see Michael Sonencher, *Works and Wages: Natural Law, Politics and the Eighteenth-century French Trades* (Cambridge: Cambridge University Press 1989).

^{62.} Archives Charente Maritime, Grozé minutes, 28 May 1692; and the Rivière minutes, 31 May 1684.

^{63.} Archives Charente Maritime, Ex Moreau minutes, 19 and 25 April 1664.

Canada, but also to the Indian Ocean. Between 1660 and 1715 alone, 5,200 *engagés* left for the French West Indies from La Rochelle. This figure is much smaller than the 210,000 indentured Britons who left for North America between 1630 and 1700.⁶⁴ Excluding the Caribbean, in the period 1630 to 1780, the colonies received between 472,000 and 510,000 migrants, 50,000 of which were convicts and the rest were half indentured and half ‘voluntary’ migrants..⁶⁵

A similar relationship between mother-country and colonial labour contracts existed within the British empire. Just as a master in Great Britain had the right to pursue fugitives, so too in the colonies: indentured servants who fled were subject to criminal penalties. Without the Masters and Servants Acts, indenture would not have been possible. Yet, masters in the colonies gradually obtained broader rights than masters in Great Britain. They could exercise corporal punishment, authorize the marriage of indentured servants, etc.

Two periods can be distinguished: the first, from the seventeenth century to the 1830s, concerned some 300,000 European indentured servants. It coincided with a period when slavery was still legal and European traders engaged in the slave trade. The indentured servants were intended to be engaged in tobacco plantations and, to some degree, in manufacturing. The second phase, in the nineteenth and twentieth centuries, concerned two million indentured servants, mostly Chinese and Indians, but also Africans, Japanese, and immigrants from the Pacific islands. They were employed in sugar plantations and in manufacturing. Unlike the indentured servants of the first phase, these new bonded labourers seldom returned to the world of free labour once their period of commitment ended. Their

⁶⁴. David W. Galenson, *White Servitude in Colonial America* (Cambridge: Cambridge University Press, 1981).

⁶⁵ Indentured were 60-65% of all migrants in the seventeenth century and 40-42% in the following century Tomlins, *freedom bound*: 34-5.

indenture contracts were therefore renewed.⁶⁶

What is the relationship between indenture and slave labour? Menard argues that in North America, indentured servants and slaves were close substitutes; and that planters shifted from servants to slaves not because they preferred slaves but due to changes in the supply and cost of the two forms of labour. Around 1660, the supply of servants began to decline as in England population fell and real wages rose thus leading to improved opportunities at home.⁶⁷ Consequently, after the mid-century, migration to America fell. However, other scholars argue that this shift reflected the planters' preferences for black slaves, who they considered to be more docile and productive than white servants.⁶⁸

The case of Barbados, where the development of sugar plantations transformed the island in the mid seventeenth? Century shows the relationship between the two forms of labour. With the rise of sugar, monoculture replaced diversified farming, and blacks arrived by the thousands while whites left. , The island began to import food and fuel and the great planters rose in wealth and power. Because of its substantial economies of scale and large profits, sugar was most efficiently grown on big plantations that greatly increased demand for labour.⁶⁹ At the end of the seventeenth century, therefore, the influx of slaves was not a response to general lack of labour on the island, but to a specific lack of coerced labour and

⁶⁶ Northrup, *Indentured Labour*, 156–57, table A.1.

⁶⁷ Russell Menard, 'From Servants to Slaves: The Transformation of the Chesapeake Labor System', *Southern Studies*, 16, 4 (1977): 366-7.

⁶⁸ T. W. Allen, *The Invention of the White Race*, 3 vols (New York: Verso, 1994); A. S. Parent Jr., *Foul Means: The Formation of a Slave Society in Virginia* (Chapel Hill: North Carolina University Press, 2003).

⁶⁹ Stanley Engerman, 'Europeans and the Rise and Fall of Slavery in the Americas. An Interpretation', *American Historical Review* 98, 5 (1993): 1399-1423.

indentured immigrants in particular. Increasing demand for labour was hard to meet with native Indians and white indentured and convicts. Native Indians were difficult to control and less productive than either indentured whited or African slaves.

. Some significant changes appeared at the end of the seventeenth century when colonial indentured servitude began to be distinguished from other forms of resident service and, above all, from slavery. It was slavery that enabled Virginians to achieve a stable relationship between work and civic status: different contracts expressed different statuses (slaves, indentured immigrants) and, starting from this, they enabled different rights to the slave and the immigrant. In the Chesapeake and the Delaware valley, the relationship between British rules and indentured immigration was reaffirmed, though in the eighteenth century it acted as a way , to differentiate indentured from slave labour. By the early eighteenth century, we no longer find statutes that prohibit artificers and labourers from quitting their tasks nor do we find cases in which courts have ordered labourers or artificers to perform their agreement. It looks like the legal status of non-resident casual workers had changed.⁷⁰ Indentured servitude evolved into a thoroughly commercialized institution. Decreasing costs of transportation encouraged ship-owners to enter the migration market, where labour became a tradable commodity. William Blackstone concluded that service was temporary property of labour, while *villeinage* and slavery were perpetual conditions.⁷¹ Progressively, indentured labour was confined to minors alone, while adult working men and women refused to accept strong hierarchical power in labour relationship that they qualified as a vestige of the British yoke. White indenture declined during the 1820 and came to an end in the following decade. By the late 1830s, penal sanctions for breach of contracts for white adult workers disappeared.

⁷⁰ Steinfeld , *Invention* : 50

⁷¹ Sir William Blackstone, *Commentaries on the Laws of England* (Oxford, 4 volumes, 1765-9), volume 2: 16.

It was however in this period that indentured contracts became commonplace for ‘coloured’ immigrants in the Americas as well as in the British and French colonies following the abolition of slavery.

While the legal and contract status of white indentured immigrants improved over time, those of servants (black until the mid-seventeenth century) progressively deteriorated into chattel slavery. This shift was the result of political and economic forces: the excess of labour demand was strong with the expansion of coffee, and then sugar and cotton cultivation in the colonies. The Restoration, and then the Glorious Revolution at the end of the seventeenth century were decisive for the change of the legal status of black people in the American colonies.⁷² London asserted the rights of the metropolis over its colonies. In 1696, the colonial administration was placed under the tutelage of the new-born department of the Board of Trade and Plantations which was concerned with two issues: security in Barbados, where the slaves outnumber their masters; and the crowds of beggars in England. The Board mentioned the beggars in England for two reasons: on the one hand, they were eligible to migration; on the other hand, vagrants in England and runaways slaves in Barbados both expressed a similar threat to social stability. In this context, Locke, a member of this board, published his *Two Treatises of Government* (DATE) in which he defended English liberty and freedom and justified slavery, to his eyes perfectly compatible with liberty.⁷³

In short, the shift from indentured labour to slavery was the outcome of a lack of labour in the colonies, aggravated by the labour-intensive path in Europe itself. The

⁷² Robin Blackburn, *The Overthrow of Colonial Slavery, 1776-1848* (London: Verso, 1988); Christopher Tomlins, *Freedom Bound* (Cambridge: Cambridge University Press, 2010).

⁷³ David Armitage, ‘John Locke, Carolina, and the Two Treatise of Government’, *Political Theory*, 32, 5 (2004): 602-27. Brad Hinshelwood, ‘The Carolinian Context of John Locke's Theory of Slavery’, *Political Theory*, 41, 4 (2013): 562-590.

transplantation to the colonies exacerbated the statutory differences between masters and servants that assumed extreme forms through race and religious divides. The rise of the plantation system – labour-intensive and carried out on large-scale estates - buckled this trend. The sugar boom was effected within a narrow range of technological possibilities. Crude cane-crushing mills, powered by animals, wind, or water, remained the basic forms of heavy equipment.⁷⁴ On mainland America, tobacco and then cotton plantations also relied on labour-intensive production..⁷⁵

Indentured After Abolition

In England many had believed that the abolition of slave trade would lead to the eventual abolition of slavery. This was not the case, as France, Spain and Portugal continued to import slaves. A new antislavery society was founded; it shifted its agenda from gradual to immediate abolition of slavery. A period (usually six to seven years, in line with the timeframe of individual emancipation and apprenticeship contracts) was imposed during which the quasi-former slaves were given apprenticeship status.⁷⁶ Slaves did not enjoy full legal status inasmuch as they were not yet ‘civilised’.⁷⁷ Apprentices worked 45 hours a week for their

⁷⁴ Richard Sheridan, *Sugar and Slavery. An Economic History of the British West Indies, 1623-1775* (Barbados: Canoe Press, 1974, reprint 2000).

⁷⁵ Robert Fogel, Stanley Engerman, *Time on the Cross: the Economics of American Negro Slavery* (New York: Norton, 1974). Robert Fogel, *Without Consent or Contract* (New York: Norton, 1989, 1992).

⁷⁶ Seymour Drescher, *Capitalism and Antislavery* (London: Palgrave, 1987)..

⁷⁷ House of Commons, ‘Papers in explanation of the condition of the slave population, 5 nov. 1831’, *British Parliamentary Papers*, 1830-1 (230), 16.1: 59-88.

former owners in exchange for food, clothing, lodging and medical care. Absenteeism or low performance (according to standards set by the planters themselves) led to severe penalties and increased the period and the amount of apprentices' obligations. Physical punishment, which had been suppressed under slavery during the 1820s, was now re-introduced for apprentices. Abuse was thus extremely frequent.⁷⁸

Thus, even though former slave-owners had received compensation of £20 million, many planters used the apprenticeship programme as additional compensation and, to this end, they sought to extract as much unpaid labour as possible. The final social and economic outcome differed from one colony to another according to the availability of land, previous forms of bondage and types of culture, new forms of labour and their rules (different masters and servants acts enacted in each colony), and to systems of credit.⁷⁹ In Barbados the planters monopolised all the land and rented in part it to former slaves, few of whom therefore left their original plantations. In Jamaica, Trinidad and English Guyana, many former slaves had formal access to land, but many of them ended up indebted to their former masters and found themselves back on the plantations.⁸⁰ This did not prevent former slaves (when they did not run away) from providing extremely irregular (in their masters' eyes) labour. A fall in sugar output in Jamaica was one of the major expressions of resistance.

The abolition of slavery gave new life to indentured immigration worldwide. In the nineteenth and twentieth centuries more than 2.5 million people became indentured servants,

⁷⁸ J.R Ward, *British West India Slavery, 1750-1834: The Process of Amelioration* (Oxford: Oxford University Press, 1988).

⁷⁹ Mary Turner, 'The British Caribbean, 1823-1838. The Transition from Slave to Free Legal Status', in Hay, Craven, *Masters, Servants and Magistrates*: 322.

⁸⁰ Thomas, Holt, *The Problem of Freedom: Race, Labour and Politics in Jamaica and Britain, 1832-1938* (Baltimore and London: John Hopkins University Press, 1992).

mostly Chinese and Indian but also African, Japanese and migrants from the Pacific Islands. They were employed in sugar plantations and in manufacturing. Unlike white settlers during the first phase of indentured immigration, during the 1850s and 1860s, many indentured migrants – especially Indians - returned home. A third of all indenture servants in Mauritius, the Caribbean, Surinam and Jamaica and up to 70 percent of those in Thailand, Malaya, and Melanesia returned home. Distance and the cost of transport were of the two main variables affecting repatriation, though politics, concrete forms of integration, and death from disease were also important factors. 450,000 indentured servants arrived, mostly from India but also from Madagascar, arrived in Mauritius between the official abolition of slavery in 1834 and 1910. Two-thirds of them remained and, as a result, the Indian population grew steadily - from 35 percent of the Island's population in 1846 to 66 percent in 1871.⁸¹ Numerous observers drew attention to the inhuman living conditions of these immigrants.⁸² These figures must also be expanded to include other indentured servants from South Asia (outside of India) and Africa: 30,000 in 1851 and twice that number ten years later.

The real conditions of workers depended on when they arrived, their ethnic origin and which specific estates they worked on. Small plantation owners were more concerned about fugitive, insubordinate and vagrant indentured servants,⁸³ whereas large plantation owners, who complained of the excessive cost of slave surveillance, often advocated a liberal ideology

⁸¹ Richard Allen, *Slaves, Freedmen and Indentured Labourers in Colonial Mauritius* (Cambridge: Cambridge University Press 1999): 16–17. See also, Auguste Toussaint, *Histoire de l'île Maurice* (Paris: PUF, 1974).

⁸² Colony of Mauritius, annual report, 1854, *British Parliamentary Papers* XLII, 2050.

See also, Jan Breman, *Taming the Coolie Beast* (Delhi: Oxford University Press, 1989).

⁸³ MNA (Mauritius National Archives), HA 66 (planters' petitions); *British Parliamentary Papers* 1842 xxxx (26): 25.

for the colonial systems. They found support for the indenture system by humanitarian and anti-slavery associations as they underscored the benefits of free immigration (indenture) as opposed to slavery as well as the purported ‘famines’ in India and Africa. Immigrants often complained of ill treatment, withheld wages, and poor food.⁸⁴ The number of cases in which indentured servants brought proceedings against their masters—something that rarely happened in the 1850s—rose sharply thereafter. In the 1860s and 1870s, about 10 percent of all indentured servants sued their masters, in virtually every case for non-payment or insufficient payment of wages, and they won in more than 70 percent of cases.⁸⁵ Such a result was partly due to pressure from England and can hardly indicate that a ‘march to equality’ was underway. In subsequent decades the percentage of contracts disputed by coolies declined first to 5 percent at end of the 1870s and later dropped to a mere 0.3 percent between 1895 and 1899, with their success rate falling to less than 40 percent.⁸⁶ This can be explained by the fact that, after the results of the 1860s and thanks to a new law on labour contracts adopted in 1867, an increasing number of contracts were oral making it more difficult for the coolies to produce any proof that would hold up in court. Above all, the coolies’ contracts were no longer signed with plantation owners but were drawn up instead with Indian middlemen, which no doubt helped to quash many conflicts. Retention of coolies increased with the percentage of contract renewals rising from 40 percent in 1861 to more than 70 percent

⁸⁴. *British Parliamentary Papers*, 1842 XXX (26).

⁸⁵. ‘Report of the Royal Commissioners Appointed to Enquire into the Treatment of Immigrants in Mauritius,’ in *British Parliament Sessional Papers*, 1875 XXXIV, paragraph 704 and appendix A and B. Colony of Mauritius, printed documents, *Annual Report of the Protector of Immigrants*, 1860–1885.

⁸⁶. *Ibid.*

twenty years later.⁸⁷

In summary, the status of bonded labourers, indentured servants, and others was modelled on the status of apprentices and servants in Great Britain. The gap separating servant and master was not as great as the one between indentured servants and their masters, which continued to grow during the nineteenth century. In Mauritius, 14,000 indentured and domestic servants were prosecuted each year in the 1860s; during the same period in Great Britain, proceedings were brought against 9,700 servants per year for breach of contract and almost always resulted in convictions. By contrast, masters were seldom indicted and even more rarely convicted for breach of contract, ill treatment, or non-payment of wages. At the same time, even though the real conditions of indentured servants were not necessarily better than those of the slaves who preceded them, the rights they enjoyed and the fact that their status was not hereditary were essential differences that were to play an increasingly important role in the twentieth century.

The Great Transformation of Labour in the Twentieth Century

Labour contract (*contrats de travail* in French, *contracts of employment* in English) emerged between the 1890s and the 1920s. These new legal institutions marked a departure from the forms of labour that had sustained the economic growth and societal transformation in Europe between the seventeenth and mid-nineteenth century.

In England, at the start of the 1870s, most industrial enterprises were still independent family-run firms that employed fewer than a hundred workers. Mass production was slow in evolving and was still limited.⁸⁸ By the mid-nineteenth century, a decisive shift occurred

⁸⁷. Allen, *Slaves, Freedmen*: 72.

⁸⁸. Joel Mokyr, *The Level of Riches* (Oxford: Oxford University Press 1990): 114.

toward an industrialized economy in which sustained increases in output per capita served to support a growing population, which, in turn, provided a source of rising demand.⁸⁹ From the mid-1880s onwards, large combines of firms began to emerge, notably in textile manufacturing, coal mining, and engineering. This process was accompanied by changes in the nature of intra-firm organization: managerial functions grew, while technical change mutually influenced with the contract system: mechanization and stable workers (not peasant-workers) went hand in hand. Vertical integration, the welfare state, and changing labour institutions went hand in hand. Vertical integration required a stable labour force and large units; the peasant-worker, the traditional poor, and Poor Laws hardly fit this process. The removal of criminal sanctions from the individual employment relationship in the 1870s was soon followed by the first legislative interventions of the welfare state. The first Workmen's Compensation Act was introduced in 1897, and the first National Insurance Act, in 1911. They imposed liability on employers for workplace-related injuries and disease, and they prompted the widespread use of employers' liability insurance to spread the risks in question.⁹⁰ This same act made unemployment compensation available on the basis of contributions paid by individual wage earners (limited to some industrial sectors and extended to other sectors and agriculture only in 1936). These changes meant that the Poor Law remained in place but dealt only with residual cases that fell outside the range of the statutory social-insurance scheme.⁹¹ Despite advances, seasonal and casual workers were excluded

⁸⁹. Eric A. Wrigley, *Continuity, Chance and Change: The Character of the Industrial Revolution in England* (Cambridge: Cambridge University Press, 1988).

⁹⁰. Deakin and Wilkinson, *The Law of the Labour Market*: 86–87.

⁹¹. Gilbert Bentley, *The Evolution of National Insurance in Great Britain: The Origins of the Welfare State* (London: Joseph, 1966); Jose Harris, *Unemployment and Politics: A Study in English Social Policy, 1886–1914* (Oxford: Clarendon Press, 1972).

from these provisions as they were designated as independent contractors. Litigation thus occurred over the definition of ‘independent’, with employers trying to avoid responsibility for the social risks of illness, injury, and unemployment.

Along an analogous path, in France, the law of 21 March 1884 legalized Trade Unions. The notion of the labour contract (*contrat de travail*) first appeared. The term *contrat de travail* was not in widespread use in France before the mid-1880s. The main impetus for its adoption was an argument by employers in larger enterprises that the general duty of obedience should be part of all industrial hiring. However, once the term became established, it was used in turn-of-the-century legislation with respect to industrial accidents (law of 1898), which introduced the employer’s objective responsibility in case of accident. This in turn opened the way to social insurances, which were being developed precisely during this period. However, the new labour law widened rather than reduced legal, social, and economic inequalities among working people. It excluded large categories, such as small enterprises, craftsmen, and peasants.⁹² All these groups were marginalized as ‘independent’ workers.⁹³ They were not obliged to fulfil many of the obligations that other workers had toward their employers, though they also could not benefit from the same social security advantages enjoyed by other workers.

Thus, Britain and France shared common features in terms of rules, labour organization, and social dynamics, during the last quarter of the nineteenth century. Common to both countries were the expanding civil and legal rights granted to the unions, the rise of the social welfare state, and the transformation of management and firms. From the 1880s to

⁹² Robert Salais, Nicolas Bavarez, and Benedicte Reynaud, *L’invention du chômage* (Paris: PUF, 1986).

⁹³ Alessandro Stanziani, *Rules of Exchange: French Capitalism in Comparative Perspective, Eighteenth to Early Twentieth Century* (Cambridge: Cambridge University Press 2012).

the First World War there was ever greater enfranchisement. The supremacy of the landed aristocracy declined to the benefit of new industrial and urban elites. Unions, strikes, and other expressions of civil society were also permitted, while women and children were granted greater legal rights.

This process went hand in hand with profound transformations in the economy. The second Industrial Revolution led to a widening gap in the capital-labour ratio. Capital investment had been increasing in Britain and other European countries since the 1860s, with the development of railways, iron, and chemistry. Although more intense in Germany than in Britain and France, this process was common to all three countries and helps to explain their similar shifts in labour-market institutions. Mechanization required stable and not seasonal workers, while the labour supply was increased by a strong wave of mechanization and the application of chemistry to agriculture. Urbanization thus increased and became more stable: the leading actor of previous centuries, the peasant-worker, was vanishing. At the same time, new labour rules and social protection were limited to specific groups of workers, namely those in unionized industries and large plants. Others—small units, artisans, and peasants—were excluded from these provisions until after 1945, and this social gap grew wider in the colonial state and the global economies.

As we have shown, indentured labour was an extreme version of forms of European servants' employment regimes; from an economic perspective, it responded to the abolition first of the slave trade, then of slavery in the European colonies, and to the simultaneous increased demand for sugar, cotton, and tobacco in Western economies. Since the 1870s, the declining prices of these items and the joint process of mechanization led to decreasing immigration of indentured Indians, Chinese, and Africans in many production areas in the Antilles and the Indian Ocean. Yet migratory fluxes increased in the last quarter of the nineteenth century. In Europe, mechanization and concentration compelled people to migrate,

while massive population flows helped create a single global economy for both labour and capital. Thus, between 1840 and 1940, 55-58 million Europeans and 2.5 million Africans and Asians reached the Americas; during this same period, 29 million Indians, 19 million Chinese, and 4 million Africans and Europeans moved to Southeast Asia, the Pacific islands, and the Indian Ocean rim. Finally, 46-51 million people from northeastern Asia and Russia moved (or were compelled to move) to Siberia, Manchuria, and Central Asia.⁹⁴

Economic factors were important, but they were not alone in causing this mass migration. Thanks to the transport revolution of steamboats and railroads, global migrations caused a significant shift in the distribution of the world's population. All three aforementioned destinations (Americas, Central Asia and the Indian Ocean) experienced enormous population growth, increasing by factors of 4 to 5.5 from 1850 to 1950. Growth rates in these areas were more than twice that of world population as a whole. By comparison, growth rates in the regions of emigration were lower than world population growth and less than half of those in the regions of immigration. Taken together, the three main destination regions accounted for 10 percent of the world's population in 1850 and 24 percent in 1950.⁹⁵

Even if relocation within the same empire was important (in particular in the Russian and British Empires), trans-imperial, intra-continental, regional, and local forms of migration were also important – and they clearly show the inadequacy of the Eurocentric paradigm,

⁹⁴ Adam McKeown, 'Global Migration, 1846-1940,' *Journal of World History* 15 (2) 2004: 155-189; Donald Treadgold, *The Great Siberian Migration: Government and Peasant in Resettlement from Emancipation to the First World War* (Princeton, N.J.: Princeton University Press, 1957): 33-35; Thomas Gottschang and Diana Lary, *Swallows and Settlers: The Great Migration from North China to Manchuria* (Ann Arbor: University of Michigan, Center for Chinese Studies, 2000): 171.

⁹⁵ McKeown, 'Global Migration'.

which consists of explaining migration as an ‘expansion of the West’.⁹⁶ Indeed, migration was multi-scale and involved almost all areas of the world. Nearly 4 million Indians travelled to Malaysia, over 8 million to Ceylon, over 15 million to Burma, and about 1 million to Africa, other parts of Southeast Asia, and islands throughout the Indian and Pacific Oceans. Up to 11 million Chinese (most from the southern provinces) travelled from China to the Straits Settlements, although more than a third of these transhipped to the Dutch Indies, Borneo, Burma, and places farther west. Nearly 4 million travelled directly from China to Thailand, between 2 and 3 million to French Indochina, more than 1 million to the Dutch Indies (for a total of more than 4 million if transhipments from Singapore are included), and just under 1 million to the Philippines.⁹⁷

At the same time, railroad construction and a relative relaxation of frontiers between Russia and China also led 28 to 33 million northern Chinese to migrate to Siberia and Manchuria.⁹⁸ Migration within each area increased and interacted with long-distance emigration. Migrants from Ireland travelled to England for work, others moved from eastern and southern Europe to industrial areas in northern Europe, especially France and Germany. In Russia, migrants moved into the growing cities and southern agricultural areas. Within India, they moved to tea plantations in the south and northeast, to the mines and textile-

⁹⁶ Kevin O’Rourke and Jeffrey Williamson, *Globalization and History: The Evolution of a Nineteenth-Century Atlantic Economy* (Cambridge, Mass.: MIT Press, 1996).

⁹⁷ Kernial Singh Sandhu, *Indians in Malaya: Some Aspects of Their Immigration and Settlement (1786–1957)* (Cambridge, U.K.: Cambridge University Press, 1969).

⁹⁸ Robert H. G. Lee, *The Manchurian Frontier in Ch’ing History* (Cambridge, Mass.: Harvard University Press, 1970).

producing regions of Bengal, and to newly irrigated lands and urban areas throughout the subcontinent.⁹⁹

Thus it would be reductive to explain twentieth-century migrations as simply an ‘expansion of the West’ and the triumph of free labour and free emigration over bondage. To be sure, whole sets of laws in defence of ‘freedom’ were adopted on all continents. ‘Free’ migration expanded with the increasing restriction of indenture contracts and their final abolition in 1920. In the USA, the Anti-Peonage Act of 1867 extended the prohibition of servitude (voluntary or involuntary) to all states in the Union. The government of India first restricted and then forbade Indian indentured contracts in 1916, while in 1874 an agreement between the Chinese and Portuguese governments stopped the transport of Chinese contract labour from Macao. Chinese authorities investigated the conditions of Chinese migrants in Cuba, Peru, and the United States, which led to the suspension of most of these contracts.

At the same time, formal rules for migration were not always supported by real legal rights granted to immigrants once they reached their destination. For example, the conditions of former indentured labourers were extremely different, precisely as they had been for former slaves. The access to landowning that one had on Mauritius and Reunion Island was hardly the rule. Elsewhere, between 1899 and 1938, most of the indentured immigrants served as day labourers in agriculture or in commerce; this was the case with Chinese, Indian, and Japanese immigrants in Cuba, British Guyana, Trinidad, and Hawaii. Servant contracts or ‘independent’ commercial activity were much more widespread in Cuba (40 percent of the

⁹⁹ Arjan de Haan, ‘Migration on the Border of Free and Unfree Labour: Workers in Calcutta’s Jute Industry, 1900–1990,’ in *Migration, Migration History, History: Old Paradigms and New Perspectives*, ed. Jan and Leo Lucassen (Bern: Peter Lang, 1999):197–222.

immigrants) and Hawaii (48 percent) than in British Guyana (8 percent) or Trinidad (24 percent).¹⁰⁰

Most importantly, different forms of bondage and debt obligations survived far into the twentieth century. Chinese, Africans, Indians, and, to a certain extent, even European emigrants were still subject to disguised forms of indenture contracts and bondage.¹⁰¹ The same can be said for Africans, who even if officially freed from slavery were still under multiple forms of bondage in both intra-African and African-European relations. Local bondage coexisted with the intercontinental flow of free and less-free people. This was the case for various reasons: labour markets remained highly segmented, unequal skills adding to important institutional constraints. Migration was never really free; laws and reciprocal and multilateral agreements between powers obtruded and thus regulated the flow. This was the case between European and American states (both northern and southern); between China and Australia and other British Empire destinations; between the American powers, India, and other British colonies; between French and British colonies in Africa; between the Ottoman Empire and the Western powers; between Russia, the Ottoman Empire, and the USA. In all those cases, the rise of the welfare and protection of the 'national' working force went hand in hand with the increasing control, if not limitation of immigration and the exclusion of the colonies from the new welfare state.

Conclusion

Unfree labor cannot exist unless political institutions intervene and limit the free market; the institutions regulating labor did not respond exclusively to efficiency, scarcity (of labor) and profit calculations, but also to power and values. Violence, constraints and contract

¹⁰⁰ Northrup, *Indentured Labor*: 150.

¹⁰¹ McKeown, 'Global Migration'.

enforcement were not only substitutes for higher wages, but also the expression of the belief that labour was a service to the master, the head of the family, the village, the community and, ultimately the state. Ultimately, this belief accompanied strongly unequal distribution of civil and human rights between labouring people and their masters. This global trend was at the very ground of the economic growth through the seventeenth to the mid-nineteenth century, certainly in Eastern Europe and in the Western European colonial world (long after that date) and partially also in the West as well. Since the mid-nineteenth century, increasing labor, civic and human rights in the West went along with capital intensive growth, unions and political shifts more favorable to welfare capitalism. Yet, this turn consciously excluded the colonial world up through the decolonization process and, even then, only for a short period, under the post-war reconstruction in Europe. Since the end of the 1970s, again, restrictions to the welfare state in the west went along increasing restrictions to immigration and immigrants' social rights. Paradoxically, these two trends are increasingly perceived as being in opposition between them, the defense of the national welfare being opposed to immigration.