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Labor on the Fringes of Empire

Voice, Exit and the Law

palgrave
macmillan

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Palgrave Series in Indian Ocean World Studies
ISBN 978-3-319-70391-6 ISBN 978-3-319-70392-3 (eBook)
https://doi.org/10.1007/978-3-319-70392-3

Library of Congress Control Number: 2017961111

Cover illustration: © TAO Images Limited / Alamy Stock Photo

Printed on acid-free paper

This Palgrave Macmillan imprint is published by Springer Nature
The registered company is Springer International Publishing AG
The registered company address is: Gewerbestrasse 11, 6330 Cham, Switzerland

This book is devoted to all those who did not give up their fights for freedom.

Acknowledgements

This book benefited from the many discussions and assistance from colleagues, friends and students. In India, I found the help and benevolent criticism of organizers of the biannual meeting at the Association of Indian labor History—Rana Behal, Chitra Joshi, and Prabhu Mohapatra, as well as from the participants to these workshops that I had the great pleasure to see growing over time from a small event to a huge world conference. A special thanks also to my colleagues and friends interested in global labor history—Andreas Eckert (Re-work, Berlin), Marcel Van Der Linden (IISG Amsterdam), and Ulbe Bosma (IISG, Amsterdam). I also benefited from the comments of specialists in African history—Frederick Cooper (NYU), Gareth Austin (Cambridge University), Babacar Fall (University Cheik Anta Diop, Dakar), Richard Roberts (Stanford). Gwyn Campbell (McGill) and Claude Markovits (CNRS, Paris) provided valuable insights in discussions of the Indian Ocean World. Global History specialists helped me in connecting the different chapters. First of all, friends with whom I have shared joint projects for several years: Jeremy Adelman (Princeton), Sven Beckert (Harvard), Sebastian Conrad (Freie University, Berlin), Sheldon Garon (Princeton), and Masashi Haneda (Tokyo University). Also: William Gervase Clarence Smith (SOAS, London), Patrick O'Brien (LSE), Giorgio Riello (Warwick), and Thirtankar Roy (LSE). In Paris, Paul-André Rosental (Sciences-Po), and Gilles Postel-Vinay were constant readers of my efforts. I also benefited from discussions with colleagues at the EHESS: Corinne Lefèvre, Natalia Muchnik, Xavier Paulès, Antonella Romano, Silvia Sebastiani, Larissa Zakharova, and Ines Zupanov.

In addition, I greatly benefited from the valuable suggestions of two anonymous referees.

However, the best insights and suggestions came from my students at the EHESS: discussions during and outside my seminars strongly contributed towards improving my efforts.

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CHAPTER 1

Introduction: Progress and (Un)Freedom

In 1873, on Reunion Island, an Indian with an iron collar around his neck and chains attached to his feet, knocked at the door of the Court of Appeals of Saint-Denis de la Réunion. He declared he was regularly beaten, shackled and thrown into jail by his master, even though he was theoretically free. He had already lodged several complaints with the Immigration Protection Society, which nevertheless refused to take legal action against the white planter. When the planter learned of the complaints, he had the laborer chained and flogged. It was several years before the court finally sentenced the planter to pay the Indian meager damages.[1] Like him, more and more "coolies" (Indian and Chinese immigrants) took their cases to court; despite the indifferent and sometimes corrupt judges, the coolies persisted. Little by little, they began setting aside small amounts of money; after five, seven or sometimes ten or twelve years they went home to India. Disasters frequently befell them during these return voyages: the ships were old, often overloaded and exposed to the dangers of the crossing, and the white officers had no misgivings about abandoning the vessels along with their passengers. The scandals multiplied, but no real solution was found.[2]

Worse still, the expansion of European colonial empires led to violent treatment and coerced displacement of laborers. The port of Aden, a British protectorate located far from Reunion Island, was an important

A. Stanziani, *Labor on the Fringes of Empire*,
Palgrave Series in Indian Ocean World Studies,
https://doi.org/10.1007/978-3-319-70392-3_1

commercial center on the way to Marseille and London, which were henceforth connected to the Indian Ocean via the Suez Canal. Aden was also a haven for slaves escaping from Africa or from the Persian Gulf itself, where they were employed as pearl fishermen. In 1878, thirteen Africans landed in Aden, claiming to be Siddi sailors. Eleven of them worked as pearl divers for the same owner; they requested and were granted asylum.[3] Later on, however, they were transferred as "free servants" to new British masters in Aden or to other British possessions in India and southern Africa.

After the Indian Ocean, the African continent was in turn divided up during the last quarter of the nineteenth century. The European powers had no scruples about raping, killing and torching villages in the name of progress and civilization. The extreme violence perpetrated on the indigenous populations was coupled with fear, solitude and the ruthless pursuit of profit that reigned in the concession companies. It was still a world in which men from the four corners of the globe crossed paths: ships sailed up the African rivers and along the coastlines, manned by slave labor from India, the Persian Gulf countries and China, along with Europeans, mainly commissioned and non-commissioned officers—Russians, Poles, Swedes, Germans and, of course, Britons. Some of them, like Joseph Conrad, had already served in the Indian Ocean and the Atlantic. But the shipwrecks Conrad had experienced, which went virtually unnoticed by the public, were relatively insignificant compared with the villages burned down, the women raped and killed, and the men and children massacred in the Congo.[4]

We like to believe in the progress of civilization—of *our* civilization. The abolitions of slaveries and serfdom in the late eighteenth and nineteenth centuries were undoubtedly turning points that should not be overlooked.[5] Starting in 1790, the number of abolition acts and slaves liberated by them was unprecedented. Some 500,000 slaves were emancipated in Saint-Domingue in 1790, a million Caribbean slaves between 1832 and 1840, 30 million Russian serfs in 1861, four million slaves in the U.S. between 1863 and 1865, and another million in Brazil in 1885. Abolitions in Africa at the turn of the nineteenth century affected an estimated 7 million people.[6] One must also take into account the significant rates of manumission prior to general abolition in Russia and Brazil, as well as in the Ottoman Empire and Islamic societies in general from Africa to Southeast Asia.[7]

Yet in the Indian Ocean, Africa and the Americas, even after slavery was officially ended, the world of labor continued to be a world of unequal and sometimes extreme exploitation and violence, in which the boundary line between freedom and unfreedom—so clear-cut in theory—was far less obvious in practice. Only a thin, shadowy line separated—or rather, unified—them over time and space. This book explains why.

Labor and Freedom: Perspectives from the "Old World"

In the past as well as today, debates about abolition have essentially focused on two interrelated questions: (1) whether nineteenth- and early twentieth-century abolitions were a major break from previous centuries (or even millennia) in the history of humankind during which bondage had been the dominant form of labor and human condition[8]; and (2) whether they represent an achievement specific to the Western bourgeoisie and liberal civilization. Both questions are Eurocentric: they place the West at the origin of historical dynamics without examining the active role other actors and regions played in the process.

To avoid these pitfalls, we will assume first of all that so-called "free" forms of labor and bondage were defined and practiced in relation to each other, not only within each country and region, but also on a global scale. Historians of slavery and abolition do not usually sit at the same table as historians of wage labor in Europe and the West; these historiographies operate as if they were completely disconnected histories. Over the last 20 years, a new historiography has stressed the connections between free and unfree labor in a global perspective.[9] We will follow this perspective here in greater detail. The strength of global history lies not in collecting second-hand banalities common to a number of different worlds, but rather in arriving at a relevant representation of this multiplicity through local specificities.[10] Connections, entanglements and overall structural dynamics do not necessarily demand a world synthesis[11]; instead, they address specific questions using multiple scales.[12]

This book focuses on specific areas in India, the Indian Ocean and Africa, a choice that requires some explanation. The Atlantic paradigm has largely shaped our interpretation of modernity, made up of discoveries, European supremacy, global capitalism, the passage from slavery to free labor and a rather distinctive chronology. Slavery and U.S. independence,

followed by the French and Haitian revolutions and the abolitionist movement—all these events have informed our conceptions and practices of freedom up to the present day. The specificity of the Atlantic Ocean, particularly compared to the Indian Ocean-African perspective, has long been a subject of debate. Conventional historiography tended to use ideal types of slavery, sovereignty, colonialism and abolitionism, based more or less on the Atlantic experience, as models for the study of other regions.[13] Hence the highly critical attitude towards the view expressed by specialists of Asian, Indian Ocean and African regions over the past twenty years.[14] These specialists have contrasted the three areas with the Atlantic, starting with the chronology. Unlike the Atlantic perspective, which divides history into *before* and *after* the fifteenth century, we find in the Indian Ocean World (IOW) and Africa a long period stretching first from antiquity to the rise of Islam (the eighth to the tenth century); then from the global IOW-Africa of Islamic, Mughal and Ming-Qing powers to the coexistence of these polities with Western empires (the eleventh to the eighteenth century); and finally, the dominance of the West in the nineteenth century.[15] This chronology is particularly relevant with regard to labor relationships: in the IOW and Africa there was no clear shift from slavery to wage labor but rather a coexistence of different forms of bondage, dependence and servitude that has continued to this day.[16] Furthermore, the legal question of slavery was debated in the Atlantic in reference to slaves who managed to reach French or British soil.[17] Though France and Britain took different paths, and France, unlike Britain, developed positive law regarding slavery, both powers agreed on the supremacy of their own rules and empires over those of natives. However, such an approach was impossible in the Indian Ocean. This was famously illustrated by the British view of Indian slavery: until at least the mid-nineteenth century, it was considered a form of domestic, customary relationship. In this case, there was no discussion, comparable to the one in the Atlantic, of a uniform law or the value of freedom until much later.[18] The same was true, as we will see, in Africa, where colonial powers adopted ambivalent attitudes towards local forms of servitude and slavery before moving to more radical abolitionism.

However, we should not focus solely on these differences; it is also important to keep in mind the connections and similarities between the Atlantic and the areas under investigation here. Chattel slavery was not the only form of labor coercion in the Atlantic; indentured labor coexisted with it. Moreover, long after slavery was officially abolished, coercive forms of labor persisted in Brazil, Latin America[19] and to some extent in

the American South.[20] Sovereignty was fragmented and under negotiation in the Atlantic as well, and chartered companies played a role in both the Atlantic and Indian Ocean worlds. From this viewpoint, what really distinguished the Indian Ocean from the Atlantic were the size, scope and duration of the East India Company.[21] These new perspectives invite us to think in terms of trans-oceanic connections rather than simple oppositions. Knowledge, practices, people and institutions circulated on a massive scale between Africa, the Indian Ocean, Asia, Europe and the Atlantic; a fact that must be taken into consideration.[22] We already adopted this multilevel approach in our previous works on Russian serfdom, the Eurasian slave trade, and European labor, followed by slaves, seamen and immigrants in the Indian Ocean between 1750 and 1914.[23] In all those cases, we sought to avoid ideal types of serfdom, slavery, and wage labor and identify their historical meanings in a multilevel analysis involving ideas, politics, the law, and economic and social relationships. In the present book, I will be moving further along this path by investigating the concrete possibilities laboring people had to protect themselves and defend their rights. Our main aim is to overcome abstract considerations regarding "disguised slavery" or "freed labor" when talking about indentured immigrants and emancipated slaves. I will therefore begin by presenting the general evolution of labor relationships and their institutions in the broad regions concerned: the Indian subcontinent, the Indian Ocean, and Africa. I will then focus on specific areas: Assam, the Mascarene Islands, and the French Congo, and from there explore labor, legal and social relationships.

Abolitionism in India

The case of India was extremely relevant in nineteenth-century historiography and remains so today because it challenged predefined notions or ahistorical definitions of slavery and freedom.[24] To discuss the limits of utilitarianism and the failure of nineteenth-century liberalism to conceive of equal rights in the colonial context, it is necessary to examine abolitionism in India.[25] Our approach is as follows: because it is impossible to determine whether or not Indian forms of bondage were equivalent to slavery based on modern day definitions of slavery and forced labor, we have to start from the notions, categories and practices of the period.

In this book, the study of abolitionism in India distances itself from both subaltern approaches and colonial and post-colonial studies. Unlike

these approaches, we intend to show that it is a mistake to oppose India to Britain from the point of view of labor regulation. In fact, while British norms and perceptions translated into various forms of bondage and slavery in India, and thereby helped perpetuate slavery well after its abolition, slavery itself predated any British intervention in the subcontinent. From this perspective, abolitionism in India reveals the overall limits of British abolitionism, and more generally the legacy of revolutionary abolitionism in the period from 1780 to 1820.[26]

In past as well as current historiography, the question of slavery in India intersected with two other quarrels: on the one hand, debates about abolitionism in general and in the Atlantic in particular, and on the other hand, the conditions of wage earners in Britain. Some historians opposed mild forms of slavery (in India) to "real slavery" (namely chattel slavery) in the Americas, while a few others equated them.[27] Similarly, some considered proletarianism a disguised form of slavery, just as they viewed indentured immigrants as slaves. As a result, the actors and categories fluctuated and were much harder to determine than clear-cut definitions of slaves, proletarians, or free and unfree labor. Thus, the emphasis on "Indian specificities" supported the claim that there was no real slavery in India. It is no coincidence that this claim was made by the East India Company (EIC) on certain occasions (e.g. when it sought to promote Indian sugar production against competition from the American colonies), by slave traders, and finally by certain British political leaders and diplomats who feared that putting too much pressure on Indian elites would endanger imperial stability.[28] Conversely, radical abolitionists described Indian debt bondage as slavery and, by the same token, attacked the monopoly of the EIC. In this context, as we will see, utilitarianism and Jeremy Bentham played a special role,[29] influencing a number of colonial leaders as well as EIC officials, including John Stuart Mill. The "Indian question" affected labor debates, practices and institutions in Britain itself. Henry Maine, who served in India, was in favor of repealing the Masters and Servants Acts in Britain based precisely on the Indian experience and the need to distinguish British servants from their Indian counterparts.[30] Maine also advocated indirect rule as the key to preserving the stability of the empire.[31] Many colonial officers and elites believed that adhering to local customs and indirect rule would ensure an easier rule, greater cooperation and fewer administrative costs.[32] Their opponents, who supported direct rule, insisted on the paramount importance of Britain's civilizing mission and the need to uphold order and justice. The mutiny of 1857

reinforced the position of those, like Henri Maine, who supported the principle of indirect rule. This had definite repercussions, first in the Indian Ocean, and later on the African experience, where Maine's account of a traditional society in crisis supplied a rationale for indirect imperial rule.[33] Finally, the case of India will lead us to a discussion of how liberal utilitarianism was transmuted and implemented on the ground, its complex notions of freedom and its ultimate failure to provide freedom and welfare to Indian laboring people.

Mauritius Island: Immigrants and the Limits of Contractualism

Indentured immigration developed rapidly after the abolition of slavery. Between 1834 and 1937, over 30 million migrants from India are estimated to have gone to overseas British colonies such as Burma, Ceylon, British Malaya, Mauritius, Fiji, the Caribbean and East Africa. Laborers made up nearly 98 percent of the total movement of migrants from India during the colonial period. The majority of these workers were employed under indenture contracts owned by British capital. Slavery (in the Caribbean and Mauritius Island) was replaced by another form of servitude: "coolie labor" under indenture and the *kangani/maistry* systems. During the nineteenth and early twentieth centuries, growing demand in the West for raw materials and other tropical products led British colonizers to set up modern plantations as agro-industrial enterprises in several colonies of the British Empire, including India. Sugar, coffee or tea emerged as the most profitable products in the Caribbean, Fiji, Mauritius, Malay and Ceylon, as well as in Assam, Bengal, the northern Himalayas and southern parts of colonial India.

Indentured immigration in the Indian Ocean was therefore the complement and historical follow-up to the history of abolitionism in India, first of all because the market for indentured immigrants was part of a complex, integrated labor market encompassing India, the Indian Ocean and the rest of the world. Within this market, there were important connections between peasant production, Assam and Bengal plantations, colonial state labor requirements, the global dislocation of Asian empires and polities, the transformation of labor in Europe and the rise of the U.S. economy. The limits of liberal contractualism in the colonial regions are the major issue here.[34] According to one approach, the indenture contract resembled forced labor and slavery, and contracts expressed a legal fiction.[35] In the aftermath of abolition—these critics argue—indentured

immigration was essentially a form of disguised slavery.[36] Even worse, abolitionist legal acts failed to take into account the high rate of manumission and purchase of freedom in Islamic societies in areas such as Africa, Southeast Asia and the Ottoman Empire, or the legal and social constraints on freed slaves and serfs. Such an approach robs the abolition of slavery of any historical significance[37] while neglecting all the efforts indentured immigrants made to fight for their own rights.

Several legal scholars have opposed this view, arguing that the indenture contract was not considered a form of forced labor until the second half of the nineteenth century, whereas prior to that date, it was viewed as an expression of free will in contract.[38] This argument joins recent trends in the history of emigration that also stress the shifting boundary between free and unfree emigration.[39] We will develop an intermediate view: instead of asking—in the abstract—whether indentured labor was free labor or disguised slavery, we will examine the actual obligations and rights of indentured people through an extremely detailed account of laboring people by district and plantation, including individual cases. We will look at labor and living conditions, health, the return trip, abuses, violence and the defense of wages, as well as possible ways of resisting. We will also study labor resistance, unions, law courts, and physical conflicts. The study of Mauritius in particular will reveal the limits of liberal contractualism in terms of rights and freedom.[40] The experiences of immigrants and the enormous difficulties they encountered in defending their rights demonstrate the limits of formal equality before the law when it is not embedded in procedural rights, impartial law courts and political freedom.

Taken together, India (Assam in particular) and Mauritius Island provide two powerful examples of the concrete implementation of liberal utilitarianism and the functioning of the British Empire in the IOW. They will allow us to identify the respective roles of overall policies and principles and how they were implemented and adapted at the local level. In every instance, utilitarianism and free contract meant unequal rights between masters and indentured immigrants (and former slaves). At the same time, whereas in some areas of India the British authorities had to negotiate the use of labor with local elites, we will see that in Assam the brutality and domination of British rule was almost unlimited, while in Mauritius compliance with contractual rules was imposed mostly because the planters were French. The question is whether French approach to rights and freedom brought more “voice” (in Hirschman’s meaning, as explained in Chap. 2) to subaltern and laboring people.

French Abolitionism

Countless comparisons have been made between the French and British Empires dating back at least to the eighteenth century. There have been general comparisons[41] and comparisons concentrating on specific areas (the Atlantic, Asia, the Indian Ocean and Africa).[42] Some works compared the two empires in terms of sovereignty and rights,[43] others focused on military concerns,[44] the economy,[45] labor, slavery and abolitionism,[46] and still others on cultural values and intellectual history.[47] We do not intend to provide another comparative overview of the two empires. Instead, we will study in detail how the French connected abolitionism in the colonies to labor relationships in the mainland, why they were opposed to each other and how the principles were implemented in specific contexts. These policies will be compared with what "freedom" meant to former slaves and new immigrants and the actions they undertook to gain it. After summarizing the main French political and intellectual attitudes towards slavery from the eighteenth century to 1848, we will take a close look at the debates that took place between 1848 and 1851, when labor became the focal point of reforms both in France and in its colonies. We will offer a completely new view of the relationship between the two, and hence of the impact of the 1848 revolution on labor in a global perspective.[48]

We will then move to Reunion Island, which affords a direct parallel with Mauritius while formally belonging to a different empire. In this case as well, we will explore detailed plantation, district and police archives in order to depict daily life, labor and resistance. Compared to Mauritius, Reunion Island engaged in the widespread use of so-called "benevolent" forms of colonialism, which were not in fact based on charity, much less on legal rights, and in the end resorted to harsh treatment and subsidies for immigrants.

In the next chapter, we will follow the transfer of British and French labor rules and practices from the Indian Ocean to Africa. Imperial and colonial histories put too much emphasis on the relationships between the "core" and the "periphery": India vs. Britain, Africa vs. Europe, and so forth. Here we would like to introduce a more complex approach in which Indian-Indian Ocean-African connections offer a multicentered view of imperial dynamics. The shift from the Indian Ocean to Africa reflects actual historical dynamics, with the transmission of institutions, people and notions between India, Britain and Africa (e.g. definitions of slavery and of servants, the role of Henry Maine in defining both imperial

sovereignty—indirect rule—and labor institutions).[49] The slave trade had connected Africa to the Indian Ocean at least since the ninth century and expanded considerably after that, well before the arrival of Europeans. During the nineteenth century, abolitionist movements and European powers gradually turned their attention away from the Atlantic and the Indian Ocean to Africa as the last resort of slavery (together with the Ottoman Empire). This shift was at once ideological, intellectual and geopolitical. In the major syntheses of the history of abolition and colonialism, slavery in Africa is presented as a distinct phase, albeit linked to the preceding phases.[50]

The point of this chapter is not to put forward yet another view of imperialism and the contradictions between abolitionism and imperial expansion in Africa, or produce a typical "area study" looking for the specificity of a given region in Africa. Instead, we will highlight an aspect that has been usually neglected by historians: the relationship between abolitionism in Africa, on the one hand, and the evolution of labor law and the emergence of the welfare state in Europe on the other. The exclusion of colonial subjects from these new rules, in France as well as in the British Empire, generated a sharp divide between labor conditions and movements in the mainland and those in the colonies. Although there is a large bibliography stressing the contradictions between the welfare state and the colonial world in the late colonial period,[51] the same tension at the very origin of the welfare state in the late nineteenth and early twentieth centuries has been entirely ignored. We aim to fill this gap by arguing that from the start, the welfare state adopted a protectionist stance against foreign and colonial workers. What accounts for this?

The abolition of slavery in Africa was accompanied by the scramble for the African continent and what Lenin and traditional Marxist writers used to call "imperialism." More recently, historians of Africa have tended to present this history differently: it was, to be sure, a form of imposition by the European powers, but at the same time, the Europeans were forced to take into account the local actors, who were far less passive than they had been portrayed in Marxist literature.[52] We will bring out the tensions between Western notions of labor, freedom and abolition and the multiple practices in use in the various regions of Africa. Abolition was definitely not an indigenous African concept[53]; masters could free slaves through manumission; slaves could sometimes redeem themselves.[54] This book will show that these practices were related to the ones in previous periods,[55] notably to the fact that the expansion and management of labor in Africa

were supported by the abolition of slavery in India and the Indian Ocean and the introduction of indentured immigration, as well as the forms of sovereignty in the colonial context.[56] We will pay special attention to French Equatorial Africa, which was described by French colonial elites at the turn of the century as the Cinderella of French colonial possessions.[57] Here French attitudes were the most brutal, profits were low, control over the local population was weak and legal rights for the local population—already limited in other colonies—were almost non-existent. Yet the limits of European abolitionism in Africa testify not only to those of imperialism but also to a broader connection between neocolonialism and the transmutation of capitalism in Europe itself, notably, the second industrial revolution and the emergence of the welfare state. We will show that new rules more favorable to working people in France (and Britain as well) purposely excluded colonial "subjects" who were considered too backward to comply with them correctly. In fact, as we will see, companies operating in Africa were convinced they could not assume the same cost of labor as in France because indigenous labor was less productive. Labor unions, on the other hand, had just been admitted to the political arena and they were negotiating better conditions for workers than at any time since the industrial revolution. Thus, while they criticized colonialism, they also thought that immigration should be stopped and the new welfare benefits could not be extended to colonial labor. Their opposition was based on two concerns: first, they saw immigrants as competitors of the national labor force, who would consequently be underpaid; and second, they feared that unions would lose the difficult negotiations with capitalists and the government if they included all labor—national and colonial—in the new welfare project.

To sum up, all the chapters show the reciprocal though asymmetrical connections between Western Europe (especially Britain and France) and India, Africa and the Indian Ocean, and certain parts of them in particular. This approach demands that we specify our sources and methods of analysis.

Sources and Power

Our work is based on three main categories of sources: archives of colonial institutions and main actors; the archives of estates and plantations; and judicial archives. On the whole, these sources testify to the mediation of scribes, middlemen and judges due to the slow acquisition of literacy

during the period under study. The general process of the passage from the oral to the written world expresses the gradual domination of some social groups over others and some societies over others.[58] In colonial societies, writing was central to the expression of colonial authority, which was reflected in ethnography, political administration[59] and in legal codification.[60] At the same time, the richness of the documents and their significant number demonstrate that the conventional opposition between the literate elites and "the others" was already on the wane in the nineteenth century, judging by, among others, the magnificent works by Jeffrey Brooks on Russia,[61] Pier Larson and Clare Anderson on the Indian Ocean,[62] and the numerous collections of letters and songs written by English sailors.[63] These sources stand as unique testimonials and examples of an important form of self-expression. They are not the only ones. The correspondence between estate owners, shipbuilders, captains, concession companies and institutions offers enlightening perspectives: these sources reveal, for example, how hard it was for these "hegemonic" actors to coordinate their actions due to lack of information as well as divergent interests. No doubt their voice carried more weight than that of the laborers, but they were often divided, as the archives of estates and plantations in India, Africa and the Indian Ocean show. Through these documents, we can grasp how estate owners, planters and concession companies evaluated their workforce, kept track of their expenses, recorded breaches of contract and translated them into days of labor and/or monetary penalties, gave laborers permission to engage in commerce or to marry, and so on. On the island of Mauritius, landowners had to choose between managing their estates directly and employing an overseer. We will see that they calculated profitability according to race (i.e. the attitude of Africans towards work compared to that of Chinese and Indians) and sex. The justification for these differences was based on the real or presumed productivity of the laborers as well as their obedience and subordination within the estate power structure. The plantation archives reveal the conflicts that arose among estate owners, their complicated relationships with colonial authorities and the fact that planters were focused solely on extracting as much extra labor as possible from their workforce with little concern about medium-term productivity or profitability. Violence and abuse were an integral part of this world. Runaways, days and hours of absence and illness, and penalties expressed in monetary terms or days of labor indicate resistance on the part of laborers and the planters' dogged determination to regulate and control the production process. The considerable variations

from one estate to the next can be traced to a number of variables: direct or indirect management, the origin of the laborers, the size of the estate, contract length, and so on. The penalties imposed on immigrants and the abuses they suffered were rooted not only in an economy of institutionalized extortion, but also in an extreme interpretation of the Masters and Servants standards of colonial law. The goal was to retain an unpaid workforce for as long as possible. The slow evolution of the world of labor took place precisely in the relationship between tolerated violence and extortion.

In French Equatorial Africa, the concessions formed a system of virtual monopoly supported by the colonial state and supervised mainly by overseers rather than by company shareholders. The concession company archives provide information on how labor was described, named and used. In theory, the laborers were not slaves, but they were also resolutely unpaid. No distinction was made between voluntary labor and labor service (*corvée*) in the records of labor performed. In this particular context, the archives show that items relating to forced recruitment, labor service and tax payment were all listed under the same heading as "services." Contrary to the situation in Mauritius and Reunion Island, in the Congo, concession companies were encouraged to produce detailed budgetary accounts for the authorities and shareholders in Paris as well as summary reports on labor, the recruits' living and working conditions and any penalties imposed. In contrast to other colonial contexts, in this case penalties did not require justification. The very fact of being a native and therefore "indolent" and "insubordinate" was sufficient grounds for punishment.

This book will make wide use of judicial archives. The "effectiveness of law" reveals an anxiety widely shared among historians and expresses a particular approach to law. Laws are placed on the statute book but they could quickly become dead letters. Such laws are said to have little impact on the "real lives" of most people. Therefore, historians want to know to what extent laws were enforced. This view misses the point: judicial statistics reveal not how rules affect the behavior of ordinary people, but merely the extent to which they are formally enforced. As a legal historian has pointed out, there may, for example, be little enforcement and widespread disobedience or little enforcement and loss of compliance.[64] We will discuss this methodological question at length in the next chapter. For now, suffice it to say that in studying "law in action" we must keep in mind that the amount of litigation does not indicate the impact of rules on "real life," but rather the extent to which people could access the means to

enforce their legal rights.[65] The sources often show interactions between multiple authorities—overseers, estate owners, and so forth; and intermediaries, local communities, chiefs, and laborers. We will examine how the law was used in concrete situations, by whom and what impact it had on labor and social inequalities. We will see that, in the end, unequal rights, ordinary violence and coercion were part and parcel of everyday life. But why? How can we possibly explain persistent legal, political, economic and social inequalities despite the abolitionist acts and the French, the American and the Haitian revolution? Why did coercion, violence and forced labor outlive not only abolitionism but also technical progress and the industrial revolution?

To answer these questions, before moving on to discuss empirical evidence, we need to say a few words about approaches and methods. Categories such as coercion, power, rights and freedom address the delicate balance between ahistorical concepts arising from economics, sociology, political science and philosophy, on the one hand, and historical materials on the other. The next chapter will be devoted to examining how these two perspectives can be reconciled. We aim to make a convincing case for our approach, which consists in seeing categories "in action", understanding what they meant in their historical context and how they evolved in the hands of the actors themselves. We are not giving up the dialogue with social sciences, quite the contrary; we are inserting these disciplinary perspectives into appropriate historical contexts."

Notes

1. ANOM FM SM SG/Reu c 382 d 3323.
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CHAPTER 2

Coercion, Resistance and Voice

Economic Theories of Coercion

Many economists and economic historians subscribe to Domar's model (strongly inspired by Nieboer, a Dutch ethnographer in the late nineteenth–early twentieth century)[1] according to which labor coercion is likely to develop when there is a shortage of labor in relation to land. This model was based largely on Russian and medieval European serfdom, but since then it has been used to describe several other realities, not only in Russia, Africa and Asia, but in Britain and the U.S. as well. Such models are extremely interesting not so much for what they explain but for what they fail to explain. Thus, Domar's model suggests that slavery and serfdom were established when labor was scarce; in contrast, Habakkuk, Postan, North and Thomas stressed that in Western Europe, scarcity of labor accounts not for the strength but for the decline of serfdom and resulting capital intensification.[2] In the first case, the shortage of labor led to coercion, in the second to increased wages and hence to capital-intensive production methods.[3]

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 U.S.[4] In Russia itself, the scarcity of labor was barely mentioned in sources contemporaneous with the emergence of serfdom,[5] while the abolition of slavery in the

A. Stanziani, *Labor on the Fringes of Empire*,
Palgrave Series in Indian Ocean World Studies,
https://doi.org/10.1007/978-3-319-70392-3_2

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 1760–1790.[6] Wrigley and Schofield show that Britain established its overseas slave system during the very decades when the net emigration rate reached a three-century peak (1641–1661); in contrast, British abolitionism took off exactly when the net emigration rate sank to a tercentennial low (1771–1791).[7] As we will see, it was precisely at this point—when the British population grew significantly—that the Masters and Servants Acts intensified.[8]

The same was true in the other areas under investigation. Before the eighteenth century, Asia possessed a larger population than any other continent, but while Europe's population more than doubled in the nineteenth century from 190 million to 423 million (those of Britain, Germany and the United States increased almost fivefold in the hundred years prior to 1914), it took almost 200 years for the population of Asia to double, from about 415 million in 1700 to 970 million in 1900. Thus, whereas in 1750 Asia possessed 64 percent of the world's population, Europe 21 percent and Africa 13 percent, by 1900 Asia's share of the global population had fallen to 57 percent and Africa's to 8 percent, while Europe had increased its share to 25 percent, and the Americas to 10 percent. Sumit Guha has estimated that the Indian population increased by 44 million between 1600 and 1800 when it reached 161 million, followed by a further 76 percent increase to reach 283.4 million by 1901. However, the rate of growth varied considerably from region to region.[9] Indeed, there was no direct correlation between population density and coercion in India: the latter was sometimes commonplace in highly populated areas and periods of demographic growth, or, on the contrary, relaxed in relatively highly populated areas.[10] To be sure, the British used coercion to transfer people to the Assam plantation where there was a shortage of laborers, but we need to understand why, despite their own mainland experience, the British chose coercion rather than capital intensification or increased wages to accomplish their aims in Assam.

Similar debates have taken place concerning Africa. Economic historians of Africa have often evoked Nieboer and the scarcity of labor compared with land to explain the continuation of widespread slavery and coercion on the continent.[11] In their view, the lack of capital and the predatory nature of the states discouraged investments and large-scale operations, but enhanced coercion and labor intensification. The conventional

view is that demographic stagnation in Africa was the result of instability, petty warfare, and above all the slave trade.[12] According to Austin, probably the most convinced scholar of the validity of Nieboer's model for Africa, wage labor was not an economic option because there was no wage rate that would have been mutually advantageous for an employer to offer and a worker to accept, due to the possibility of access to land (the exit option).[13] This view is contrasted by others, stressing the relevance of cultural choice for property in people rather than land and its role in incorporating outsiders into African societies.[14]

At the opposite of Nieboer, several economic historians argue that in the colonial context, highly populated countries—thus not Africa!—encouraged the adoption of labor-intensive processes under coercion and discouraged capital innovation. In their view, Africa is just at the opposite of the Nieboer-Domar model.[15] In short, economic models based on simple labor demand and supply yield extremely divergent interpretations of the origin and primary causes of coercion in labor markets, but they have been unable to find adequate empirical validation for them? Can we do better?

As this book demonstrates, contrary to neoclassical economic theories, institutions and rules have always played an extremely important role in labor relationships inasmuch as purely competitive markets did not exist. Yet in this case as well, we adopt a critical distance on mainstream economic analysis of institutions. The economist's view of institutions is quite simple: whereas conventional liberal economic thought maintains that markets can operate alone without any interference, and Marx and his followers held that law merely confirms and strengthens the class structure already in place, neo-institutionalist currents have been endeavoring to prove that law and institutions intervene to ensure efficient market operation. Numerous authors (Douglass North among them) have thus shown that the rise of capitalism owed a great deal to the introduction of rules protecting private property. In this context, unfree labor cannot exist unless political institutions intervene and limit the free market. Otherwise, the lack of efficiency of unfree labor will tend to exclude it from the market. Neo-institutional economics argues that in places where markets are still "imperfect", it makes sense to have institutions to offset this deficiency; economic development will ultimately render these institutions obsolete.[16] This model does not explain very much: institutions include everything (the state, guilds, organizations, firms, associations, family, kinship, the village and even the market itself) and are both the source and

the consequence of market dynamics.[17] If institutions exist, then there must be an economic rationale for them.[18] Unlike neo-institutionalism, we argue that the institutions regulating labor are indeed important, but that historically they did not respond exclusively to efficiency, scarcity (of labor) and profit calculations, but also to power and values.

Power, Labor and the Colonial State

James Scott emphasized the role of the state and the attempts by state officials in a wide variety of contexts including the colonial world, the U.S.S.R. and Europe itself to reduce realities to ideal types and try to make the former conform to the latter.[19] We will discuss at length various representations of colonial realities (India, the Mascarene Islands, African areas) among French and British elites as well as the discrepancies between these representations and local realities. However, we will also show that, contrary to Scott's argument, the ideal types often evolved according to colonial realities and second, the effort to translate models into practices was hindered by the weakness of colonial administrations and actively opposed by local populations. In the major debates in Indian and African studies, some stressed the hypocrisy of the colonial state regarding its real aim, that is, to exploit bonded labor; others took the opposite position, arguing that colonial officials were motivated by genuine anti-slavery feelings and it was only the impotence of the colonial state that limited this impetus. In both cases, the question concerned the strength and power of the colonial state. Our fieldwork will lead us to shed light on the role of the colonial state from three specific perspectives: India, the Mascarene Islands and French Equatorial Africa. This peculiar view requires that we transcend the simplistic opposition between the state and civil society; what we find instead is a number of different types of power, sovereignty and rights: not only state sovereignty, but imperial legal pluralism[20]; few legal rights and several obligations accompanied strong inequalities in economic, social, civil and political entitlements. As regards India, between the mid-eighteenth and mid-nineteenth centuries, the "colonial state" actually *was* the East India Company (EIC). During its initial phase of expansion in India, attitudes varied considerably within the EIC as well as in Parliament.[21] As we will see, the question of slavery in India was inevitably related to that of the British sovereignty, which was not just that of the relationship between "Britain" and the different states and power in India, but also and above all on whether "Britain" was the Crown, the

parliament or the EIC. Many in the British parliament were highly critical vis-à-vis a company that they judged as a state within the state. Opinions also differed among company officers in Bengal, Madras and Bombay.[22] These variegated attitudes generated even more disagreement regarding the princely states. A company's relations with these states were based on a system of subsidiary alliance, according to which Britain controlled foreign policy and in exchange guaranteed domestic sovereignty to the local powers. Some, prompted by the political and military instability, advocated a cautious approach; others, on the contrary, demanded more direct intervention and expansion justified by warfare, trade security and, last but not least, the need to abolish slavery in the Indian interior.[23] The outcome of these approaches, together with the fierce resistance of Indian states and populations, was a patchwork of institutional and practical solutions; they varied according to the field (law, economy, culture, lower or higher education, criminal or commercial law, trade or labor), the geographical area (Southern India, Northern India, the Malabar Coast, etc.), and, of course, the individuals concerned. Sovereignty, colonial rule and slavery were indeed interconnected: indirect rule in the late eighteenth and early nineteenth centuries went hand in hand with acceptance of local forms of slavery, whereas direct rule from 1830 to the late 1850s favored direct interventionism accompanied by equally decisive support for plantations in Bengal and Assam. Finally, the return to indirect rule during the second half of the nineteenth century once again went along with renewed tolerance towards "local customs." This did not keep the British Raj from using coerced labor for public works; increased state intervention in development policies after the Bengal famine of the late 1870s brought with it further recourse to coercion through the contractarian approach.[24]

The British showed similar attitudes in a completely different context; namely, in Africa. They initially exported their notion of the colonial state developed in India, seeking agreements with local chiefs while tolerating local forms of slavery. It was only when these alliances collapsed and the abolitionist movement reinforced its position regarding Africa that direct rule and the prohibition of slavery developed.[25]

The French again pursued their civilizing mission, but the possibility of imposing these attitudes was greater in Senegal than in the Congo (see Chap. 5). It was undoubtedly more difficult to establish a colonial state in the Congo: more power was attributed to military than to civilian colonial authorities, and it was accompanied by more violence and abuses. In French West Africa (FWA) the civilizing mission was a topic of discussion

and policy debates[26]; in French East Africa (FEA), debates focused on the relative strength of military vs. civilian power and the brutal exploitation of local resources.

In short, the "colonial state" encompassed various institutional actors: private companies (in India and the Congo), state officials and law courts. For institutional and ideological reasons, these actors advocated and tried to practice different policies with regard to sovereignty and slavery. Some were genuine abolitionists; some were merely opportunistic abolitionists; still others were hostile to local autonomy and because of that, they fought local forms of slavery. Efforts to implement abolitionist aims ran up against these diverse attitudes within the administration as well as lack of organization and information. In addition, local societies, which presented a similar variety of attitudes, also played an active role; chiefs, merchants, slaves and former slaves transmuted the initial, often contradictory, aims of the colonial powers into something else. In the end, the top-down activity of the state was certainly stressed in many—though not all—colonial contexts, but it tended to be an aim and ambition more than a historical reality. Colonial and post-colonial studies often confused aims, goals and practices.

At the same time, we should not exaggerate the opposite interpretation and focus exclusively on the lack of power of the colonial state. Even when the colonial state was weak, as Herbst[27] points out, even when the state was a private company aided if necessary by military and paramilitary forces, the violence was extreme. Just because the ideal type of efficient state was not achieved does not mean the state did not matter. In order to understand this point properly, after looking at the theories of economics and political science, we must turn to legal analyses.

Rights and Legal Status

Economists are not alone in depicting an ideal world of optimizing institutions and maximizing actors; legal scholars, too, provide ideal ahistorical types and express the relationships between labor and freedom in terms of status and contract.[28] Indeed, this long-standing opposition has been widely diffused in history and the social sciences since the last quarter of the nineteenth century, when Henri Maine and A. Dicey opposed unfree societies (*ancien régime*, feudalism, slavery) to free societies. In the former, the legal status of the actors conditioned their social, political, and economic actions, while in the latter the contract dominated. This view

emerged in response not only to the abolition of slavery in the United States and serfdom in Russia, but also to the transformation of labor institutions in Europe and the United States. In particular, the emergence of collective bargaining and the welfare state was considered synonymous with the decline of freedom of contract and a resurgence of status, the latter being a distinctive feature of "old regimes". Several authors have since developed this argument.[29]

However, during recent decades, this simplistic scheme has been increasingly attacked. In respect of *ancien régime* France, for example, it has been demonstrated that the division of society into "old orders" and corporative regulation had already weakened greatly, and to some extent had disappeared, by the early eighteenth century,[30] while, on the other hand, important status markers persisted under the liberal regime (in relation to the legal status of married women, children, and merchants, for instance). This was true not only in France but also in Britain and Germany.[31]

The return of status in the twentieth century cannot be compared with old regime status insofar as it appeals to rules and rights in order to reduce inequalities rather than to increase them. The world of labor, in particular the rights of workers under collective agreements in Europe and their fate on the one hand, and the tough conditions endured by coolies, bonded people, and immigrants on the other, shows clearly enough the importance of this point for understanding past and present societies.[32] The perpetuation of differences in legal status—some of them longstanding, some new—was the chief failure of the eighteenth century revolutionary projects: slaves, then indentured immigrants, colonial subjects, women and children among others were at the edge, if not excluded, from these notions of rights and their universality.

Yet this book will not just "deconstruct" the opposition between contract and status; it will show the origin of the opposition and its role in shaping labor hierarchies and inequalities in colonial worlds. According to Henri Maine's account, the opposition between status and contract emerged from his experiences in colonial India, when he reflected on the labor relationships he observed in Assam plantations. It was this peculiar experience that drove him to rethink labor and its institutions in Britain (and not the other way around).

We may generalize this observation: circulation of institutions were never unilateral, from the "center" to the "periphery", but always bilateral although, of course, unequal in their strength. These mutual influences

were also something other than what we may imagine starting from ideal types of "European" or "British", "Indian" and "African" societies. As I have already shown, in liberal Europe itself, and contrary to common views, legal status did matter. Thus, after the Revolution, France retained differences in legal status, with special laws for "merchants" (business law), women (with no or very few rights),[33] and, of course, the colonial world, systematically excluded from legal rights granted to some actors in the mainland. In the labor market, the revolution abolished in principle any legal status. In practice, urban workers in some protected fields—textiles for instance—benefited from this rule; however, rural work forces and small family units were still under different legal provisions.[34]

Even worse, in Britain, laboring people were under different legal status. Almost all the work force were legally "servants" and, as such, benefited from far fewer rights than their masters. Even worse, they were under criminal provisions.[35] From this perspective, contract enforcement was a substitute for higher wages: masters used it as long as they could, in order to secure labor.[36] In Britain, free labor, even when a contract existed, was considered the property of the employer and a resource for the whole community to which the individual belonged.[37] Punitive measures accompanied the emphasis placed on contractual free will as a foundation of the labor market. Sanctions increased in the eighteenth and nineteenth centuries.[38] Since the mid-seventeenth century, the Poor Law related relief directly to workhouses. Any person lacking employment or a permanent residence was no longer considered 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.

As we will see, the British sought to export their notions of masters and servants and even of the poor when confronted with Indian forms of slavery. However, they adopted different attitudes when they had to regulate domesticity and other forms of slavery among Indians or recruited Indians for their own purposes (plantations, public works, and domestic personnel). In the end, these experiences influenced the reform of labor law in Britain itself: the repeal of the Masters and Servants Acts was encouraged by the British experience in India. The transfer of British values and institutions to India became in fact a core issue in political debates and administrative governance.[39] While British norms and perceptions translated into various forms of bondage and slavery in India, and thereby helped perpetuate slavery well after its official abolition, those institutions nevertheless

predated any British intervention. The solution adopted in India and the practices that were accepted did not result solely from British influences, but rather from the interaction between those influences and local labor relationships and values. Europeans did not create slavery in India and Africa, but they transformed its existing forms and introduced new ones. The opposite view of Henri Maine identifies status with despotism and ancient societies like India and its casts. Starting from this experience, he reached the conclusion that the legal opposition in Britain itself between masters and servants was no longer acceptable.

Yet, as this book argues, such mutual influence between the mainland and its colonies did not necessarily lead to more "freedom" in the colonies and convergent paths between the two. Indeed, it was quite the contrary. Although the rhetoric assimilating slaves to proletarians was widespread in both France and Britain during the first half of the nineteenth century, it reflected a political and ideological attitude occasionally espoused by conservatives and by some labor associations as well. The Indian experience encouraged people like Henri Maine to support the abolition of the Masters and Servants Acts in Britain while keeping coercion alive in India.

Worse still, the French constantly sought to impose their own categories and values in what they believed was their civilizing mission. In this effort, they also tried to limit the influence of local and colonial values and attitudes.

Finally, at the turn of the nineteenth and twentieth centuries, it was no longer a question of discussing the abolition of slavery in the European colonies, but quite the opposite, to occupy new territories in the name of freedom. The "Scramble for Africa" responded to this goal. In previous decades, freedom for the indentured had been influenced by the liberal notion of freedom as expressed in the Masters and Servants Acts; the Masters and Servants Acts in the colonies had been an extension of the Masters and Servants Acts in the mainland. On the contrary, the labor rules in the colonies now firmly diverged from new labor rules in Europe. From this standpoint, the colonies were no more an extension of the mainland, its extreme variation, but its negation. There was no question of granting any kind of welfare to liberated Africans; instead, a transition period of cultural and technical apprenticeship was required before they could understand and practice freedom.

Thus, if colonies and laboring people in particular were constantly put on the edge of the conquest of legal, civil and social rights, how could they possibly resist exclusion and violence?

Resistance: Exit and Runaways

So far, we have put into evidence the limits of economic theories of coercion and shown that, in the labor market, coercion was related not just to economic rationales and factors endowments but also to social conventions (labor as service) and power. We have therefore sought to better qualify power; we have escaped from simple top down notions of it, in particular as concerns the colonial state. We have stressed the agency of "subaltern" people, while recalling that this does not imply the lack of social and political hierarchies. Between the ideal equality before the law, and persistent inequality in economic relations, we show the historical and institutional setting of social hierarchies, and thus, the possibilities different actors have to reproduce or contest the social order. From this standpoint, we have contested the ideal opposition between status-based and contract-based societies and show their coexistence. So, then, we need to proceed further and understand the historical forms of agency.

Let us take the triad *exit*, *voice* and *loyalty*, a heuristic device proposed by Hirschman: exit can be expressed in the market only by a negative act of protest (refusing to work, refusing to buy a given product), whereas voice puts us squarely in the realm of politics. The contrast between exit and voice it that between the economy and politics; it enabled a fundamental critique of the model of perfect competition, which is why Hirschman's schema has enjoyed such enormous success in economics, sociology and sciences. The problem, as many observed, mostly concerns loyalty, a residual category Hirschman barely developed.[40] According to Hirschman, loyalty makes it possible to displace voice and its tensions in relation to exit: those who remain can use exit as a credible threat in order to negotiate "from within." This schema works well for the consumer and possibly for trade unions—two cases that were studied by Hirschman and many other authors. Is it relevant in the case of slavery as well?

We usually associate runaways, fugitives and deserters with two main categories of people: maroon slaves and conscripts.[41] In this book, we will take a different position, arguing that the history of runaways is a global history in the sense that it concerned all working people—slaves, serfs, indentured immigrants, bonded persons, apprentices, servants and even, up to a point, wage earners, as well as convicts, seamen and soldiers,[42] most of whom were themselves workers, servants, day laborers, and so forth. As such, fugitive working people bypassed the conventional

dichotomies between military conscription and labor markets, free and unfree labor, and slaves and serfs as opposed to wage earners. Why was it so? Why were runaways and fugitives so crucial in all rules on labor and public order?

Runaways, maroons, vagrants and other fugitive people did not merely express "resistance," as most scholars have argued.[43] They need to be seen as part of a broader picture. If we adopt the well-known Hirschman trilogy (voice, exit and loyalty), runaways undoubtedly expressed a form of exit where their voice was weak or non-existent, and their loyalty was therefore equally weak.[44] The question here concerns not so much the validity of the general principle as the relationships among these categories in specific historical and spatial contexts. Was exit always the opposite of voice? Were there contexts in which they played complementary roles? If so, then why?

We argue that runaways as a form of exit cannot be understood without taking into account the fact that, between the seventeenth and the early twentieth centuries, working people—slaves or serfs, day laborers or servants, conscripts or convicts—had no voice or only a very weak one in the broader sense: no political rights, very few civil rights, unequal legal rights, no social rights. They were runaways because they had no voice and thus no choice.[45] As we have seen, labor as service meant that all those who escaped from it were deemed fugitives or vagrants. The limitations on mobility and titles of ownership of people converged and, in extreme cases, coincided; for example, in the case of slaves, serfs and certain forms of indentured immigrants. But even in other cases, the general notion of labor as service led to establishing a close normative relationship between control over time and control over people.[46]

This explains why the social order was so closely linked to the political order in issues concerning runaways and in labor issues generally during the period under study. One of the main purposes of the rules governing runaways was to maintain the market in a well-ordered, hierarchical society. There was no opposition between the market and coercion, or between public and private control of labor, as liberal interpreters of capitalism have argued since Smith; on the contrary, they were perfectly adapted to each other.[47] We will therefore study indentured runaways in colonial Mauritius and Reunion islands, in French Congo. However, the extreme emphasis put on labor and its mobility also had unintended consequences. Masters and elites accused each other of engaging in "unfair competition"; namely, keeping fugitive working people for themselves. Rules of competition

were invented not to regulate trade, but to control labor.[48] Most of the rules regarding runaways and fugitives stressed the importance of returning them to their legitimate master and/or owner. This phenomenon also revealed that it was essential for masters to have people at will and the intrinsic weakness of a system that drove masters to compete with each other for control of fugitives.

The final outcome of this global problem depended on the relative strength of the various groups of masters, the state and other authorities (towns, villages), and, of course, working people, as well as on the relationships between them. The outcomes in France and Britain were different from those in their respective colonies, and even within these areas, there were considerable variations from one region to the next. This was so, among other things, because "voice" was not nonexistent, even in the colonial world. Everyday life forms of resistance and the law were among the tools available not only for masters, but also for slaves, immigrants and seamen. We will examine how, in the aftermath of slavery, laborers, former slaves and immigrants in Assam and the Mascarenes were systematically fined for absenteeism and failure to comply with rules (both labor rules and obligations towards masters, managers and supervisors). As we will see, the number of such conflicts was huge, far more than in mainland Britain or France during the same period. However, we must be careful in reading these sources (judicial, police, inspections, and estates): though the conflicts did in fact take place, the masters were quick to encourage them—for instance by raising the standards—or simply by asserting them in order to impose longer dependency and "debt" on former slaves and new immigrants. Unlike settled "peasants"—a term that would require specification—our protagonists had to be kept in place by their masters, at least for the peak seasons and during favorable economic trends. Immigrants and former slaves had few rights, many obligations and few opportunities other than exit. Unlike European workers, they could not benefit from trade union support. Some Indian and Chinese coolies tried to organize a sort of union in the Mascarenes, but it was immediately disbanded; this option was not even conceivable in Africa before World War I. European unions nevertheless did play a role: over time they won protection for the European workforce; however, this improvement was opposed by the global labor market and excluded colonial and global workers from the national union and welfare state protection. So, were there other tools immigrants and laboring people in the colonies could use to defend themselves? What about the law?

Resistance: Voice and the Use of the Law

As we will see, loyalty was evoked for slaves and former slaves willing to stay with their master. Yet this possibility was much more open to men than to women and children and, most importantly, colonial authorities did not hesitate to qualify moving (former) slaves as runaways, not migrants. In fact, the possibility of runaway slaves being taken in elsewhere was a credible threat to their masters. That is why planters, serf- or slave-owners and masters everywhere wanted to introduce rules that would prevent others from appropriating "their" runaways. We can grasp the historical institutional framework in which loyalty developed in labor relationships by looking at the rules that were adopted in this regard and how they were applied. The colonial authorities in India, the Mascarene Islands and the FEA had an ambiguous attitude towards runaways. Sometimes, particularly in the presence of indirect rule in India and the FEA, runaways were returned to their owners. In many instances, however, abolitionists protested against such procedures and, as a result, a number of fugitives were "freed" and assigned to other masters, usually colonial employers. Loyalty to former masters was not a reliable instrument in this context; its effectiveness depended to a very large extent on the attitude of the colonial authorities and on the legal framework.

Hirschman ignored the role played by positive law and subjective rights in the market and the field of politics. Opposing economics to politics overlooks the fact that voice and exit find a third form of expression, alongside parliamentary voice, boycott and purchasing decisions, in the use of law. We argue that the exercise of rights is part of economic and social action and Hirschman's heuristic can be retained as long as it is expanded to include law in action. Law provides another form of voice in addition to political, economic and social voice. Law in action legitimizes other possible forms of exit above and beyond merely choosing between products or jobs. That is why the different historical configuration under examination here will be put under the general umbrella of "voice, exit, and the law". Law offers neither infinite solutions (the position of those who insist on the importance of informal rules) nor a single, predetermined outcome (the Marxist thesis), but rather a limited set of possibilities. These possibilities stem from several factors: the formulation of rules and hence the pressure groups that back them, the country's legal traditions, and the intellectual and social framework in which rules are used and interpreted.[49] According to Weber, law can be better understood by

the way the actors appropriate it than by its theory or the rules of positive law alone. Much of the sociology of law, particularly the one in France, Germany, Italy and the Anglo-Saxon countries which claims to follow law in action, claims this Weberian legacy.[50]

However, independently of Weber, the theory of "law in action" has been considerably developed in the United States from the early twentieth century to the present day.[51] The historical workings of capitalism and of the main markets (labor, products, capital) have been framed by strong institutional and legal dimensions. Within this general framework, a sizable bibliography now exists, focusing on how the actors appropriated the law, especially in their labor relations. This research pertains to the use of labor law in France, England, Germany, the U.S.[52] and recently Russia as well. Standard oppositions between ancient regime societies (including Russia and pre-modern France) and modern societies has been put under discussion; use of the law was widespread among different groups of the population, including peasants, not only in Britain but also in pre-revolutionary France and Russia. In these contexts, use of the law could perpetrate social inequalities, but not necessarily and not along the same lines.[53] In my previous works I have mostly focused on the use of the law in France, then Russia, in the eighteenth and nineteenth centuries. Here I intend to complete this analysis by studying interconnected colonial worlds in Africa, Asia and the Indian Ocean World. Studies on colonial law and how it was used by "colonized" populations have also generated a great deal of interest over the last 20 years.[54] The general principle applicable to all these contexts was that law can be a tool for mediation; it does produce inequalities but it can also reduce them and the final outcome is never a foregone conclusion. Nevertheless we should not overestimate the scope of this flexibility: a legal norm can only be used within precise limits, depending on how it is worded, the procedures for its application and the relationships between the parties involved. Then it is necessary to determine empirically, in each context, if and how the actors concerned—serfs, laborers, indentured immigrants or former slaves—were able to defend themselves, within what limits and how successfully. Lauren Benton and many others have shown that local actors were able to appropriate colonial law by taking advantage of legal pluralism: imperial law, customary law, the laws of several different empires, and so on. Legal pluralism in a colonial context reveals that the colonial order was much more complex and institutionally instable that usually believed.[55] The coexistence of multiple legal orders created the possibility for different actors to mobilize different

sets of rules.[56] From the point of view of the economic and social actors, the multiplicity of rules and jurisdictions represented not only a cost but also an opportunity. The possibility of calling upon different rules and jurisdictions was important; it not only allowed the actors to "cheat," but also guaranteed them a certain amount of leeway.

Who these actors were, which real possibilities they had to mobilize different rules and with which legal and social outcomes depended on the place, the period and the field of law. Legal pluralism was not a prerogative of the colonial world or the old regimes in Europe; it persisted in Europe as well in the nineteenth and twentieth centuries, when commercial courts coexisted with civil courts, and merchants, businessmen and traders could freely choose where to bring their claims.[57] Indeed, this system encouraged them to find arrangements to avoid having disputes go on forever, in particular in the labor market.[58] In France, special rules for "merchants" (i.e. people who paid a patent and engaged in an activity for profit) benefited special groups of business actors (mainly businessmen, traders, manufacturers), but not others (peasants and artisans were excluded from these rules and access to commercial courts). All the same, special labor courts (*prud'hommes*) contributed significantly to the protection of workers and of laboring people in general at a time when unions were not yet legalized.[59] What about the colonial context?

Under slavery, as we will see, slaves had few, if any, rights. In a few specific situations, they were allowed to address a court of law, a possibility that acquired some importance in the mid-eighteenth century in France, as well as in Britain, through cases relating to the presence of colonial slaves on the mainland. In both countries, the abolitionist movement was strongly influenced by these issues.[60]

Outside of slavery, during and after it, the Masters and Servants Acts were the common umbrella of the British Empire for labor relationships. Hay and Craven studied how the rules governing labor in the British colonial empire were applied under the common heading of the Masters and Servants Acts, but implemented differently from one colony to the next.

The question was precisely that of legal pluralism: should there be one law for the whole empire or several?

The answer was not the same in Paris and London as in Delhi or Abidjan. In Europe, the prohibition of slavery applied to temporary, incoming slaves; they were therefore entitled to apply for judicial review and claim their freedom. But in the colonial world this rule was no longer enforceable. In the colonial world during the period under investigation,

legal pluralism was an instrument reserved primarily for masters and potentially for European states seeking to expand. In the Indian Ocean world in particular, recourse to one set of rules or another depended on whether it was necessary to take into account the strength of local authorities while seeking to negotiate and eventually impose one's superiority over other European powers.[61] Legal pluralism in the colonial context reached its climax for Britain in India, for France in Egypt and Algeria, and then for both powers in Africa.[62] It was usually, but not always, associated with indirect rule (covered in later chapters of this book). The double channel—one set of rules and institutions for "natives" and another for Europeans—required appropriate translations of "indigenous rules" into French or English. In British India as in Africa (both British and French), some authorities and observers assumed the existence of universal rules of justice and civilizing missions, while others stressed the importance of taking local culture into account in order to win over the collaboration of the local population and ensure better management of the empire. Yet this last option always implied mediation; "local rules" were translated in accordance with British or French legal doctrines. Thus, the British encounter with the Moghuls in India and the French encounter, first with Algeria and then sub-Saharan worlds, led both empires to identify a "Muslim law," which was actually a cross-cultural mix of local practices, with British or French categories. Thus, *sharia* was transformed into a body of jurisprudence and then classified under the main headings of European law—family, inheritance, property, and so forth. Of course, legal pluralism meant that some groups of actors, who were institutionally predefined, had access to these multiple sets of rules. Colonizers could address European as well as "indigenous" courts, while colonial subjects could in theory only address the latter. The possibility of escaping from the rigid dualism and segregation in legal pluralism was not settled—the British in India disagreed among themselves on the role and jurisdiction of the various courts, as well as the access reserved for equally different groups of the population. Their answer was not the same at the end of the eighteenth century, in the 1840s and after the abolition of the EIC. We find a similar attitude in Africa after 1870. In this case as well, different bodies of rules and courts were not accessible to everybody. Conflicts between "natives" were clearly separated from those between natives and colonizers. Again legal pluralism was not accessible to all, but the boundaries varied according to the place and time.[63]

However, when the choice of the court and the body of law was opened to "natives" and colonial subjects, the social effects on local societies changed. As we will see, these hybrid sets of rules—the creation of the Muslim or Hindu codes—were used by local populations as well as by colonial actors. The social impact of this must be evaluated case by case. For example, in sub-Saharan Africa, both French and British former slave masters used local justice and codes co-created by the colonial powers to reshape the forms of dependency and bondage of their former slaves, including women and concubines. At the same time, former slaves and women also made use of the law to win their rights, which put local societies under pressure. Women contested established local hierarchies and so did young people and "outsiders" (former slaves): when they addressed colonial instead of local courts, they were attacking existing social hierarchies. This was not necessarily because the colonial courts were more open and progressive, but because they were different: they reasoned in terms of natural rights, property, free labor and inheritance.[64]

Mauritius offered yet another form of legal pluralism: here British and French rules coexisted and were accessible not only to planters but also to immigrants.[65] This was possible because there were no "indigenous" customary rules, and in this case, the notion of the settlement colony was relevant. Legal pluralism was also possible due to the history of Mauritius, which passed from French to British rule, and because the British sought to maintain some sort of balance with the French planters. Last but not least, the opportunity open to immigrants to mobilize British rules against the French was in line with British abolitionism and economic interests as well: Mauritius sugar was in competition with Caribbean cane production.

In Africa—as in India—both the British and the French, along with other colonial powers, instituted a double system of law: the indigenous law and the general law. Many had stressed that, unlike previous historiography, local actors were highly interested in using courts; notably, indigenous courts.[66] Yet, as in India, this issue does not tell us anything about the possibilities that "indigenous people", and laboring people in particular, had to attack masters in justice and have appropriate access to higher and general courts. In this case, as we will see, their chances of winning a case against white people were scanty.

Therefore, legal pluralism cannot be divided simply into state and non-state forms; this clear-cut distinction reflects the ideal type of the European nation-state but hardly corresponds to historical realities. From this

standpoint, judicial archives provide an overview of the extent to which the actors succeeded (or failed) in making their voices heard and defending their rights, the number of cases they won and the legal, social and economic inequalities that flowed from these decisions. Through the use of judicial archives, we can avoid two extreme positions: either concluding that formal equality before the law was equivalent to real social and economic equality, or seeing the law solely as an instrument for domination of subaltern groups by elites. On the contrary, we will show that significant differences in legal status persisted among the actors: in the Indian Ocean and even more in the colonial world in Africa, these status differences coexisted with market dynamics and the introduction of certain representative institutions. Yet, law is not only oppression, but also a tool for equality; it provides another form of voice in addition to political, economic and social voice. Law in action also legitimizes multiple possible forms of exit above and beyond merely choosing between products or jobs. Unlike a boycott, law in action widens the range of possible options for laboring people, immigrants and vulnerable populations. As our stories prove, despite explicit inequalities and the abuses by judges and elites, who were often closely connected, peasants, sailors, serfs, bonded laborers, indentured immigrants and freed slaves stubbornly insisted on having recourse to the law. Again and again they went before the judges, and although they were often dismissed, or even jailed and whipped for perjury (it was their word against the masters'), they redoubled their efforts and tried again. As time went by, they began to win in court. However, events occurred more often in Mauritius than in Reunion Island and still less in Assam, while it was almost nonexistent in the French Congo, where the first law courts for indigenous people were settled only in the interwar period.

Rights, Labor and Inequalities

So far we have resumed the main approaches to labor and rights in economics and legal studies. We have contrasted these approaches with historical perspectives mostly rooted in global history (comparisons and entanglements) and social-legal perspectives. This requires an overall conversation with the main Western philosophies of justice. The relationship between slavery, labor rights and human rights is under constant debate. For sure, some rules assimilate them; for example, the Universal Declaration

of Human Rights of 1948. However, this was not the case for many documents issued from this original chart (including the American Convention on Human Rights), and even more so in previous centuries.[67] Labor rights were a part of so-called social and economic rights, not human rights. Today, the convergence of the two is sustained by the International Labour Organization (ILO) (in particular since this institution is focused on human trafficking and child labor—that is, since the new millennium, before that date its orientation being much more uncertain)[68] and by some unions, in Europe as well as in the US, although mostly in a protectionist way. National workers and their rights, in particular under conditions of harsh unemployment, are included under the broader umbrella of human rights, while this extension to immigrants is more problematic.[69] Why is this so?

This book does not intend to provide yet another intellectual history of the notions of freedom and labor during the Enlightenment, under liberalisms and socialisms, or from a human rights perspective. Many works have already dealt with these topics.[70] Most of those works are resolutely Eurocentric and show how Western notions of human rights spread around the world,[71] sometimes stimulated by other realities.[72] As a result, this approach has been criticized by subaltern and colonial studies.[73] Adopting another line of reasoning, some authors have emphasized the limitations of conventional Western approaches to human rights, either because they were state-based[74] or because they were capitalist-oriented. Most studies on slavery, abolition, and human rights mix historical and normative attitudes: they look for the "contradictions" of the emancipation ideologies and processes and suggest what had to be done. For example, anti-slavery movements and nowadays Afro-American studies persistently recall that the American Enlightenment defended the rights of settlers and forgot those of slaves; the same was apparently true of the French Enlightenment and English political philosophy in the eighteenth century.[75] Many others have also pointed out the contradictions in liberal philosophy and its formal egalitarianism. This is a normative approach, useful in our civic commitments today, but less relevant for historical analysis.

This book adopts a different approach: the point is not to reproach, say, Thomas Jefferson for having had slaves despite his commitment to universal human rights but rather to understand the reasons why, in the late eighteenth and early nineteenth centuries, a slave owner could legitimately speak of universal rights. It is not so much a question of contradictions as

of different worlds. The term "contradiction" merely describes the opposition between historical realities and normative goals of the past, and our own current notion of freedom. Most analyses thus compared ideal worlds presented as historical realities; this approach causes confusion between just institutions and just societies: they seek to identify the best institutions and these are supposed to produce "just" societies. For example, utilitarianists since Bentham and Rawls nowadays insist on the necessity of protecting private property and the provision of initial "goods" to everyone; contractualism considers that once we have written contracts, the issue is fair and just; and finally, supporters of the welfare state insist on public spending in social welfare in particular, without checking whether these resources really reach the most deserving people.

This book tests Western approaches to labor and freedom, not in the abstract but in terms of how they were implemented on the ground in the Congo, Assam, Mauritius, and Reunion Island. As such, historical experiences will not be just "cases" to be studied under one or another theoretical umbrella, but, quite the opposite, historical dynamics in their diversity are intended to question political philosophies. Thus, abolitionism in India leads to pointing out the limits of utilitarianism: Bentham, Mill, Maine and several British officers sought to find an answer to slavery and unfreedom in the utilitarian principle; the issue was the persistence of formal inequalities in front of the law, which added to real inequalities and discriminations in political, economic and social terms. Similar limits inform the notion and practices of British contractualism in the regulation of indentured immigration. Both these approaches brought together statutory and market discrimination in the name of freedom.

Then, we will test French revolutionary ideals when confronted with slavery, in particular after 1848. We will stress the limits of these principles when enforced outside of France, in the colonial world. It is important to evaluate different steps of the "French way" to freedom: forms of liberal contractualism and paternalism under the Second Empire will be tested in the regulation of the post-slavery society in the Reunion Island. Next, the passage from classical liberalism to the welfare state and its effect on labor relationships in the colonial world will be examined by studying the French Congo, the abolition of slavery and the practices of labor thereafter. Starting from this, we will show the tension between the new protectionist welfare state in France and the persisting forms of bondage in the colonial world.

Finally, this book will invite the reader to use history, not to judge or confirm preconceived models, but on the contrary, to indirectly evaluate the main Western philosophies of emancipation (liberalism, utilitarianism, contractualism, revolutionary equality and the welfare state) on the grounds of concrete historical examples. Starting from real lives and solid historical examples, we will point out the accomplishments, but also the limits, of these visions to provide real voice and freedom to laboring people in the colonial worlds. Yet, this does not intend to be a mere pessimistic view, but rather to incite to explore new possibilities and opportunities nowadays, in the quest of freedom and equality.

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CHAPTER 3

Utilitarianism and the Abolition of Slavery in India

Introduction

The history of slavery in India did not play a role in the historiography comparable to that of slave trading and slavery in the Atlantic and in Africa. Some historians have explained this difference by the fact that Indian slavery was objectively different, or even milder, compared with its counterpart in the Americas.[1] Others are of the opinion that, on the contrary, the difference merely comes down to a question of sources: if the historiography of slavery in India is decidedly more limited than that of transatlantic slavery, it is simply because there are few available sources.[2] More recently, critics have questioned the quality rather than the quantity of the sources. The fact is the few historiographical studies on Indian slavery we have are based on reports made by the East India Company (EIC) and the British Parliament. No doubt these sources reveal the views of the main British officials on the subject, but whether they can be counted on to produce an accurate account of slavery in India is debatable. Most of them underscore the difference between slavery in India—described as domestic and mild—compared with chattel slavery in America. According to some researchers, this approach was dictated by the converging interests of the EIC and the abolitionist movement: both sought to demonstrate the flexibility of the forms of dependency in India in order to sharpen their criticism of the slavery practiced in the Americas.[3] More radical critiques came next, pointing out that the colonial sources had used European

A. Stanziani, *Labor on the Fringes of Empire*,
Palgrave Series in Indian Ocean World Studies,
https://doi.org/10.1007/978-3-319-70392-3_3

categories—vassal, owner, concubine—that gave a false idea of Indian practices regarding labor and dependency. New approaches were developed, based on the lexical and semantic analysis of slavery in India, following the recovery of vernacular sources from the Mughal dynasty and the principalities in the Indian peninsula.[4] These authors stressed the continuum of forms of dependency in India as well as the fact that Indian slavery and bondage could not be separated from caste, religion, household and military affairs.[5] A great deal was at stake and the writers sometimes took shortcuts and even contradicted themselves. Thus, by stressing the specificity of Indian categories, which precluded any reduction to Western notions, they ended up partially reproducing some of the very same colonial attitudes, particularly those of the "Orientalists" among the British elites and administrators.[6] From this point of view, identifying Indian specificities meant achieving a clear-cut distinction between Indian slavery and American slavery; at the outside, even using the term "slave" with reference to India might be problematic.[7] This conclusion did not fail to raise questions among those who thought slavery could not be limited exclusively to chattel slavery and that, consequently, extreme forms of dependency, including slavery, were indeed present in India.

From there, a related historiography set out to determine how the British conquest affected the forms of dependency in India. While most observers were in agreement on the fact that the first colonial period intensified the dissemination of extreme forms of dependency, opinions differed regarding the methods and impact of the abolitionist movement. We know for certain that Britain did not adopt a decisively abolitionist attitude in India until very late—beginning in 1843 but particularly after 1860. Nevertheless, it is harder to evaluate the transformations that the forms of labor underwent in the various regions and sectors of the Indian subcontinent. In the following pages, though we have taken the gap between British categories and Indian values into account, our aim is not to oppose the realities of slavery to the way they were represented, but on the contrary to emphasize how they influenced each other. The necessary critique of the sources and the danger of Orientalism and ethnocentrism will not be our goal per se, but it will serve more traditionally as the starting point for a critique of the sources that will allow us to trace the factual historical dynamics of the forms of dependency and of slavery in India. We will examine the legacy of pre-colonial slavery, the transformations introduced by the British conquest, and finally, labor relationships after the formal abolition of slavery until the late twentieth century. In this case,

too, we will try to transcend the tension between two approaches: some historians underline the major break caused by the formal abolition of slavery,[8] whereas others emphasize the persistence of forms of bondage and disguised slavery.[9]

Our aim is somewhat different: we intend to show what kind of "freedom"—in labor relationships in particular—various British actors had in mind when they reflected on India, and then how "freedom" was implemented on the ground. As we will see, two main bodies of historiography can be addressed: on the one hand, discussions about freedom, liberalism and empire, and labor and coercion on the other. The first line of reasoning was concerned with ideas, how they circulated and were eventually implemented in British institutions in India; the debates within this group of authors centered on the Eurocentric and imperialistic attitude of British liberalism. The latter historiography is far more critical and does not hesitate to stress the limitations of free labor and abolitionism in India. Although our primary task is to discuss labor, we will try to bring out the tensions between labor, institutions and ideas. We will therefore start with pre-colonial forms of bondage in India, and then examine how they changed under colonial rule and the use of forced labor and slavery by the British themselves. Before moving to abolitionism, we will discuss the transfer of British institutions to India, particularly the issues of sovereignty and those pertaining to legal architecture. On these grounds, we will finally evaluate abolition in institutional texts and in practice.

From Pre-colonial to Colonial Slaveries

War and debt were the two most common sources of enslavement and bondage in pre-colonial India. War captives were mostly outsiders, whereas debt slaves were insiders as their masters tended to be local patrons, chiefs, moneylenders or tax farmers. The presence of slaves in India has been certified since the fourteenth century at least, with the rise of the post-nomadic states, but it probably existed much earlier. Slaves originally came from regions in India, East Africa, Southeast Asia and Central Asia. Slavery was linked to political instability, particularly along the Muslim-Hindu frontier, beginning with the kingdom of Mahmud of Ghazni (1000–1025), then with the Delhi Sultanate (1206–1526) and the Mughal Empire (1526–1857). Men captured in raids were redeployed as slave soldiers in the armies of the Sultanates of Delhi and Bijapur. Military slavery was widespread and recruitment reached as far as East Africa. The Habshis in

the Deccan were of African origin (Ethiopia, Somalia, Nubian Desert and Tanzania) and were imported from the fifteenth through the seventeenth centuries. They were originally slaves—sometimes mercenaries—but they were mostly freed and could rise into the nobility.[10] They were well known as sailors, while Habshi women were commonly found in Indo-Islamic harems. In the Deccan Plateau, the Habshis were no longer distinguished from the Zanjis, the name formerly used to denote the people of the east coast of Africa and Zanzibar.[11] Slave markets were commonplace in many other parts of India. There were 12,000 slaves at the court of Muhammad bin Tughluq and another 180,000 under Firuz Shah Tughluq. In the Bahmani Empire, there were 60,000–70,000 captives from Vijanyanagara, mostly women.[12]

The Mughals did not use slave soldiers to conquer India and even tried to limit the extent of slavery. In particular, they managed to reduce economic slavery, the rationale being that, unlike slaves, peasants were taxpayers. At the same time, Mughal rulers actively participated in Central Asian trade and slave trading. They deported rebels and revenue defaulters and exchanged them for horses. Domestic slavery also flourished under the Mughals, as it did in the contemporary Rajput and Maratha states. The latter did not use military slaves, but male and female war captives served in state-controlled forts, working in agriculture, preparing gunpowder and breeding horses and elephants.[13] Under the Marathas, debt (to the state and/or other creditors) often resulted in enslavement[14]; sexual immorality was also a cause for enslavement.[15] In general, children of female domestics were considered family property.[16]

Debt bondage and other forms of servitude were extremely widespread.[17] When disaster struck, people often entered debt bondage or slavery as a survival strategy in return for subsistence, either voluntarily, as was the case of many *dvija* caste members in India, or because they had been driven out by their kin group.[18] Those subject to debt bondage sometimes outnumbered slaves.

The Nawabs (Muslim rulers) of the Carnatic region also acquired most of their slaves from local markets where people sold members of their own families in the hope they might escape starvation.[19] In eighteenth-century Maharashtra, famine-induced poverty forced many peasants to sell their children, presumably to more prosperous households.[20]

In Bihar, *kamias* were a kind of servant of landlords, who became unfree laborers and slaves under the British. Forms of bondage were also widely found in Gujarat, especially as a consequence of advances for

marriages. A *dubla* (a landless laborer) accepted an advance from a higher caste landowner and became a *hali*, committing himself and his family to work for the master for a whole year. Further advances on grain and reduced periods of activity increased the debt.[21]

Hindu as well as Muslim families made use of domestic slaves for both household and agricultural labor. They were locally acquired, through kidnapping, debt bondage or marriage to slaves. Males could accompany their masters in military campaigns, while females provided sexual services. In Rajput households, slave women could also rise to prominence. They were allowed to accumulate property in the form of land, cattle, and slaves, but their position remained unstable.

Rajputs and Marathas sold, mortgaged and rented slaves. Slaves also were highly valued gifts and were circulated as dowries or tributes and in strategic alliances between households.[22] Dowries helped to expand the slave trade and slave markets in Rajput areas. At the same time, the offspring of concubines were not typically bought and sold; daughters in particular served as tokens of exchange in political negotiations. The sons of wet nurses were incorporated into the household as putative foster-brothers of the head.

In Hindu areas, caste origin played a role. To be sure, caste was not the ideal system described in British reports, which tended to identify slavery with low castes and translate various forms of dependency into European terms (slaves, serfs). In reality, slaves kept their caste identity and masters deliberately identified and publicized their slaves' castes.[23] In fact, there was not only a continuum of conditions between the free and the unfree, but rituals and caste also influenced the process of enslavement and emancipation.[24] The caste system restricted social mobility, but its rigidity should not be exaggerated. The system evolved over time and new castes emerged while other declined. Caste was correlated with occupation, but not exclusively, and the same was true for the relationship between caste and servile status. Lower castes were more likely to be found in certain forms of extreme dependency and bondage, but not necessarily slavery. And in contrast to European accounts and perceptions, slaves did not always come from lower castes.[25] Sometimes, in the case of prisoners of war and concubines, for example, caste did not enter into the process of enslavement.[26] Contrary to colonial descriptions and conventional historiographies up to today,[27] the caste system was relatively flexible and indeed gradually changed through interaction with the social and economic environment.[28] That does not mean it is of no importance for our understanding

of Indian slavery: it was certainly a factor, along with many other variables, including economic ones. Yet, while caste identity tended to remain stable across time, slave status did not. Most slaves did not remained locked into slavery for a lifetime. Military slavery was not conceived as a status but as a specific career and origin, and therefore a particular relationship with the master.[29] Slaves were integrated into the households of their masters. In the Maratha kingdom, slaves could inherit land, while others obtained manumission by purchasing a slave to be their substitute at the master's property.[30]

These forms of slavery and bondage did not disappear under colonial rule, but they evolved in connection with it. Although India did not suffer from the extreme labor shortages that provided the context for slavery in the New World, it would be a mistake to imagine the country enjoyed an abundance of labor. In many activities, labor supply was a crucial concern for both the British and local powers. In the 1790s, the struggle between the EIC and Mysore, for example, considerably reduced the productive capacity and available labor force in Andhra Pradesh. Indeed, both the British and local powers made use of slaves and forced labor and competed with each other for manpower. European colonial regimes facilitated the growth of indebtedness by imposing monetary taxes, promoting commercialization and enforcing credit contracts. Thus, the abundance of low caste laborers without land rights did not prevent periodic labor scarcities. Francis Buchanan estimated that in South India five million slaves were employed in rice cultivation.[31] British reports noted the trafficking of Nepalese laborers as well as children from Assam to Bengal.[32] Famine and child slavery were also reported in Bengal.[33]

At the same time, colonial authorities maintained tight budgetary regimes that avoided funding public welfare programs and distinguished people in debt bondage from "real" slaves, whose condition they attributed solely to violent capture. As a result, debt bondage and enslavement through debt expanded considerably across the Indian Ocean World, affecting a wide variety of people, from farmers mortgaging future harvests and potential grooms borrowing a bride price to small traders living off credit from larger-scale merchants. Moreover, in the seventeenth and eighteenth centuries, Europeans exported Indian slaves to their colonies in Southeast Asia, the Mascarene Islands, the Cape and elsewhere. South India saw a lively commerce in slaves, while coastal regions of Bengal (Arakan in particular) were subjected to slave raiding by Europeans and their agents. Slave exports from this area, which numbered only 380 in

1626, rose to 1046 in 1647 and 1803 in 1656. During the same period, slave exports from Coromandel jumped from about 2000 per year in 1622 and 1645 to 8000–10,000 in 1659–1661.[34] Between 1670 and the late eighteenth century, a total of 24,000 Indian slaves were exported to the Mascarene Islands.[35]

The EIC continued slave raiding until the end of the eighteenth century, when fear of depopulation, and hence a shortage of taxpayers, prompted the company to limit these practices. The 1774 Bengal Regulation Act prohibited the purchase or sale of persons not already in a state of slavery. The act was also issued in response to increasing conflicts between the Crown and the EIC as well as between Britain and other European powers, such as the French and the Portuguese, who also took part in enslaving people in India.[36] Holding, selling and buying domestic slaves was nevertheless widespread in Bombay, Madras and Calcutta. Chattel slaves were sold openly, as articles in the *India Gazette* and other newspapers and colonial documents attest. Historical sources also carried advertisements appealing for the return of runaway slaves. African slaves acquired by the EIC in Madagascar or on the African mainland were disembarked in Madras before being dispatched either to Southeast Asia or inland within India itself.[37]

In the eighteenth and early nineteenth centuries, the EIC officially confirmed the right to possess slaves in the territories under its rule but sought to limit its further dissemination. The rationale for this ambivalent attitude was, on the one hand, that the Company wanted to preserve its authority and fiscal power by allowing local slavery to continue; on the other hand, it did not want peasant-taxpayers to be turned into slaves. It therefore prevented slave raiding and expanded enslavement. Faced with problems enforcing the 1774 regulations, the EIC proclaimed new rules limiting the slave trade and further enslavement in Bengal (1789), Madras (1790) and Bombay (1805). These rules, too, proved difficult to enforce.[38]

The French adopted similar practices. Let us take the case of Pondicherry, which the French East India Company purchased from the Sultan of Bijapur in 1673. In 1766, just before the fall of Pondicherry, the company had approximately 1500 French sailors and 2000 "lascars" (sailors from Southeast Asia, India, Malaysia and China) on site. The latter were enrolled under extremely unfavorable circumstances[39]; according to some commentators, the conditions were comparable to slavery, with the lascars subjected to corporal punishments, placed in irons and put to work in situations similar to those found in penal colonies.[40] As we will see in following

chapters, this trade was part of the much larger slave trade in the Indian Ocean in which European powers played a central role.

Thus, despite their official declarations condemning slavery, both the British and the French made wide-scale use of violence, kidnapping and deception to enslave people. Sepoys, ordinary migrants and seamen discovered too late they were not laboring under temporary "free contracts" but in full-fledged slavery. Both the French and the British relied unofficially on Gujarat and Portuguese slave-traders. Gujarat merchants were deeply involved in the slave trade from Mozambique; slaves were imported via the Portuguese enclaves of Goa, Daman and Dui and then re-exported into the hinterland, into the homes of the Hindu or Muslim nobility. These imports accounted for about 200–300 slaves per year between 1770 and 1834.[41]

However, unlike their Atlantic counterparts, the British and the French could not simply play their ambivalent game concerning slavery without taking local powers into account. This was due to the persistent strength of those powers, but also to the need for slaves in the colonies. As a consequence, Indian powers such as the Marathas in the West, the Nayakas in the South and the Mughals opposed enslavement by Europeans.[42] Britain and the EIC were therefore obliged to modify their strategy, particularly after the abolition of the slave trade (1807): instead of openly competing with the demand for slaves of local powers, they sought to legally transform rules of labor and property. For example, several forms of bondage and slavery were disseminated in Western India. The exaction of coerced labor (Beth-Begar) by the powerful was a common occurrence in rural life.[43] The movements of British officials and occupying armies in the early colonial era widened the demand for this type of forced labor. To meet the demand, some British officials reinvented what they called "tradition." The status of slavery was distinct from that of forced labor. The Arabic loanword *ghulam* was the common term for male slaves. Several words were used to designate slave women: *dasi, batik, kunbini*. Some Maratha documents referred to a daughter (*muli*) and a slave-woman (*batik*) interchangeably. Robbery, tax arrears or fines were the main sources of enslavement. Internal boundaries, such as the frontier of the Nizam's territories, Mysore and the southern Maratha appanages, provided sites for large slave markets.[44]

Similarly, in the colonial Madras Presidency, *padiyals* were in principle free hired servants; however, their compensation for labor did not substantially differ from that of *paraiyars* (among the untouchable casts, quite often employed in domestic service), because monetary payment was still

supplemented by usufructuary rights and crop shares.[45] Entry into slavery could thus be a strategy for short- and even long-term survival, and famines created a pool of surplus labor. In many areas of India, a mass of landless peasants from lower castes was readily available; at the same time, European and some Indian masters complained about the scarcity of labor in certain areas. Agrestic slavery and forms of "wage" labor were not so much substitutes as complementary resources and solutions. The term "debt bondage" employed by the British actually included many different relationships, from short-term credit granted to independent workers, to debt slavery.

Among Rajputs, given the absence of frequent fighting and the raiding economies they sustained, as well as a gradual squeeze on the more visible slave markets in the region through the nineteenth and early twentieth centuries, the chief households became even more reliant on reproducing servility among themselves. In particular, the custom of the bridegroom's clan providing unmarried boys equal to the number of unmarried *davris* (female domestics) included in the dowry was widespread.[46] The British authorities therefore encouraged the Jaipur court to declare those practices illegal.

The British also translated the debt practices we mentioned earlier—*kamias* in Bihar and *dublas* and *halis* in Gujarat—into their own terms of debt bondage linked to economic transactions. They considered debtors slaves outside the community; in reality, the opposite was true: debt relationships were a way of including people in the local community.[47] The debate therefore centered on whether the debtor had voluntarily entered into servitude or not: in the first case, it was acceptable, while in the second, when violence and lack of free will according to the British legal definition could be proven, it was not. Patronage was turned into an economic relationship.[48] Advances for marriage, consumption and seeding were the principal means available to patrons to enter peasants into debt bondage. The number of servants a patron had was an indication of his status. Unlike Bihar, in southern Gujarat, the British authorities did not insist on the need to abolish these extreme forms of debt bondage. Although the British memoranda from 1835 to 1836 called these relationships hereditary bondage, many other officials described them as voluntary servitude.

Indeed the classification of local forms of slavery was crucial. Colonial officials made arbitrary distinctions between agricultural slavery, domestic slavery and prostitution.[49] Domestic slavery was clearly opposed to plantation slavery and considered a form of mild dependency; in turn agricultural

slavery was related to the caste system, and thus to religion.[50] Again there were fierce debates between those who considered these two forms of slavery locally rooted practices and as such, impossible to change "from above," and those who argued, on the contrary, that British rule consisted precisely in adopting and imposing universal principles. The first approach prevailed during first decades of British rule and gave birth to the collection of "local customs" known as *A Code of Gentoo Laws* (1776), an English translation of the ordinances of Hindu law carried out with the assistance of Brahmin *pandits*, and Charles Hamilton's translation of *The Hedaya, or Guide: A Commentary on the Mussulman Laws*.[51] As in common law, both sought precedents but in local ordinances and customary rules.

Similar divisions arose concerning the trafficking of women. On the one hand, there were those who clearly separated prostitution from domestic exploitation, domestic slavery and, on religious grounds, from *sati* for Hindus and concubines for Muslim. They were opposed by those who considered all these situations expressions of one and the same phenomenon, which should be distinguished as such.[52] The translation of presumed local rules provided the foundation for EIC attitudes consisting in legitimizing domestic slavery and concubines as local practices, while admitting prostitution in accordance with contemporary rules and practices in Britain.[53] Sexual exploitation destabilized British ideas about benign domestic slavery. Thus, despite the Muslim law allowing concubines but not the sale of girls for immoral purposes, this last aspect was not used to free prostitutes and dancing girls. In Rajasthan, skilled slave-performers were in great demand, and served as gifts between rulers. They were in fact both dancers *and* concubines, which is confirmed by the profusion of terms to denote different kinds of service: *patars* (slave dancing girls); *olagani* (singing slave girls); those who were elevated to the official rank of concubine became *khavasin* or *pasvan*. At the top of this hierarchy were the *pardayats*, women allowed to wear the veil like their Rajput queens.[54] This is where the boundary with "ordinary" concubines blurred. Marriages were part of a vast exchange of capital (dowry) and labor; by the eighteenth century, entire families were transferred in dowries. At the same time, the offspring of concubines were not typically bought and sold. Daughters in particular served as a means of exchange in political negotiations.[55] When the Rajput realms were turned into subsidiary states under British power, concubines came under the attack of certain British officials, while others criticized the influence of female slaves on the Rajput

elites. In the end, the formal power of slave elites was reduced instead of attacking female slavery head-on.[56]

The British adopted a somewhat different attitude in Karnataka, annexed in 1801. Here slavery was extremely widespread and an object of interregional and international trade: local nawabs bought slaves, mostly sexual slaves, and also contributed to their export. The British were concerned about this traffic, as we mentioned earlier, but they had more pressing problems handling cases of local slavery, especially those involving domestic and sexual slaves. The courts established by the British were conciliatory towards "local customs" and did not hesitate to return slave women and girls considered "members of the family" to their owners.[57]

To sum up: Slavery existed in India before British rule and continued under it. The EIC itself relied on forced labor and contended with local powers for control over available manpower. However, with the rise of the abolitionist movement in Britain and the abolition of the slave trade, the EIC modified its position. It changed local rules on labor, debt and property, and, depending on the particular place and time, it alternated between openly confronting local elites and complicity with persistent bondage. It was not enough to express these new attitudes in legislation; the laws had to be put into practice. Multiple actors—local elites, merchants, producers, the EIC, European planters and traders, and so on—competed for labor and had no compunctions about bending the rules to serve their ends. We must now turn to the various British attitudes towards slavery in India; we will discuss utilitarianism and its orientations on the subject, then its implementation on the ground.

Utilitarianism, Abolitionism and Indian Slavery

Classical studies on British liberalism in India stressed the "despotism" of utilitarian authors seeking forcibly to impose on India what they were unable to make acceptable in Britain; namely, regulation, utilitarianism and the abstract principles of political economy.[58] In a similar vein, other authors underlined the connection between liberalism and colonialism,[59] an approach that was subsequently adopted and radicalized by subaltern studies.[60]

In contrast, several other authors have highlighted the complexity and flexibility of British liberalism and utilitarianism, especially when confronted with India.[61] These works emphasized how the ideas of the main liberal authors evolved as well as the complex ways in which they were

transplanted in India, particularly among EIC and British officials. Furthermore, local actors were not simply passive, though distinctions need to be made between the actions and influence of local intellectual, political, economic elites and those of laborers.[62]

The first step consists in understanding the interplay between utilitarian thought and India. In the late eighteenth and early nineteenth centuries, most observers and colonial elites were convinced that the forms of dependency already existing in India did not come under the heading of slavery: they were domestic relationships and in any case "traditional." This approach was well suited to managing the empire and India in particular,[63] where British control was still precarious, as the wars against the Marathas, Mysore, the Sikhs, and so on, demonstrated.

Debates on slavery and abolition in India must be understood within this broader context. Since the early eighteenth century, the EIC had come under increasing criticism for its fiscal autonomy, its use of slaves and its monopoly on trade, all of which were contrary to liberal principles. Indeed, EIC control over fiscal revenues as well as the fact that it had its own army distinguished it and India from any other British colony. Heated debates took place in the British Parliament every time the EIC charter and privileges came up for renewal. Many forces in Parliament criticized the strong fiscal, military and political independence of the EIC; these debates increased during the second half of the eighteenth century and particularly after 1770, when control of trade turned into territorial occupation. Of course, EIC revenues from India did not entail, as in the West Indies, the massive import of slaves and the plantation system. The EIC itself adopted a double standard in its politics: it was firmly against the slave trade within India as practiced by local powers, which was seen as a threat to its control over certain parts of the country—at once an economic and political danger. At the same time, the Company had no interest in suppressing slavery; rather it had political reasons for allowing it (to preserve its alliance with local elites) as well as economic incentives (taxation on local revenues).[64]

The Bengal famine of the 1770s, in which as many as ten million people were said to have died,[65] was the occasion to reopen the debate on slavery. Several British officials justified selling people, arguing it was necessary to save them from death. The debate on the relationship between slavery and famine led to discussion of other forms of welfare besides local bondage. Opponents of Indian slavery claimed the need for alternative forms of relief, namely the Poor Laws. Local police officials asked for aid to feed the

indigent and poor children and it was frequently recommended that the mainland poor law and workhouse system be extended to India. For want of parish contributions, as in Britain, EIC authorities suggested taxing local elites to finance welfare and experimenting with the workhouse system.[66] However, a majority of EIC officials and parliamentary representatives were against introducing the British poor law system in India. The EIC feared the loss of revenues, while British political representatives evoked the structural difference between the British and the Indian poor: the former required public assistance because of the modernization of society whereas the latter could still rely on the village and other forms of solidarity.[67]

At the same time, the practice of slavery was allowed only when people entered inter-Indian servitude, which was held to be "mild"[68]; European powers other than the British were not allowed to take advantage of this situation to enslave people. Warren Hastings, the Governor-General of India, and the Provincial Council of Patna issued a declaration limiting the right of masters over their slaves to no more than one generation.[69] In 1774 the Government of Bengal passed regulations removing the right to trade in persons without a written deed and prevented the sale or purchase of any individual not already in a state of slavery.[70] The 1774 Declaration of the Provincial Council of Patna, under the direction of Hastings, identified two forms of slavery: *moolzadeh* and *kahaar*. The first type referred to Muslims who were war captives, and the second to Hindu palanquin bearers owned by their masters. The two were grouped together as slaves because both were considered unfree; however, the Council found that, in practice, variations in conditions could legitimate recognition of a different status. For example, if palanquin bearers could marry and work at their own discretion, then they were "free."[71]

However, this legislation was not particularly successful. British diplomatic reports accused the Portuguese and French of engaging in illegal slave trade in India[72] (in fact, the British themselves largely contributed to this trade).[73] The legislation of 1774 was renewed in 1789.[74] That same year, slave exports were banned in the Bengal Presidency; Madras followed in 1790[75] and the EIC Courts of Directors also took steps to abolish the slave trade in Malabar. It is worth noting that the debates and policy implementation were based on distinctions between different forms of slavery (debt, chattel, etc.) and their origin (inheritance, kidnapping, coercion, violence), with references to local Muslim and Hindu customs. The respect for local rules and the simple translation in terms of property and

ownership legitimated both the description of Indian slavery as "mild" and its tolerance by the EIC.[76] By emphasizing that, unlike the West Indies, slavery in the East Indies was mostly domestic, colonial officials generally tied it to kinship and prestige, hence the favorable conditions of "slaves."

However, not everyone shared this view. Several missionaries and evangelical reports from India severely criticized local customs and EIC acceptance of them.[77] The position of Baptists was more radical, while the Anglican Church was inclined to take a more prudent view. Over the years, the horrors of slavery under the influence of Hinduism and the caste system became the real focus of missionary condemnation, rather than Indians and slavery as such. From this perspective, slavery was but one among other "abominations" such as *sati* on which the missionaries focused.

Abolitionism in India must be understood in the broader context of British abolitionism. British abolitionist campaigns were waged on a combination of moral, political, religious and economic grounds. The latter were probably the weakest, not just because slavery was objectively profitable, but also because Adam Smith's arguments did not become widespread in Britain itself until the mid-nineteenth century. Indeed, religious antislavery groups were opposed to both materialism and utilitarianism and used this argument to criticize slavery.[78]

Jeremy Bentham played a crucial role in this debate.[79] In his view, the difference between a servant and a slave is that, in the case of the latter the power of the master is unlimited and the slave has no rights.[80] He argued that it was not the condition but the duration of the obligation that constitutes the real difference between free and unfree labor. The living conditions of a free worker were not supposed to be necessarily better than those of a slave or a serf. According to utilitarian principles, if one could show that the enslavement of a minority group increased the sum of total happiness, then there was a rationale for slavery.[81] This argument was advanced by British as well as French utilitarians (Jean-Baptiste Say was one of the major examples).[82] This argument stemmed from the fact that, as we have already mentioned, the notion of "free" labor at the time was not the one to which we are accustomed today.[83] Until the mid-nineteenth century servants, apprentices, laborers and artificers in Britain could be imprisoned until they were willing to return to their employers to complete the service they had agreed upon.

Bentham fully adhered to this view. He thought that offering a service was the only way a man could find "happiness or security."[84] However, "the master alone is considered as possessing a property, of which the servant, in virtue of the service he is bound to render, is the object; but the servant, not less than the master, is spoken of possessing or being invested with a condition" (§1472). Because of this, "the most flagrant species of breach of duty, and that which includes indeed every other, is that which consists in the servant's withdrawing himself from the place in which the duty should be performed" (§1518). This argument is the key to understanding Bentham's perceptions of India and Indian slavery.[85] The underlying question was whether legal and economic categories could apply universally or whether they had to be rooted in local culture.[86] In 1782, Bentham urged lawmakers to take the conditions peculiar to India into account before trying to impose British rules.[87] He agreed that the laws of Britain should serve as the standard; at the same time, he pointed out that, unlike Russia and Canada, Bengal was so completely different from England that a transfer of British law could not be achieved in toto. In Bentham's opinion, deciding the question of British influence and Indian "specificity" was secondary to establishing good laws everywhere. He associated India with oriental despotism and encouraged a radical reform of its laws in accordance with utilitarian principles. For Bentham, this involved examining the effects of laws upon the pains and pleasures felt by individuals. He rejected the idea of collecting local customs in order to orient jurisprudence.[88] Both in India and Britain, rules had to respond not to jurisprudence but to universal ethical principles, which in turn had to orient the development of legal codes.[89] Bentham actually saw India as a laboratory for implementing his ideas and then expanding them to Britain itself. In India, such a code would free the local population from oriental despotism, while in Britain, it would free the population from the arbitrariness of common law. He also believed that a unified legal code would restore the power of the Crown over that of the EIC. At the same time, in his scheme, the sovereignty and stability of rules were associated with utility and scarcity: every measure had to be studied in the light of this principle. In other words, law was not governed by its own internal logic and grounded in procedure; rather, it had to abide by the universal principles of utilitarianism. Thus, Bentham maintained that the imperfections of competition and the free market could be resolved through rules, but the construction and use of those rules had to be done through utilitarian calculus.[90]

The problem, as Bentham saw it, lay precisely in choosing between two ways of thinking: first the universalist approach, which meant adopting the same principles everywhere—in Britain, India and Russia—thereby providing the grounds on which labor and its institutions should be evaluated. The other, more particularistic approach was open to distinctions among these three cases. In the end, Bentham opted for the first approach and it was from this standpoint that he condemned Indian forms of slavery.[91] Over time, he moved away from his initial universalism to more nuanced positions; he thought that local forms and practices of justice must be preserved, except in cases of incompatible values such as slavery, which went against British and universal notions of freedom. His *Of the Influence of Time and Place in Matters of Legislation* argues that legislation could not be transplanted between places that were very distant—in terms of civilization—such as Britain and Bengal. In this case, he thought the benefits of transplanting may well be overruled by the negative impact of it.[92] Thus, "a system might be devised, which, while it would be better for Bengal, would also be better even for England".[93]

These ambiguities were reflected in the policies the British adopted in India. As late as March 1808, the Joint Magistrate J. Richardson denounced the continuing tolerance of slavery in India.[94] No official action was undertaken, except to keep a register of slaves.[95] Mediating between these positions was hampered by the problematic relations between the British government of India and the Princely States. For the EIC, the chief concern was not the abolition of slavery but political stability and cross-border trade. Interaction was complicated in the field by the multiplicity of agreements and rules that were binding upon Britain and those States. The complexity was compounded in large areas in which British and non-British territories were intermingled, with neighboring villages falling under conflicting jurisdictions.[96] In this context, lack of control was a source of anxiety for a number of British officials. In 1811, when the government of Bengal passed Regulation X prohibiting the sale of slaves and their entry into British territories, the question arose as to how this regulation could be enforced with regard to the neighboring Mughal State settled in Delhi. The trouble was that in this same year of 1811, the British Parliament passed a general "Slave Trade Felony Act," which was supposed to be universally adopted in all British territories. This act was openly at variance with required compliance with indigenous law in India and its implementation was immediately halted by the EIC.

In the years that followed, many other documents were produced[97] and several EIC officials expressed broad antislavery sentiments and ideological positions; many others preferred to adopt a more cautious attitude and, on the ground, both groups were compelled to deal with local conditions. In particular, child slavery was strongly condemned.[98] Debates continued over the relevance of local customs as opposed to British law, particularly with regard to slavery. In fact, opinions differed in Bengal, Madras and Bombay, depending on the views of local colonial elites. These diverse attitudes generated even more disagreement regarding the princely states. British relations with these states were based on a system of subsidiary alliance, according to which Britain controlled foreign policy and, in exchange, guaranteed domestic sovereignty to the local powers. This meant that Britain could not intervene, for example, on the issue of slavery. However, the questions of sovereignty and political stability still posed problems in terms of concrete action. British subjects could easily evade colonial jurisdiction by entering formally independent territories while, conversely, people from non-British territories could have a destabilizing effect on British-controlled areas.[99] The first concern reduced British antislavery legislation to purely formal rules, whereas the latter gave Britain one of its alibis for occupying new territories. Thus in 1808, Seton, the Resident for newly acquired areas around Delhi, noted that children were being kidnapped in Kota and sold as slaves in nearby Delhi.[100] As early as 1812, the question was raised as to whether the prohibition against the slave trade in the Bengal, Madras and Bombay presidencies could be extended to Indian States. In practice, these rules were unevenly enforced, even within British territories.[101] James Mill's reflections on slavery and India were produced in this fluid context. Although strongly influenced by Bentham, Mill nevertheless departed from him by radicalizing the forms of authoritarian empire and the universalist approach to law and slavery.[102] As an officer of the EIC, he was directly concerned with the problem of slavery in India and, hence with the related issues of managing the Empire, the form of rule (direct or indirect) and therefore the role of local courts and local knowledge. In his "Essay on Colonies" (1817), James Mill argued that colonies simply served as a source of power and patronage for the ruling class and not as markets for the mainland.[103] At the same time, like Bentham, Mill saw a strong connection between domestic concerns in the mainland and discussions regarding the colonies.[104] In criticizing Indian despotism, he also attacked the British aristocracy; he talked of

reforms both in India and in Britain.[105] He also began drafting a systematic utilitarian legal agenda for India. Mill thought Mughal feudal law had to be replaced by British law[106] and he was convinced poverty and ignorance could be cured by framing the right laws. From this perspective, India was a tabula rasa that could be molded by utilitarianism. Mill claimed the indolent and superstitious character of the natives was the product of despotism and religious tyranny. He therefore included Indian history in universal history and associated India with many other earlier societies. In the years following the Napoleonic wars, these ideas seemed to be absorbed into a wider trend among British rulers in India looking for ways to make local administration more efficient.

Contrary to Mill, in the eyes of most British elites in India, efficiency was linked much less to abstract principles of utilitarianism than to law enforcement.[107] Whenever there was a conflict between abstract justice and practical sovereignty, priority should be given to the latter. This meant that Islamic law should be preserved—even if it went against certain British principles of justice—as long as it guaranteed compliance with the rules. James Mill criticized this solution for failing to provide the strong centralization required for military purposes.[108]

However, although several British governors raised the question in the 1800s and 1810s, a serious debate on slavery in the Indian states did not take place until the early 1830s. The shift came about as a result of increasing evangelical influence in the higher echelons of the EIC and growing pressure from the abolitionist movement in Britain. The British antislavery movement claimed it was necessary to expand the abolitionist campaign to India. As before, supporters of local customs and pragmatic colonial elites replied that what existed in India was not real slavery, but merely forms of family dependency and domesticity.[109] They won the backing of the British planters in India, who insisted their enterprises were fundamentally different from the plantations in the West Indies. Even within the abolitionist movement, many supporters held that bondage in India was different from slavery, either because they genuinely believed it or for tactical reasons, i.e. to put an end to the transatlantic slave trade first. The fact that there was nothing in the subcontinent comparable to the transatlantic slave trade—the use and trade of slaves in and from India took place on land and was therefore much more difficult to quantify and control—also helped to support this view. In short, the identification of slavery with West Indies plantations, and its opposition to mild slavery on plantations in India, corresponded both to abolitionist beliefs and to EIC interests.[110]

Customs-related interests also played a major role in the debate: the West Indies had won privileged duties through the navigations acts; in the 1820s, those duties came under attack and more favorable duties for East India Company products were advocated by traders and by manufacturers in Britain. This argument encouraged further contrast between harsh slavery in the West Indies and mild slavery in the East Indies. In reaction, West Indies lobbies claimed that slavery had been underestimated in India and was in fact pervasive.[111] These criticisms were joined to those leveled against the EIC and its economic and political power. Domestic slavery, trafficking of women and children and agriculture slaves were the three main categories of Indian slavery as the British saw them. Several cases and scandals involving women and children in particular were constantly brought up by abolitionist circles.[112]

India, Britain and the Empire: Slavery and Sovereignty 1830s–1840s

However, the persistence of slavery was not specific to India; in the 1820s it was clear that the abolition of the slave trade had not reduced the overall number of slaves carried across the Atlantic but had actually intensified it for a time. Encouraged by the demand for sugar and coffee in North America and Europe, increasing numbers of African slaves were transported to Brazil and Cuba.[113] Even worse, at least 90 percent of the manufactured goods used in the slave trade with Brazil and Cuba came from Britain, while British credit financed half the Cuban and Brazilian slave trade itself.[114] Thus, in 1823 a Society for Mitigation and Gradual Abolition of British Colonial Slavery was created. This new abolitionist movement found strong support among Quakers and women.[115] The kidnapping of British subjects became an increasingly widespread issue, decried by abolitionists and supporters of the extension of the British rule in India. R. Ross, Resident for Harauti, clearly expressed the wish to fight local chiefs encouraging slavery.[116] The same argument was to prove decisive sixty years later in Africa, again to justify the passage from indirect to direct rule in the name of freedom and the fight against slavery.

Between 1824 and 1833, many joined in the argument over East Indies sugar vs. West Indies sugar. When sugar plantations in the West Indies became the main target of the abolitionist movement, the EIC and other British elites immediately seized the opportunity to emphasize that East Indies sugar was manufactured by free men. Many abolitionists still

supported the image of a free India, the better to attack West Indies planters; therefore, spurred by the EIC, they declared that Indian poverty was a choice and not the fruit of exploitation. West Indies lobbies replied by accusing the EIC of exacerbating the oppression and misery of the Indians.[117] Towards the mid-1820s, the fact that slaves were employed in India made its way into public discourse. The young John Stuart Mill took a position in this debate. Brought into the EIC's India House by his father James at the age of seventeen, he had been instilled with his father's Benthamite ideas and believed that local customs and chiefs must submit to British rule.[118] Like Bentham before him, the younger Mill concluded that what India needed was a penal code, rather than a hodge-podge of existing laws. For Indians, the only escape from darkness was to be led through a long and arduous process of tutelage by those more advanced.

During the 1830s, however, Mill's thinking was gradually changed by several, interrelated events: First, in Britain, discussions about abolitionism and the passage from abolition of the slave trade to abolition of slavery reached their peak, as we will see in next sections. In this context, the question of slavery in India and whether it was truly different from that in the West Indies was coupled with discussions about the monopoly of the EIC. Mill faced opposition from the EIC and British officials who refused to subordinate local customs. Second, the military campaign in Mysore and the difficulties the British encountered in overcoming local resistance convinced Mill to adopt more a pragmatic attitude towards local elites.[119] He openly lamented the role of British elites in disseminating Western knowledge. In 1833, Mill wrote on Bentham's philosophy, criticizing his universalism and the fact that he failed to recognize the importance of political institutions.[120] He gradually moved closer to the "Orientalists" within the Company administration and backed their argument in favor of acquiring a deeper understanding of Indian culture.[121] In his dispatches of 1835–1836, Mill openly supported indirect rule and accused the Company of ignoring Muslim petitions and Hindu requests.[122] He combined this position with criticism of the Company's administration, particularly the weakness of EIC administration tax collection and its inefficiency, which in his view went hand in hand with the increasing disorganization of the Mughal state.

In 1833, when the debate on the abolition of slavery was still under way, the British Parliament discussed the renewal of the EIC charter. The EIC's interests and its favorable attitude were also mentioned as possible causes of the exacerbation of slavery. In 1837, a commission was charged

with studying the labor standards to be applied after the abolition of slavery, but it was divided: some members thought the colonial Masters and Servants Acts should be enforced in a version specifically adapted to India; other members, including Thomas Macaulay, wanted the new labor relationships to be regulated by civil law provisions. The majority of commission members opted for the former plan and the draft code therefore mentioned criminal penalties for breach of contract. Workers were classified as servants and assimilated to beggars. The British Masters and Servants Acts served as a model for regulating free labor in India, especially immigration in Assam. Without the Masters and Servants Acts, indenture would not have been possible. The labor contract was no fiction, but a real tool in the master's hand. Its impact was all the greater in that masters in the colonies gradually obtained broader rights than masters in Great Britain. They could impose corporal punishment, authorize the marriage of indentured servants, etc.[123] Like their counterparts in Great Britain, masters in the colonies had the right to recover fugitives and indentured servants who fled were subject to criminal penalties.

Thomas Macaulay insisted that abolitionism had to be implemented in the Caribbean and Africa, whereas Indian slavery was "mild."[124] He sought to reorganize the Company's rule of law according to Bentham's principles. In his opinion, it was a scandal for laws to be based on jurisprudence, particularly in India.[125] He claimed the EIC had become like a new caste of Brahmins. Codification would solve the problem.[126] Although codification had failed to progress in Britain, its supporters saw India as the colonial laboratory where their ideas would be proven correct, and then become acceptable in Britain itself.[127] Macaulay reiterated Bentham's argument that codification would help Indians to escape from despotism.[128] Despite his criticism of utilitarian ethics, Macaulay, like James and the early John Stuart Mill, radicalized Bentham's approach, offering India a code and thus clear, stable rules, free from the uncertainty of jurisprudence.[129] He targeted above all the EIC and non-official Europeans (mostly merchants, traders and planters) accused of abuses.[130] He was appointed to India in 1834; soon after his arrival, the Court of Directors of the EIC announced its decision to expand the jurisdiction of the Company's civil and criminal courts over Europeans (non-official Britons). Codification and the new court system were intended to ensure equal treatment to non-official British and local populations, while the representatives of the EIC and the Crown would remain under special rules. This drew hostile reactions from both non-official Europeans and Indian

elites.[131] Nevertheless, Macaulay's bill passed in 1836 and its author focused on his other obsession, i.e. to develop an Indian Criminal Code. In this case, planters, colonial elites and also EIC officials put up fierce resistance: petitions multiplied[132] and the successive law/legal commissions repeatedly tried but failed to extend criminal jurisdiction to the local Indian courts.[133] Thus, despite its initial principles, the jurisdiction bill preserved existing inequalities before the law between British-born subjects and Indians and even added new privileges such as the possibility for British-born subjects to choose between being tried by a judge alone or aided by three assessors. In some areas, like Bengal, some local elites also supported the demands of their friends, the indigo planters.[134]

In June 1840, the First World Anti-Slavery Convention in London adopted a series of resolutions condemning slavery in India. Universal evangelical values added to increasing criticism of the EIC's power. Abolitionism in India went hand in hand with the end of EIC political powers. John Stuart Mill reiterated his attacks on the Company. According to Mill, the custom of permitting Brahmins to purchase Domes for the cultivation of their lands, it had been permitted by Government but it was liable to gross abuse. And he complained to the government of Calcutta that the abolition of slavery in India "seems still to be very defective."[135] In 1842 Mill denounced the fact that the Sultan of Sharja and the Imam of Muscat had violated the treaty of 1839 abolishing the slave trade with the African Somali tribe.[136] A year later, he expressed his regret that the practice of kidnapping children had been allowed to linger on within the EIC's territorial possessions.[137] However, like many other criticisms of slavery from the eighteenth century onwards, in this case as well, the criticism was not coupled with the attribution of political rights to freed people. According to Mill, slaves, children and barbarian people had limited capacities to exercise their reason. Reason and restrictions on political inclusiveness went together.[138]

The nature and future of the Empire's labor force also entered into these debates. It was no accident that the 1840 Anti-slavery Convention in London took place during parliamentary debates over the repeal of the 1838 ban on Indian indentured migration to Mauritius. In both cases, disguised slavery was mentioned and India, as a source of free labor, was crucial to both issues. The coolie trade was thus reopened at the same time as slavery was abolished in India, in 1843.

Yet instead of putting an end to the slavery question, this outcome raised new ones, starting with Britain's relationship with Indian states.

The British sought to encourage the Indian states to adopt antislavery rules. Slave trading was outlawed in Jaipur in 1839 and slave status abolished in 1847. However, in the following years, British officials complained that these acts were rarely enforced. These difficulties reveal the impossibility of assimilating the slave trade and slavery in India to their transatlantic equivalents. In the latter case, the long-distance trade of slaves gave meaning to the distinction between the abolition of the slave trade and that of slavery, whereas on the Indian subcontinent, the distinction was seldom relevant.[139] British officials exacerbated the problem: even after the official abolition of slavery in India in 1843, they continued to return runaways to their masters in some areas. Further support came from the Americas, where abolitionists criticized slavery in the South as well as in India and accused Britain of hypocrisy on both sides—in India for tolerating slavery and in the U.S. for financing the slave trade. Thus, in 1839 the British India Society was founded and it immediately set about attacking slavery as a cause of human suffering along with famines. The Society adopted a global approach: its leaders argued that the abolition of slavery in India would improve local conditions, eradicate famine and help to promote abolitionism in the Americas.[140] For most participants, the issue of Indian slavery was not just about abolitionism but also about the rule of the EIC and India's future within a reconfigured imperial system.

Although slavery was officially outlawed in India in 1843, local governors and elites espoused quite different views depending on their own definition of slavery. For example, debt bondage was systematically excluded from this category and therefore tolerated.[141] Finally, as in other British dominions, the official abolition of slavery in India was followed by extremely coercive rules regarding vagrants, issued in the name of public order and economic growth as an antidote to poverty.

The enforcement of antislavery rules was compromised by the wide use of forced labor by the British themselves. The EIC employed this type of labor digging canals and on other public works projects as well as for porterage. In the mid-nineteenth century, these practices came under attack from the abolitionist movement; engineers and other colonial personnel involved in infrastructure development immediately rejected the abolitionists' demands, while government and EIC officials were divided on the topic.

John Stuart Mill went on criticizing the company in his dispatches until 1859, after the Sepoy rebellion and the termination of the EIC, when he wrote an article entitled "A Few Words on Non-Intervention," blaming

the company for having been "morally accountable for a mixture of tyranny and anarchy."[142] But, even worse, according to Mill, the new British colonial regime, the Raj, departed from the rational principle of land revenue settlement. He articulated this concern in a letter to Henry Maine,[143] whose works he openly appreciated.[144]

In 1861, Henry Maine published his famous work on ancient law, based on a series of lectures at the University of Cambridge and subsequently under the influence of the Sepoy rebellion in India, which was widely debated in Britain.[145] His main argument was a late expression of utilitarianism: legal principles are universal but must be adapted to local contexts through procedure. He therefore opposed status-based societies—India, Asian societies, ancient Europe—in favor of contract-based societies in modern Europe. Progress consisted precisely in reducing state influence and state discrimination. According to Maine, "Brahminical India has not progressed beyond a stage which occurs in the history of all the families of mankind, the stage at which the rule of law is not yet differentiated from the rule of religion." Instead, modern societies have a mechanism for legal protection that evolves according to the transformations in society. Maine identified "three ways by which law can be adapted to improvements in society: Legal Fiction, Equity, and Legislation." Legal fiction referred to altering the interpretation of the law without changing the wording; Equity involved adding new rules to the existing central body of law, while Legislation entailed the evolution of the body of law itself. Maine associated each form of legal change with a higher form of civilization. This hierarchy reflected his original Benthamite orientation, giving priority to legislation over jurisprudence. Of course, legislation was supposed to express universal principles and above all the autonomy of free individual will over that of the state.[146]

It was from this standpoint that Maine interpreted the Sepoy rebellion. In Britain, the event triggered widespread debate about the empire, the role of the EIC and civilization, and substantial differences between races. The Sepoy mutiny was initially seen as the irrational rejection of English rule and civilization by barbarians. But to others, it also signaled the failure of the liberal British Empire and the need to transform it; in particular, the EIC needed to be replaced by new forms of government. The question of indirect rule emerged in this context. Disillusionment with the ideal of "making the world British" turned into political considerations about whether this might not be an opportune moment to shift from direct to indirect rule and allow the natives to live under their own rules as

long as they were compatible with the basic principles of British justice.[147] The Queens's proclamation of 1858 seemed to confirm this new trend.[148]

Maine intervened in the discussion, arguing that the native law of India was under increasing pressure from modern institutions. The dissolution of traditional society had to be managed through indirect rule and basic British principles. Unlike Bentham, who believed in the superiority of the Enlightenment, Maine was concerned with the disintegration of "traditional societies" and the need to provide justice and order beyond the chaos of jurisprudence. Indirect rule, supported by Maine and several other British elites, was a response to the Sepoy mutiny and marked the passage from a universalist to a "culturalist" form of empire management. However, as we have seen, these tendencies were already commonplace in colonial India and Britain in the late eighteenth century and to some extent informed the tolerance of Indian slavery. Yet after 1857 such attitudes took on a new meaning and configuration: it was no longer a question of learning Sanskrit in order to better govern India but of adopting general British (not EIC) rules capable of reconciling universal principles of justice with local authority. It was a turning point in the constellation of liberalisms and their relationship with the empire. In the early nineteenth century, the British Empire was justified on the basis of ideals of trusteeship and improvement; after 1857, the idea of educating India for eventual self-government was almost entirely eclipsed.

In part because of the Sepoy mutiny, Maine definitively confirmed this shift. In his view, the mutiny was a symptom of poor government due to imperfect knowledge.[149] He therefore set about producing that knowledge by studying "traditional societies." He observed that previous European accounts of "Indian" society had focused on language (Sanskrit) and religion. Classical utilitarianism had made the same mistake. He argued that the real nature of local institutions lay in customs and traditions that were not derived from Sanskrit and Brahmanism alone. Ethnographic knowledge was required to fill this gap.[150] In taking this position, he also distanced himself from eighteenth century accounts such as *Histoire des deux Indes* by Raynal and Diderot. According to Maine, this work was exclusively based on knowledge of urban and coastal societies. He concluded that abstract utilitarianism and its legal and economic prescriptions had failed because they were not applicable to primitive or ancient societies of which India was a prime example. Yet this did not mean that Maine was prone to cultural relativism. Quite the opposite: he believed that India and England shared the same Indo-European heritage,

but India was the "living past" of Europe. Anthropological rather than philological knowledge was accompanied by an evolutionary notion of progress.

On these grounds, Maine supported the idea of the Indian Penal Code. Maine pursued Macaulay's effort and supported the adoption of the Penal Code in 1861 but justified it with a new argument: a code was necessary not only to provide stable laws free from unstable jurisprudence, but above all to ensure the seamless transition from old to modern societies. In his view, customary law expressed the power of old religious aristocracies. Indian law and society were facing profound transformations and required a new set of rules. These rules could not be merely British rule exported to India, but had to be adapted to the Indian context. Although Maine was obviously influenced by the ideas of Bentham and J.S. Mill, he was formulating a different form of liberalism in which universalism and cultural relativism were combined into a new synthesis of historical anthropology instead of philosophy of law and/or Orientalism.

In 1860, new labor contract regulations were adopted and criminal sanctions were reintroduced 20 years after they had been abolished. The Bengal Council responded by adopting the Inland Emigration Act of 1859 in 1863 and then expanding it in 1865 to allow sweeping powers to make private arrests. In 1859, in the wake of the Sepoy rebellion, a Workman's Breach of Contract Act was adopted. The act was intended to give employers tighter control over workmen and laborers who absconded or refused to work after receiving advances. It was introduced at the insistence of the Calcutta Trade Association, and initially applied to the presidencies of Calcutta, Madras and Bombay. By 1865, it was extended to all of British India.[151] An employer who broke a contract was liable only for civil damages, whereas a laborer convicted of the same offence was subject to criminal punishment (plus civil damages). In practice, it was almost impossible for working people to sue their masters. In 1860, the Employers and Workmen (Disputes) Act specified that forced laborers (prohibited by general law) could be prosecuted for breach of contract under the 1859 Act. This Act was also distinctive in its emphasis on monetary advances as the main source of obligation. From this point of view, the Act proved to be a crucial bridge between British and local Indian practices connecting labor to credit markets. It radicalized both in a colonial context and contributed to the longevity of debt servitude in India. As a result of his growing popularity, Maine was appointed to the Governor's General Council in

India. During his service between 1862 and 1869, he promulgated more than two hundred laws. With regard to labor matters, while he was in favor of indirect rule, he immediately declared his opposition to the law of 1859 ordering the use of criminal penalties to enforce labor contracts; instead he stated his preference for civil law solutions. He thought British masters had a better chance of ensuring a specific amount of labor was performed than of obtaining monetary compensation for advances made to workers. By focusing on specific labor performance requirements rather than on sanctions, he sought to leave contracts to private enforcement, without state intervention.

Indigo planters strongly supported this position, but a majority of the colonial government was opposed for two reasons: first, indigo planters were coming under increasing criticism for their brutality, which created a problem for the Raj; second, the state had to oversee labor and social order, and thus labor had to be governed by criminal, not civil, laws. Resistance to Maine grew among officials in India, who objected to his excessive legislation.

Maine's failure to impose his position did not prevent him from making a similar argument in Britain itself, where he joined with those advocating repeal of the Masters and Servants Act in 1875. This marked a turning point in the history of labor relationships, with the end of criminal penalties and the rise of the labor contract as we think of it today. We find here a crucial mutual relationship between Britain, India and its Empire: there were indeed attempts to "export" British institutions to India; however, as we have shown, this attitude was far from universal and actors such as Hastings, Burke, Bentham, James Mill, John Stuart Mill and Maine adopted completely different approaches as their own ideas evolved.

Unequal legal conditions were reinforced by the Code of Criminal Procedure of 1861, the Indian Evidence Act (1872) and the Indian Oaths Act (1873): all of them granted more rights and greater chances of success in the courts to native Britons than to Indians. Procedure and the notion of evidence itself were adapted to the Indian context: as Indians "did not know the civilized customs" or the complexity of English law, and moreover had a tendency to lie, the burden of proof had to be particularly compelling when they lodged complaints against British-born subjects.[152] Racialized law was confirmed to be the very cornerstone of the empire; its strength increased instead of decreasing during the long nineteenth century and through World War I.

Abolition in Practice

Indian Law Courts

As we mentioned earlier, Bentham, Mill and Maine figured prominently in the debate about the architecture of the law (both courts and rules) in India and the British Empire. Their concerns were always related to reforms in Britain itself, where they supported French-style codification, said to be less arbitrary than British jurisprudence. It is not our intion here to engage in an in-depth analysis of the system of justice and law courts in colonial India. Important works have been produced on this topic[153]; instead, we will recall some of the main points and features in order to better understand the debates about individual manumission, followed by abolitionism and the concrete policies of emancipation. How and where could laboring people defend themselves?

The EIC charter of 1622 granted the company the right to judge English residents in East India; a new charter of 1683 empowered the company to establish courts of judicature; in 1726 three major courts were established for civil suits between non-natives in Madras, Bombay and Calcutta. These courts referred to English common and statute law.

The transfer of British values and institutions to India became a core issue in political debates and administrative governance between the 1760s and the 1810s.[154] Attitudes varied widely within the East India Company (IEC) as well as in parliament. Some advocated a cautious approach, prompted by political and military instability; others, on the contrary, demanded more direct intervention and expansion justified by warfare, trade security and, last but not least, the need to abolish slavery in the Indian interior. The outcome of these approaches, together with the fierce resistance of Indian states and populations, was a patchwork of institutional and practical solutions; these solutions differed according to the field (law, economy, culture, lower or higher education, criminal or commercial law, trade or labor), the geographical area (Southern India, Northern India, the Malabar Coast, etc.), and, of course, the individuals concerned. Thus, while the East India Company inherited many Mughal and post-Mughal legal institutions such as the *Qazi* (appellate courts),[155] parliamentary committees agreed that "no Conclusion can be drawn from the English law, that can be properly applied to the Manners or State of this Country (India), with the exception of plans for the eradication of banditry."[156]

Colonial authorities were aware of the fact that "local customs" varied from one region from another. New territories continued to be incorporated, with different imperial status, between the mid-eighteenth and mid-nineteenth centuries—between the Battle of Plassey and the Sepoy revolt—and helped to shift the rules included in what the British defined as Islamic or Hindu laws and customs.[157]

In this context, Warren Hastings, the Governor-General of Bengal, maintained that Mughal law and institutions were stable and firmly established—despite the fact that the Mughal empire had been under strong pressure and showing signs of disintegration for several decades.[158] He ordered the collection of local customs and legal institutions and precedents and encouraged the study of local languages and customs. Ultimately he proposed a solution that would prove long-lasting in the British empire: the study of local knowledge was required to identify its "specificity" which, in turn, justified the need to put good colonial rulers in the right places—in other words, capable, high-ranking officers of the EIC rather than appointees from London and the parliament. At the same time, these well-informed people were familiar with local realities, and therefore best suited to understand the excessiveness, brutality, and despotism of indigenous rules.

On this basis, some British Orientalists and experts considered Hindu law a form of customary law embodied in texts.[159] They opposed Hindu law to Islamic law, which in their view gave custom a very limited and special meaning. In their efforts to codify, EIC officials made use of translations and "codes" such as Nathaniel Brassey Halhed's *Code of Gentoo Laws*, a translation of Hindu rules compiled with the assistance of Brahmin *pandits* in 1776, and William Jones' *Institutes of Hindu Law*.[160] Following Warren Hasting's decision to allow Muslims to adopt Islamic rules (1772)—as confirmed by the Permanent Settlement Act of 1793—Islamic rules were translated and compiled in Charles Hamilton's *Hedaya or Guide to Arabic Books of Law*. Rules on slavery were in Volume 3.[161] Moreover, in keeping with the idea that common law legal reasoning should be adopted in India, beyond the aforementioned "codes" of Hindu law and the main lines of Islamic law, the British published collections of decisions of judicial records of the three presidencies.[162]

Supreme courts were introduced in 1773 and lasted until 1862 when high courts were established in the Madras, Bombay and Calcutta presidencies. The EIC's courts were manned by company officials and applied

company regulations supplied by English law.[163] Outside of the presidency capitals, the company's *adalwut* system rendered justice. Immediately after the creation of supreme courts, disputes arose in Calcutta between the governor-general, the council and the new Supreme Court, which claimed authority over the governor. The legislature intervened to deny the claim. This implied that the court had no jurisdiction in any matter concerning the governor's revenue or regulations and therefore over landowners. These rules were subsequently partially changed and in 1784 it was decided that all servants of the company could be judged by the Supreme Court.[164]

The Mayors' courts in Bombay and Madras lasted until 1797, when they were replaced by the Recorders' courts comprising the Mayor, three Aldermen and a Recorder appointed by His Majesty. Their jurisdiction was exded to civil, criminal, ecclesiastical and admiralty cases. The Recorder's court in Madras was then replaced by a supreme court, made up of a chief justice and two local judges, with at least five years of experience as barristers in England or Ireland. Similarly, a supreme court was substituted for the Recorder's court in Bombay in 1823. However, the court was again prohibited from interfering in any revenue matters. At the same time, natives were exempted from appearing before the supreme courts in Madras and Bombay, unless they could be compelled under the same circumstances to appear in a native court.[165]

In addition to supreme courts, courts of request were established in 1753 to handle suits concerning debts, duty and other matters not exceeding 80 rupees. Justices of the peace, like those in Britain, were set up in the Indian presidencies to accelerate procedures and resolve disputes over small amounts of money. Initially established in 1726 under EIC authority, over the years justices of the peace were empowered to act either by the governor (i.e. the company) or by parliament. This double system of empowerment confirmed once again the coexisce of the EIC and the British Parliament as the supreme authorities in the Indian territories.[166] The establishment of the supreme courts in the three presidencies in 1773 placed the justices of the peace under their authority. For a while, this decision kept alive the double channel insofar as there was disagreement about whether or not supreme courts had authority over the governor. Then, when the question was resolved in favor of the independence of the governor (and the company), the EIC increased its control over the justices of the peace. This same statute authorized provincial magistrates to act as justices of the peace, who had jurisdiction to rule on small debts owed to

natives by British subjects. This double empowerment—by the parliament and the governor—continued until 1834, when legislative power was given to the governor. Finally, in 1850, small claims courts were established in the three presidencies and replaced the courts of requests with the same jurisdictions and judges appointed by the governor.[167]

Beside the EIC and the Crown, the administration of India and its legal system in particular also depended on so-called "local courts." The British sought to transform already existing local courts and procedures into institutions requiring British empowerment. Thus, Hindu and Muslim courts were first admitted in the 1770s and later reformed in 1793. Regulations pertaining to the administration of justice were passed in the presidencies of Bengal, Madras and Bombay in 1793, 1802, and 1827, respectively, and lasted until the end of the EIC. Bengal served as the model, which was then adopted with a few changes in the two other presidencies. Let us start with Bengal. In 1765, the EIC won the power to control local justice in Bengal through the existing local courts formally under the authority of *nawabs* and Bengali *zamindars*.[168] However, in the years thereafter, many abuses committed by EIC personnel were denounced within the framework of increasing tension between the parliament and the company. Abuses against the natives and the fiscal interests of the Crown constantly overlapped in the attacks made against the EIC by certain Members of Parliament.[169] In addition, there were all the acts and violence perpetrated by non-official white Europeans in India against the local population. Of course, official British sources—both the Crown and the Company—characterized these indigenous people as "interlopers," "vagrants," and so on.[170]

It was in this context that the so-called *Mofussil Dewanny Adawluts* or provincial courts were established. They were put in charge of all disputes concerning property, inheritance, marriage and caste, debts, contracts, and rent. A criminal court (*Mofussil Faujdari* or *Nizamat Adawluts*) was added. "Natives" were entitled to refer to Islamic and/or Hindu laws. Although a European British subject could sue an Indian in a *mofussil* court, Indians had to take their grievances against European British subjects to the Crown Courts in the presidency. However, for financial and other logistical reasons, Indians in the interior could seldom afford to bring their cases to trial and were therefore extremely vulnerable to abuse by European British subjects.[171]

The Supreme Court and the *Mofussil* criminal court immediately came into conflict over their respective jurisdictions and the interpretation of Islamic law. The Bengali *Mofussil* court usually consulted the services of

Maulabis and *Kazis* (legal experts) before making a decision in Islamic law. However in one particular case—the Patna case—they accepted these services and authorized the experts to take evidence and reach a decision as well. The Supreme Court argued that such a delegation of power was not permissible. As a result, provincial courts were limited to dealing with revenue matters, while specific *Diwani Adalat* were set up at the provincial level. They were presided over by a covenanted officer of the company. A revised code was adopted in 1781 and translated into Hindu and Persian.

In the following years, covenanted officers were selected from among young EIC officers. These officers were far removed from the debates over local customs and imperial rights; their decisions again aroused strong reactions from both local "native" authorities and the British Parliament. A new act was adopted by parliament in 1784. In civil matters, there were courts of native commissioners, then the courts of registers (for cases involving more than 200 rupees), and finally the city courts and the provincial appeal courts, both of which were presided over by British judges assisted by local judges. However, this architecture and distribution of powers changed over the years and from one presidency to another. A new system was adopted in 1793; revenue courts were abolished and their cases transferred to the *Dewanny Adawluts.* The courts of civil judicature formed a regular gradation of courts of appeal. The lowest level was the court of native commissioners. Next came the Zillah and city courts presided over by covenanted servants assisted by Hindu and Muslim officers. Their decisions could be appealed in provincial courts for amounts not exceeding 1000 rupees. Otherwise, the appeal was referred to the *Sudder Dewanni Adawlut,* made up of the governor and members of the supreme council. Criminal justice in these courts concerned only natives and European non-British subjects. Only the King's courts could allow a British subject to be judged by a local Muslim or Hindu court.

Police regulations were also enacted: the police were put exclusively under the charge of officers appointed by the government, while landowners and farmers were not allowed to have their own police force. Corporal punishment was abolished in 1834.

The organization of "indigenous" justice in Madras and Bombay followed a similar pattern. The Madras system adopted in 1802 replicated the 1793 Bengal system, with the exception of the police, who were left under "native government." In time, some reforms partially differentiated Madras justice from that of Bengal: in 1816, the heads of villages were attributed the power to resolve suits in civil matters not exceeding ten

rupees. They could also act as arbitrators—if both the parties agreed—in cases not exceeding 100 rupees.

By the 1820s, the Indian courts had been reorganized several times and numerous digests of Indian law had been produced. Nevertheless, uncertainty continued to surround judicial procedures in the 1830s; no less than nine different systems of civil procedure were simultaneously in effect in Bengal before 1859.[172] Within this institutional context, it is not surprising that decisions varied from one court to another. At the Sudder Court of Calcutta, judges refused to adopt Islamic rules regarding the husband's right to pronounce unilateral divorce.[173]

During the first half of the nineteenth century, courts in Madras and Calcutta made different decisions concerning the possibility of referring to Islamic customs. The Charter adopted for the supreme court of Bombay in 1827 prescribed the following hierarchy of rules: first, regulations and acts; if none, the usage of the country; if none, the law of the defendant. In 1847, this same court decided that in the event of lack of proof "of special usage," Muslim claimants would come under the Hindu law in matters of inheritance. The claim was made by a woman relying on her Koranic right to inheritance and repudiating the Hindu principle of her exclusion from it. The judge considered that the separation between the Muslim and Hindu laws was a political, not judicial, matter, and that if people repudiated one to adopt the other in legal affairs they had the right to do so. During the first half of the nineteenth century, several collections were made of rulings showing the main changes in the regulation of justice in the three presidencies, some of which were translated. Indexes of decisions and leading jurisprudence were also published. Widows' inheritance rights, concubines and slavery were major concerns. This is where debates about the law intersected with those relating to slavery and emancipation. After studying liberal and utilitarian thought on labor, sovereignty and the empire, and then the debates over the law and how it was to be implemented in the legal architecture, we are ready to discuss our core topic: labor and bondage. How did liberalism and the legal institutions established in British India deal with slaves, and then "free" people?

General Rules of Labor

The abolition of slavery immediately raised the question of which rules were supposed to regulate the labor market. There were multiple labor markets in India: the agrarian labor market; overseas migration; internal

migration to plantations; recruitment for public works; labor for small-scale artisan production and cottage industries; employment in large-scale industrial sectors, railways and mining; urban labor including prostitution, domestic service and municipal work.[174] Each sector had its own means to recruit and control workers, though they shared modes of organization. Most importantly, the relationship between debt and labor obligation was common to all sectors: recruiters made considerable use of debt to secure workers, just as the colonial administration used taxpayers. This relationship explains the continuing imposition of criminal punishment for breach of contract and severe rules regarding labor mobility; at the same time, absconding remained widespread and workers could always count on the protection of new masters and employers. Sectors were also interconnected; for example, declining emigration to Mauritius in the 1880s led to an increase in jobseekers at plantations in Bengal and Assam. Jobbers and intermediaries played a central role in recruitment for almost all these sectors. Jobbers found workers, gave them advances and through this system controlled them. Employers could either extend credit and directly control the laborers or leave jobbers in charge of them. Using classical terminology regarding labor organization, British observers of the period, and later on the historians, debated whether the intermediaries were more beneficial to the workers or to the plantation owners. Initially, the landowners thought the *sirdars* reduced their recruitment costs and then supervisory expenses, thus bringing considerable benefits. As time went by, the *sirdars* offered another advantage: first the hauliers, and then the landowners, began signing contracts with them rather than with each worker individually. Hence, workers facing problems with wages, repatriation, and so on, were legally supposed to address them to the *sirdars* instead of the owners—which, for part of the 1870s, helped significantly to reduce the rate of workers' reports of abuses, and above all, the success of their lawsuits. Nevertheless, some plantation owners accused the *sirdars* of encouraging resistance and rioting and even the British inspectors and observers accused them of deducting excessive amounts from workers' wages.[175] How these relationships evolved depended on the conditions specific to each sub-sector of the labor market.

Thus coerced labor for the colonial state must be differentiated from other forms of labor. Indeed, during much of the nineteenth century, the EIC and after 1858 the British state sought to build infrastructures, notably roads. For this purpose, they made use of compulsory labor, first through local forced recruitment of villagers. However, this proved difficult as local

communities and elites resisted recruitment. There were three types of labor commonly employed in road works in the nineteenth century: *begar*,[176] convict labor and unpaid labor. A large percentage of the labor force employed on the Hindustan-Tibet road was officially categorized as "unpaid" labor. A 132-mile stretch of road on the route between Kalka and Chini employed around 1,164,644 workers a year, of which nearly 27 percent (312,598) were "unpaid." In the official logic, labor classified as "unpaid" was considered part of the tribute that Hill States (princely states lying in the northern border regions of the British Indian Empire) were obliged to pay for the protection they received from the colonial government. The British authorities therefore claimed that tribute labor supplied by Hill States was not like *begar*, the presumed customary form of unpaid labor, because the Hill States were expected to give revenue remittances to those working on the roads. While convict labor was predominant in the early decades of the nineteenth century, other forms assumed greater importance later on. On the Western Road in the Madras Presidency, based on a daily average of 1598 convicts, the total number of convict days peaked at over 40,000 during the rainy month of July. Large numbers of workers from famine-stricken regions were recruited for canal and road building projects in the late nineteenth century. In many areas, public works became synonymous with famine relief. The construction of irrigation works and roads proceeded most rapidly during periods of famine. Starving peasants were paid famine wages to build the public infrastructure that became one of the signs of modern India.[177] *Begar* on distant roads was doubly exacting because workers had no access to subsistence resources from their villages: they had to buy grain at high prices from the market. As a result, this type of recruitment became linked to other labor markets and forms of recruitment; we will examine two of them here: indigo in Bengal, and tea in Assam. Coercion, exit and voice did not play the same role in these contexts. Indigo and tea were two colonial products responding to influences that were similar but not identical: whereas indigo was mostly demanded by manufacturers as a component of textiles, tea entered into the global agro-food system and final consumption. Indigo cultivation employed a sort of tenant farmer under British planters applying EIC rules, whereas tea was produced in huge plantations making use of a special derivative of slavery and wage labor: the indentured contract.

In the first case, labor of supposedly independent laborers had to be regulated through a system of advances of tools and seeds or consumption credit; in the second case, advances were made to indentured immigrants.

In both cases, coercion through the law added to physical coercion: they were complementary rather than alternative forms, as standard neo-institutionalists and Marxist theories argue. This was possible because, technically, such labor relationships were illegal. So how was this possible?

Indigo Production

Bengal and indigo production have been the source of a vast body of literature since the nineteenth century, focused on two main topics: the identification of property rights, and labor relationships. The Permanent Settlement Act of 1793 described *zamindars*, the local tax collectors and estate owners, as "landlords." This translation became one of the main argument of post-colonial authors and critics of Orientalism who claimed that it imposed British categories on Indian reality and this attitude underpinned the political control and economic exploitation of India.[178] Different approaches have recently emerged; in particular, Andrew Sartori convincingly argues, on the one hand, that British approaches to property were not at all uniform, especially where India was concerned, and, on the other hand, that local actors' notions and practices relating to property evolved before and under colonial rule.[179] This was also due to the fact that, under Mughal rule, *zamindars* were a composite group, made up not just of tax collectors, but also of princes governing principalities, large estate owners and minor gentry. The British Permanent Settlement Act referred not so much to the relationships between *zamindars* and their tenants, as to those between the *zamindars* and the EIC. This gave rise to a complex attitude: colonial officials defended British rules in when stipulating the property rights and obligations the *zamindars* had vis-à-vis the Company; at the same time, they invoked local customs where the relationships between *zamindars* and tenants were concerned. Officials such as James Mill and John William Kaye criticized this view: in their opinion, this double attitude would preserve despotism, encourage rent at the expense of profits and wages, as Ricardo had shown for Britain itself and, thus, stop economic development.[180]

This is where debates on property rights intersected with those on labor relationships. Most of the literature on indigo production in colonial India provides valuable insights on the tensions between tenants and planters, the Indian and British actors.[181] These studies put the accent on the tenants' exploitation and the strong inequalities in the classical colonial and post-colonial approach. Some works have since adopted a different perspective: Tirthankar Roy held that the social unrest and tensions in Bihar

were not just the expression of social class conflicts, but actually reflected contractual problems of optimizing actors.[182] The chief strength of Roy's work lies in its attempt to escape from the standard views expressed in post-colonial studies and from Manicheism; its main weakness is that it neglects or gives little weight to the asymmetry of power between British planters and Indian tenants. Others are diametrically opposed to such views, stressing the moral origin of social conflicts in Bengal and Bihar: in keeping with E.P. Thompson, these authors emphasize the conflict between local economic values and capitalist economic rationales.[183] As we will show, from our vantage point, there are grounds for both these approaches: what is most important is the fact that the institutional setting did not provide much voice (in Hirschman's sense of the term) to Indian peasants and therefore, for economic and/or moral reasons, they opposed rules. Adopting a long-term perspective and examining coexisting practices seem particularly relevant here; Ghulam Nadri has suggested a promising approach, arguing correctly that the existing bibliography ignores the continuities between pre-colonial and colonial indigo production and the persistence during the colonial period of Indian producers and traders alongside the British.[184] In a similar direction, Prakash Kumar's study on agronomy and indigo has introduced relevant new aspects, showing the tensions related to agronomy and how they were eventually settled by arrangements between local actors, and then the major break that occurred with the rise of chemistry and artificial fibers at the end of the nineteenth century.[185]

In taking into consideration these new insights, and therefore the inextricable link between labor and product, we will limit our investigation here to a particular concern, namely labor relationships in the post-abolition labor market. Our aim is to determine how the rules governing labor, property and freedom affected social relationships. The time frame is important: following the Saint-Domingue revolution, indigo production underwent large-scale development in India and became, along with opium, Britain's most profitable source of import trade from Asia. Yet the development of indigo in India did not take place merely in answer to the collapse of production in the Atlantic; it was also a clear attempt on the part of the British to occupy the French and Spanish markets. Indigo was grown mainly in Northern India in Bihar and Bengal. Initially, merchants preferred to buy crude indigo from peasants, while in Bengal, indigo was produced in factories owned by European capitalists. In the late eighteenth and early nineteenth centuries, Bengal's share rose from one third

to three-quarters of total Indian production. However, in the Bengal economy, indigo, even at its height, represented only a small percentage of the country's commercial agriculture compared with rice. Indigo took on enormous importance in the colonial government and therefore in the archives because of its strategic value for Britain. The native *thikedars* and *zamindars*, mostly belonging to the upper castes, had a special relationship with British planters. The *thikedars* or owners of very large holdings sold the *thika* (lease) of their land to the planters for a fixed term of several years.[186] This *raiyati* system (as it was called) of cultivation based on advances contrasted with the *nij* system under which planters cultivated the land using hired labor. In Bengal, the predominant system was *raiyati,* which is estimated to have been used for about five-sixths of total cultivation in 1860.[187] During the early years of the nineteenth century, most indigo planters sought quick profits in the short term, as they lacked the capital to invest in medium- and long-term ventures.

The problem lay in the advance system: competition led to *raiyat* poaching among rival factories. Physical violence and abuse of Indian workers and women were part of everyday life.[188] In 1809 an indigo planter punched and kicked to death a *ryot* who had refused to sow indigo.[189] Another indigo planter was soundly beaten by the owner who accused him of poor performance. The planter drew his sword. The next day the owner came back with more men, killed the planter, raped his wife and burned down his house.[190] Such confrontations were usually related to sexual abuse, access to land and credit.[191] However, the law only occasionally punished these crimes.[192]

The speculative boom of the early 1820s came to a halt with the British crisis of 1826 and its impact on credit availability. The regulation of 1823 was intended to manage these relationships: a *raiyat* that failed to comply with its obligations could be sued by the planter for breach of contract. Overproduction, extended credit, and negative trends in the world market led to a major collapse in 1829. Planters demanded that breach of contract provisions be extended in the 1819 regulation concerning indigo.

Between 1825 and 1836, indigo production declined by about 19.5 percent.[193]

Prior to the two laws promulgated in 1829 and 1833, European planters were prohibited from holding long-term leases on land, as the company's policy was to tax Indians rather than dispossess them of their lands.[194] Most indigo was grown by small tenants of British planters or Indian landlords. Those who grew indigo on contract complained about

the low prices for indigo. They therefore had conflicts with the planters because the latter wanted them to put their best and most fertile land under indigo, whereas the farmers wanted to use this land for growing subsistence crops or crops that would fetch them a better price in the market than indigo. The peasants preferred to grow other crops, such as rice. One solution would have been to offer higher prices for indigo, but instead the planters engaged in a local practice: they advanced money to the peasants and afterwards made debt repayment as difficult as possible, with fines for poor performance, absenteeism, and so forth.[195]

The penal contract system was first introduced in 1830 to regulate labor on indigo plantations in Bengal and subsequently in Assam. The Regulation made breach of contract by indigo cultivators a misdemeanor punishable summarily by the magistrates with imprisonment for one month; refusal to obey specific performance orders resulted in two more months of imprisonment. The planters justified these rules with the argument that, in the absence of a law protecting their private property and capital, they were compelled to resort to violence.[196]

However, the Court of Directors of the EIC considered this unfair, because it issued criminal rules favorable to one side without providing the other side with instruments for redress under civil law. As a result, a new charter act was approved in 1833, which enabled the so-called *ilaka* system to rapidly expand. Under this system, like the *zamindars*, planters had the right to distrain *raiyats* for rent arrears; to this, they added contractual rights for cultivation of indigo. Persistent opposition from the Court of Directors, together with problems enforcing the new rules, led to their repeal in 1835. Special powers were then given to planters and the police in these areas. Until the 1840s, the rising price of indigo on the world market spurred planters to demand increasingly harsh rules to control laborers and tenants. After the 1840s, prices fell constantly and production as well. *Raiyats* refused to plant indigo. Incidents involving planter brutality against *raiyats* became commonplace, with planters forcing peasants to produce.

The violence did not diminish despite these institutional changes. A few exceptional cases were brought before the courts, but even in those cases, punishments were occasional and mild.[197] Nevertheless, more and more Indian planters and workers went before the judges to complain. In 1855 the district judge of Noddea, a major indigo area, forwarded several cases to the governor of Bengal.[198] Between 1855 and 1860, planters requested stronger legal measures to compel workers, while the workers submitted

increasing complaints to the courts. After the Sepoy mutiny, planters called for and obtained (in 1859) the return to criminal punishment for breach of contract.[199] The Act X of 1859 officially sought to improve the position of the *ryots* (*raiyats*).[200] *Zamindars*' associations immediately protested, while magistrates and British officials provided conflicting interpretations about the relationships between "local customs," jurisprudence (as conceived in common law countries) and market trends. The conditions and price of leasing were eventually accepted or contested depending on the relative importance attached to custom, jurisprudence and the market. As early as 1860, the first legal decisions took different paths: some declared that rent as established in the past and in "local customs" had to be preserved, while others quoted Malthus and considered "fair rent" was the price set by the market.[201] Following this line of reasoning, the Calcutta High Court concluded that, contrary to previous interpretations, not all cultivators were *raiyats,* and therefore they could not all claim occupancy rights.[202] Henry Maine immediately criticized this ruling, which according to him ignored local customs and was dangerous for social stability.[203]

Thus in the spring of 1860, the peasants refused to sow the crop. The planter-manufacturers filed a large number of lawsuits in the magistrates' courts invoking breach of contract.[204] The legal steps to enforce indigo contracts took one of two forms: the magistrate could either issue an order to imprison the debtor under criminal law, or recover damages under civil law.[205] The latter outcome, at least in terms of monetary fees, was hard to achieve in practice, whereas the former held little interest for the planters. They were much more interested in obtaining forced performance of the contract in terms of labor.[206] The 1860 law supplemented that of 1859 and introduced criminal punishment for breach of contract.[207] At this point, Henry Maine advocated the introduction of a type of fixed contract.[208] Several other civilians, such as Lieutenant Governor Grant, tied the rule of law to free commerce.[209] At the same time, although peasants could qualify as "laborers" because of their limited capital, in the end, according to Grant, they were also capitalists, exactly like the indigo manufacturers. He justified this conclusion by the fact that "their [the peasants'] capital, in the aggregate, infinitely exceeds the capital of all manufacturers."[210]

In 1866, a special commission assigned to the task produced a first draft of an Indian contract act.[211] It was inspired by English law on the subject, but also borrowed from the New York State civil code.[212] The ensuing debates immediately focused on whether or not Muslim and Hindu rules of contract existed, and, if so, whether they could be incorporated into the

new draft law. Again proponents and opponents of universal codes clashed.[213] These tensions within the commission also reflected the two prevailing views in Britain regarding contract and the market: on the one hand, there were those who believed in contract law without state interference, and on the other, those who demanded state help to enforce contracts. Indeed, as Prabhu Mohapatra has shown, both these attitudes were expressed under the contractarian umbrella.[214] The debates went on for six years and in the end no official law on contract was adopted. Labor relationships continued to be governed by criminal rules. This outcome was consistent with the major—and increasing—importance labor assumed. In 1875, the Commissioner of Chittagong declared: "The rate of labor has within the last few years doubled, and it is yearly becoming more difficult to obtain workmen."[215] In the subsequent years, indigo exports declined precipitously as they were quickly replaced by synthetic dyes in the world market. In addition to increased pressure on tenants, agronomic innovations were introduced to counter the fierce competition of chemical coloring and synthetic blue. This effort failed to keep prices from falling and imports of natural indigo to Britain dropped by 75 percent within a few years (1896–1903).[216]

To sum up: Labor and social relationships in colonial Bengal did not correspond to the conventional interpretations of post-colonial studies insofar as the British adopted extremely varied attitudes and local actors were not merely passive recipients of British policies. Indigo production did not correspond either to conventional economists' interpretations based on ideal types such as *rentiers* and estate owners ("classical economics") or to independent optimizing agents (microeconomics, new game theory). Indigo production relied on a system of interlocking markets; in particular, labor, land and credit markets.[217] Unlike the "perfect" competitive markets described in neoclassical economic theory, in this case the relationships aimed at reducing the risk of crop failure through a scheme of advances and credit that ultimately transferred the cost of risk to peasants. However, over time, particularly after the mid-1840s, market trends (the decreasing price of indigo, increasing prices of other crops) undermined this system. Planters sought to employ more constraint to compensate for losses, leading to major uprisings in the early 1860s.

Let us now compare these outcomes to the events that transpired in Assam. This case is noteworthy in that it helps to explain the meaning and practices of free labor in colonial India under a particular regime of indentured immigration. Unlike Bengal, the system in Assam did not comprise

a number of planters and "tenants" (*raiyats)*, but rather one huge company made up of plantations employing a type of "wage workers"—actually indentured immigrants. How did this other solution shape social and economic hierarchies?

Labor in Assam

Tea production did not begin in Assam until the 1840s; previously, Britain had imported tea from China. At the end of the 1830s, an Assam Company was created as a derivative of the EIC. Between 1840 and 1850, when tea acreage and production grew hardly at all, there was little government involvement in the recruitment and use of laborers. Thus the company stressed the necessity of importing "coolies." The company's labor agents conducted operations in Bengal, tapping into the labor market of agricultural workers, seasonal migrants and the developing indentured labor market for overseas colonies. Three-year contracts were the rule but they were seldom enforced in the courts. In the 1850s, the Company insisted instead on the urgent need to reduce the cost of recruitment and labor and increase productivity through efficient supervision and legal coercion.[218] Production and labor immigration increased in the 1850s, but the Company complained about the coolies' continuous desertion, absenteeism and lack of motivation.[219] Planters also evoked racial concerns, declaring the Kachari immigrants were unreliable and lazy.[220] The colonial state therefore intervened to increase the labor supply in Assam. Initially, a suggestion was made to increase land leasing and encourage peasants in the area to work for the company. However, some colonial officers and planters feared this solution would draw land speculators into Assam, without attracting poor peasants into the labor market because of their indifference to profits.[221] The Governor of Bengal therefore proposed to adopt the Mauritius system, that is, indentured contracts, selection of workers and their families, and "good wages." The planters immediately reminded him of the government's sustained financial support for recruitment in Mauritius and asked for similar support in Assam.

The first legislation appeared in the early 1860s, in the wake of the Act of 1859 and the tea mania that developed during those years. Land prices declined thanks to government policies and tea prices went up. Recruiters began enrolling laborers in East Indian areas; immigrants were at first lodged in warehouses and then transferred to Assam via the Brahmaputra River. The mortality rate of indentured immigrants—about 1.5 to 5 percent during voyages to Mauritius and Reunion Islands—jumped to 20

percent and as high as 50 percent for migrants to Assam.[222] A Commission was set up to investigate the causes of this high rate of mortality. It concluded by blaming local contractors and intermediaries.[223] Under the Bengal Native Act of 1863, recruiters and their recruits were obliged to register, and the modes of recruitment and transportation had to meet standards defined by law. Nevertheless, between 1863 and 1866, half of the 85,000 immigrants were declared to have died or deserted.[224] Thus, breach of contract and desertion, as stated in a new act of 1865, became the crucial issue facing planters and the colonial state.

Planters sought to recruit and then keep laborers in place without increasing their wages. This situation also evolved due to changing economic trends. For over seventy years until 1915, nominal wages in Assam plantations remained fixed at five rupees a month. The amount was considered the minimum wage, which was not to be increased for fear of encouraging "laziness" and desertion. This wage influenced all other wages in the region. The indentured system maintained low wages, encouraged labor-intensive growth and exacerbated competition between planters and employers in general. As wages were kept at a minimum, competition for recruits pushed up the remuneration of intermediaries. Over the years, this rising cost cancelled out the gains from minimal labor costs.[225] Moreover, low wages resulted in more illness and a higher mortality rate (4–5 percent per year), thus sharply reducing labor productivity. They also encouraged desertion, with the added cost of recovering fugitives, and discouraged new immigrants from coming, by once again augmenting the recruiters' remuneration instead of raising laborers' wages.[226]

Despite these institutional changes, violence and abuse continued to be perpetrated against laborers during the entire period under study.[227] In just three years—between 1863 and 1866—32,000 of the 84,000 laborers brought to Assam died.[228] Their European masters were routinely acquitted, even in cases where the evidence against them was more than compelling.[229] Assam was a lawless frontier, as some British officers themselves acknowledged.[230]

Health and sanitary conditions were far below official standards but, despite several investigations confirming this persistent problem, the situation remained unchanged.[231] Two new Acts, in 1870 and 1873, obliged large estates to set up coolie hospitals. Planters protested against this undue government interference; according to some, this was all the more unjustified as planters who had invested in importing laborers had every reason to keep them in good health.

Paradoxically, planters continued to complain about the fact that they were at the mercy of their servants.[232] During this period, masters seldom made use of the law to sue laborers (only about 5–6 percent of laborers per year and almost all for desertion). Under the Breach of Contract Act, 595 offenses were declared in 1879–1882, followed by 534 convictions. During the same years, another 448 workers were convicted under the Special Labor Legislation, followed by 689 in 1883–1887, 934 in 1888–1892, and 901 during the four years thereafter.[233] Workers would usually explain to the magistrates that they had fled because of unpaid wages, harsh living conditions, insult or physical abuse.

Few lawsuits concerned labor performance. This was not because labor conditions were particularly good, but because the keystone of the penal contract system in Assam was the private power of arrest, introduced in 1865.[234] Planters made wide use of their legal power to coerce laborers.[235] In fact, planters had their own militias to control workers and recover fugitives and did not necessarily need to use the law to achieve this end. All the same, employers invoked the Act not only to control and fine laborers but also to recruit them. For example, in the Assam tea plantations, 40 percent of the labor force in 1891 had contracts under the Act, despite the existence of a separate labor recruitment regime in the area.[236]

On the other hand, we do not find any substantial recourse to the law by laboring people. In Assam, planters used the law to punish and control indentured immigrants, while practically no cases were initiated by laborers to protect themselves. Legal pluralism was non-existent, except for Indian merchants, middle and upper castes and Muslims, who frequently resorted to it. This was not the case for laboring people, to whom only passive resistance or desertion was available, as the numerous lawsuits initiated by planters and colonial authorities confirm.[237]

Injustice and abuse were not limited to labor relationships. Sexual abuses by British masters were common as well as the persistent use of violence. According to an 1865 Act, coolies' complaints were to be addressed to the manager, not to the planter, who usually dismissed them.[238] Trials were occasionally held, but Europeans were easily acquitted.[239] When laborers addressed a local magistrate as a group, they were often dispersed as seditious.

While preserving these huge inequalities in the possibility of using the law, the British authorities sought to reduce the tensions by imposing a new regulation on the *sardars*, the intermediaries. They were required to register along with the coolies they recruited and to pass a health

inspection to reduce the threat of epidemics, which had increased significantly in the second half of the 1860s due precisely to increasing labor mobility.[240]

The 1870s were a period of rapid expansion of tea production and immigration. Yearly immigration surged from about 5000 in 1871 to 30,000 five years later and almost 40,000 in 1878.[241] At that point, the Chief Commissioner requested "freedom" and the removal of restrictions to offset the high cost of transportation and labor in Assam, now confronted with competition from China. However, the planters themselves still feared that excessive liberalization would encourage unfair competition among estates to capture each other's workers. In the end, recruitment was deregulated and most severe controls on the plantations were removed. The 1882 Act legitimized contract enforcement directly on the plantation, without addressing the local court. It also introduced piecework remuneration, but the planters used this form of payment to extend the workday and therefore reduce hourly wages. In line with the planters' arguments, the colonial state decided that deregulation of the labor market was the general principle to apply in order to resolve the labor shortage problem; at the same time, mechanization progressed, along with new managerial organization of the plantations. Financing for this process came more from British residents in India than from savings in the British homeland. Together, low remuneration and mechanization aimed to cut the cost of production at a time when tea prices were declining due to stiff Chinese competition. The continuing use of a coercive legal apparatus served the same purpose.

Despite official declarations and labor inspections, the abuse and violence grew during the 1870s and the 1880s. The newborn Indian press denounced several incidents, and the Indian nationalist press repeatedly cited the Assam example as a major case to oppose the British yoke.[242] In 1898, the Indian National Congress sent a long memorandum to the Government of India detailing the serious abuses in Assam. The Congress then turned "the coolie question" into an issue to mobilize the Indian masses. The negative effects of low wages and coercion on productivity, along with humanitarian considerations, led to the abandonment of this system in the early twentieth century.[243]

Between 1901 and 1915, new forms of recruitment were introduced. Intermediaries were excluded for the reasons already mentioned; labor relationships were deregulated while the problem of reconciling low wages and poor working conditions with the possibility of a low desertion rate

was solved by assigning immigrants small plots they could cultivate in addition to fulfilling their obligations on the plantation. The plots belonged to the planters, and as laborers lacked the resources to cultivate them, they became increasingly dependent on their masters, with little motivation to run away and thus lose their plots.

In the face of the expanding nationalist movement, Viceroy Curzon settled inquiries and called for condemnation of the planters' abuses.[244] The planters reacted by mounting a huge demonstration in Calcutta and publishing articles in *The Times*.[245] Curzon capitulated and was "glad to acknowledge that the relations between the great majority of planters and their coolies are of a kindly nature."[246]

The violence was nevertheless denounced either by the colonial authority itself or by the Congress. Rising Indian nationalism led to increasing peasant rebellion, in Assam in particular. Official reports took note of the growing unrest, which they often deemed justified by the harsh conditions on the plantations.[247] Rebellion took various forms: violence, destruction of buildings and refusal to work. The rebels combined strikes with legal proceedings: in several cases when coolies were involved, dozens and sometimes as many as two or three hundred laborers sat outside the courthouse in support.[248] Interracial violence rose sharply at the beginning of the twentieth century. Although at first most assaults were made by Europeans on Indians, the situation rapidly reversed[249] in 1908, when penal authority was substantially reduced.

In short, free labor in colonial India was constantly subject to criminal rules, which added to the physical violence and coercion. Criminal rules in labor relationships echoed coercion under slavery, but translated into the contractarian approach, grounded in status differences between masters and their servants who included indentured immigrants, local peasants working for indigo manufacturers, and so on. As a matter of fact, these were also racialized rules separating white Europeans from Indians. Chronologically, criminalization and racialization under criminal contract law (a contradiction in terms in Britain) strongly contrasted with the evolution of labor law in Britain. Indian criminal rules on the labor market intensified after 1860, precisely at the moment when they came under increasing attack in Britain until the repeal of the Masters and Servants Acts in 1875. Maine and others critics of the Masters and Servants Acts found the idea of adopting the same rules for Indians and Britons unacceptable. The divorce between British and colonial (Indian) labor law also expressed economic trends: the second industrial revolution and the rising

welfare state in contrast to proto-industrial and labor-intensive activities in India.[250] Mechanization in Britain partially responded to increasing labor union power and growing wages. In Assam and Bengal, on the other hand, persisting institutional coercion accompanied equally lasting labor-intensive production.

Conclusion

The historiography of the last few decades, liberal and Marxist, Western and Indian, has often minimized the differences in the political and historiographical construction of these entities. To speak of "India" is to downplay the heterogeneity of the subcontinent, its difficult conquest by the EIC (rather than Great Britain), the decadence of Mogul power prior to the arrival of the British and the coexistence between Muslims and Hindus, which was totally different from their relations in the twentieth century in independent India. The same is true for the other terms of the comparison: England, Britain and the West are too often taken as synonymous. The opposition between India and the West, so widespread today, reproduces imperialist dogma (while criticizing it) and assigns an imaginary unity to India as well as to the West.

We have discussed the abolition of slavery in India from a different point of view, without in any way comparing so-called "British representations" to presumed "Indian realities." The debate on slavery in India was influenced by the debate over the relationship between the EIC, on the one hand, and the Crown and Parliament on the other. The tensions between the EIC and the Parliament were reflected in the way they viewed institutions, law and traditions, and in this context, slavery. The positions they adopted were never firm and fixed once and for all. The leaders of the EIC took different approaches—some were British-centered, others Orientalist—depending on the period, the region and their own background and training. Because of these varied attitudes, the British abolitionist movement in India was weaker than in the other colonies. Thus, the EIC intentionally differentiated "free" sugar production in India from slave-based production in the Atlantic, while some members of the abolitionist movement itself believed there was a fundamental difference between Eternal India with its customs and "mild" dependency, and the violence and slavery of the Atlantic.

It was therefore difficult for the British, who were heavily influenced by the Atlantic model and by master-servant relationships, to comprehend

Indian slavery. This led to decades of ambivalent tolerance of local slavery practices, followed by forms of extreme legal coercion after abolition. At first slavery was accepted in the name of local customs and overall efficiency; then it was formally forbidden, while real entitlements to the poor, laboring people and most of the colonized were few and highly unequal compared with those of white Europeans and possibly even local Indian elites. Another consequence of this complexity was that pre-colonial forms of slavery ended up being incorporated into British-style coercion over the very long term. Servitude and debt bondage continued throughout the various periods and were even reinforced by the official abolition of slavery. Similarly, concubines and positions of female inferiority all the way down to slaves reappeared under abolitionist laws: the British had a hard time eliminating anything besides extreme archaic practices such as *sati,* which were definitely not ordinary forms of female servitude. Here again, it is worth recalling that, during the same period, women still had limited rights and even a separate legal status in Great Britain itself.

The law took notions inspired by the Masters and Servants Acts in Britain and extended and radicalized them in the colonial context. These rules found support in the utilitarian view of justice. As a result, the law was used to increase not only legal but also political, social and economic inequalities. The approach was so harsh that it resulted in extreme deprivation, physical suffering and a high mortality rate. The reaction to it was desertion (when possible), and only later, political activity (unions, nationalism).

Here it is interesting to compare the situation in India with that in the Mascarene Islands. Unlike India, the islands were tiny territories that had originally been settlement colonies, where there was no way for the British to play on tensions between local customs and British law. Also, there were no British planters, local tenants or immigrants, but rather British rules (in Mauritius), French planters and immigrants from India and Africa. Therefore, the relationships between labor hierarchies, law and sovereignty were altogether different than those in India. What were the consequences?

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CHAPTER 4

Slavery, Abolition and the Contractarian Approach in the Indian Ocean: The Case of Mauritius

From Slavery to Indentured Immigration in the Indian Ocean: An Overview

During last two decades, a bourgeoning historiography has been produced on slavery in the Indian Ocean World (IOW), stressing the specificity of the forms of slavery in these areas compared to those in the Atlantic.[1] We do not intend to pursue this investigation here; instead, we will resume the main features of slaveries in the Indian Ocean World, and then focus on indentured immigration in order to discuss the rights and obligations, and thus inequalities, between masters and immigrants under the liberal contractarian approach.

Indeed, slavery was not introduced in the Indian Ocean by the European colonial powers, but it was transformed by them, although in a completely different manner than in the Atlantic. Indeed, between 1400 and 1900, 2.5 million slaves were traded by sea along the coast of the Indian Ocean, while about 9 million passed along the trans-Saharan route (3.6 million were exported).[2] Exports of slaves from East Africa rose from 100,000 in the seventeenth century to 400,000 in the eighteenth century and 1,618,000 in the nineteenth century, half of whom were sent overseas and the other half retained on the eastern African coasts.[3] Well over a million slaves were obtained by the Swahili world alone in the nineteenth century.[4] Europeans traded an estimated minimum of 947,600–1,275,200

A. Stanziani, *Labor on the Fringes of Empire*,
Palgrave Series in Indian Ocean World Studies,
https://doi.org/10.1007/978-3-319-70392-3_4

East African, Indian, Malagasy and Southeast Asian slaves within and beyond the Indian Ocean basin between 1500 and 1850, with much of this activity concentrated between the 1770s and early 1830s.[5] Unlike its transatlantic counterpart, the slave trade in the Indian Ocean was not under the control of the Europeans and was not limited to Africans, but also included Asian slaves. In contrast to the Atlantic system, IOW slaves rarely constituted a special cargo. The slave trade in the Indian Ocean involved overland and maritime routes. It also went far beyond chattel slavery and the plantation economy, which were significant in the Mascarenes and along the Swahili coast, but cannot be taken as representative of the multiple forms of bondage across the IOW over the long term. Debt bondage and other forms of servitude were extremely widespread.[6] Enslavement for indebtedness was involuntary, whereas most people entered debt bondage voluntarily as a credit-securing strategy. Mortgaging a child, or wife, to raise a loan was common practice in the IOW, with the man often using "adultery" committed by his wife or concubine as a pretext.[7] The main zones of slave exports from Africa to the Indian Ocean were Northeast Africa, East Africa and Southeast Africa. Northeast Africa drew captives from Ethiopia, Somalia and Sudan and exported them to the Red Sea littoral as far as the Persian Gulf, South Asia and eventually Zanzibar. East Africa recruited slaves from the hinterland and extended to the west of Lake Tanganyika; it supplied mainly Zanzibar as well as the Persian Gulf and Southeast Asia. East Central Africa drew upon northern Mozambique, Malawi, Zambia and Zimbabwe and fed the same markets plus the Comoros, western Madagascar, the Mascarenes and the Seychelles. Southern Central Africa, reaching as far as the hinterlands of southern Mozambique and the Zimbabwe plateau, supplied labor to the Cape, western India and the Mascarenes. Madagascar was an early source of slaves for the Cape and one of the principal suppliers for the Mascarenes.

Thus, slavery in the IOW preceded the arrival of the European powers, but the latter profoundly shaped and reinforced it. The Portuguese increased the demand for agricultural labor, but it was essentially the expansion of the plantation economy in the Mascarenes and along the Swahili coast that augmented the slave trade in the eighteenth and nineteenth century. The last third of the eighteenth century onwards was a period during which the slave trade played an important role in the economic history of East Africa. The social transformation of Oman into a mercantile state and the expansion of slave-based production starting in

around 1700 created a demand for agricultural slaves. Thus the Omanis built up their power in the western Indian Ocean by founding colonies in Zanzibar and Kilwa. Traditional imports of domestic slaves to Arabia added to the increasing slave trade between inland Africa and the Omani plantations along its East Coast.[8] The combined population of the Hijazy cities—Mecca, Medina, and their port of Jeddah—doubled in the nineteenth century, while Zanzibar's population grew from 12,000 in 1835 to between 25,000 and 45,000 in 1857.[9] Traditionally, enslavement was legally enforced for debtors and their relatives in many IOW regions. In Imperial Madagascar, for instance, creditors could apply the law to enslave a debtor, his wife and children.[10] This was also the customary practice in Thailand and Malaya.[11]

In Mauritius, the slave population had already developed under the French rule, rising from 648 in 1721 to 63,281 in 1807. The great majority were imported from Madagascar and the trading post along the Mozambican and Swahili coast.[12] J. M. Filliot estimated that 160,000 slaves reached Mauritius and Reunion between 1670 and 1810, 45 percent of whom came from Madagascar, 40 percent from Mozambique and East Africa, 13 percent from India and 2 percent from West Africa.[13]

Recently Richard Allen and others have corrected these figures upwards. French traders exported 24,000 Indian slaves to Mauritius and Reunion between the 1600s and 1830, with 75 percent of those exports occurring between 1770 and 1793.[14]

After the Napoleonic Wars, France officially reintroduced slavery. Nevertheless, under pressure from the British ban on the slave trade, certain French slave importations assumed the form of contracts of *engagement*. In this manner, an estimated 45,000 illicit slaves were imported to Reunion Island between 1817 and 1835.[15] Taking into account official censuses and disguised importations, between 48,900 and 66,400 slaves are believed to have arrived in Reunion between 1811 and 1848. According to Richard Allen, a total of about 300,000 slaves were imported to the Mascarene archipelago between the eighteenth and the first half of the nineteenth century. Unlike the eighteenth century, this time East Africa and Mozambique were the main source of supply (60 percent), with the rest coming from Madagascar (31 percent) and the countries of southern Asia (9 percent).[16] These networks, as we shall see, were to remain in place after the abolition of slavery.

However, Reunion Island and Mauritius were not alone in illicit trafficking of slaves. To prevent the French from circumventing the ban, in

1820 the British signed a treaty with the Merina King offering a subsidy of 20,000 dollars per annum in return for prohibiting the export slave trade. Unfortunately, this treaty boosted the slave trade: the French found new suppliers and imported first slaves and then contract laborers from Comoros, Mozambique and Madagascar. The Merina kingdom itself expanded and increased its imports of slaves. Between 1820 and 1833, the population of Antanarivo rose from 10,000 to 50,000, two-thirds of whom were slaves.[17]

Since the abolition of the slave trade in 1807, the British became increasingly involved in rescuing fugitives and illegally traded Africans. The Privy Council issued regulations for putting such liberated Africans under the care of others. They were either placed as servants or recruited into Britain's colonial regiments or the African corps of the British Navy. The anti-slave trade squadrons of Britain, the United States and France diverted an estimated 160,000 Africans from the slave trade between 1810 and 1864. Since these captured Africans could not be returned to their homelands, they were deposited at various convenient islands or coastal stations in the Atlantic, the Caribbean, and the Indian Oceans.[18]

Westerners involved in redeeming slaves frequently passed the cost of redemption on to the "liberated" slave, whom they subsequently considered indebted to them. Consequently, the liberated slave was obliged to work off the cost of the ransom and passage to a place of refuge—in the process often becoming further indebted to the new "master." In some cases, such procedures were adopted by private traders, such as William Wyndham, who incorporated many ransomed slaves into his own private workforce. Similar practices were used for slaves who escaped to Spanish warships or otherwise sought refuge in Spanish-held ports in the Sulu Archipelago. The practices of British anti-slave trade naval patrols that landed "Prize Negroes"—African human cargoes aboard captured slaving ships—at British-controlled ports in the western IOW were equally subject to criticism. For example, over 2000 were landed at Cape Town in the decade 1806–1816. Prize Negroes were treated as "confiscated" property and transferred to the British government. As such they were put at the disposal of local British officials who took some to serve in the military, but allotted most to serve the private manpower needs of prominent local whites as indentured labor.[19] Prize Negroes granted to Mauritian planters were "leased" back to the government for four days a year to perform public works.[20]

Indentured Immigrants in the Indian Ocean

In the Indian Ocean as well as in the Atlantic, indentured immigrations did not start with the abolition of slavery, but well before it. Although indentured labor has conventionally been portrayed as a phenomenon that arose in the nineteenth century, it was an old institution in the IOW where it had clear and often overlapping connections to European forms of indentureship and the concept of "servant."[21] For instance, indentureship was a feature of eighteenth-century Cape Society where it was either formalized by contracts, or imposed ad hoc, as with Khoi and San boys captured by Dutch farmers in the interior. The captives were forced to work until the age of 25, by which time they were often married, with sons who were subject to similar obligations. Many parents refused to abandon their children, and so remained tied to the farm for life.

The first *engagé*s arrived in Île Maurice (the French name for Mauritius) in the 1720s; they were artisans from India and other French colonies.[22] In the late eighteenth century, 40 per cent of free men of color and just 15 per cent of the servile population in Mauritius were of Indian extraction.[23] The British administration that succeeded the French in 1815 consistently encouraged the arrival of indentured servants from Madagascar and India and, increasingly, of Swahilis from East Africa.[24] There were many intermediaries in India, Mozambique, Madagascar, and West Africa, ranging from local sultans to village chiefs as well as Indian, Arab, and Portuguese middlemen, in addition, of course, to the French and British landowners and traders.[25] In many cases, contracts were signed by force or fraud; at the same time, many Indians signed up quite voluntarily.[26] The shortage of African indentured immigrants became more severe with the gradual intrusion of colonial power into Africa and the need for labor. Competition for African indentured immigrants developed not only between the various colonial powers, but also between Europeans and local powers and, ultimately, between colonial elites belonging to different parts of the same empire (conflicts between Indian and Cape Town authorities or between Reunion and Martinique were classic examples). Indeed while Zanzibar, which needed its slaves for clove production, proved of little value as a source of indentured labor, the Sultan's East African dependencies from Somalia to Mozambique were another matter. British pressures failed to persuade the Sultan to interfere with slave trading. Thus the French bought large contingents of indentured Africans on the coast. At the same time, they needed the cooperation of the Portuguese.

Underpaid Portuguese officials in Mozambique ignored the 1836 abolition of slave trading in Portuguese dependencies. Armed caravans led by Portuguese mulatto or Swahili agents moved inland in search of slaves, ivory, rhinoceros horn and malachite, which they sold to French. In the 1850s, Portugal prohibited participation in the French *engagé* traffic, but the governor-general did not take action against it until 1857. And when he did, France reacted violently. The French did not want to be excluded from the Mozambique labor pool, but now they had to face British competitors in Natal. At issue was how far to extend the recruitment frontier into the hinterlands. The scramble for Africa was also an attempt to solve this problem.

Chinese indentured labor partially compensated for the lack of Africans. The rapid growth of Chinese emigration in the nineteenth century was closely related to deteriorating economic and social conditions. Periodic natural disasters, particularly floods and droughts, along with growing political instability drove many to leave home. For example, the Taiping rebellion of 1850–1864 resulted in a large exodus from the lower Yangtzi. However, only a small percentage of Chinese migrants went overseas. Massive migration took place from overpopulated southern provinces to the northern frontier. By the early twentieth century, the Chinese settlement in Manchuria was expanding at the rate of 300,000–400,000 a year.[27] There was also considerable migration to the coastal cities: from Fuzhou to Taiwan and from Canto to Macao to Southeast Asia and the East Indies. The vast majority of Chinese migrants came from the southern provinces of Guandong and Fujan. Up to 11 million traveled from China to Singapore and Penang, where more than a third boarded ships bound for the Dutch Indies, Borneo and Burma. Nearly 4 million travelled directly from China to Siam, between 2 and 3 million to French Indochina, over a million directly to the Dutch Indies, less than a million to the Philippines, and half a million to Australia, New Zealand, Hawaii, and other islands in the Pacific and Indian Oceans.[28]

Fewer than three-quarters of a million Chinese migrants signed indentured contracts with European employers. The Chinese financed their voyage with money advanced by families or future employers through a "credit ticket" system. Recruits were delivered to the European firms by Chinese brokers, who bypassed Chinese legal prohibitions of indentured emigration. Kidnapping was extremely widespread and conflicts rose between China and major European powers who accused each other of facilitating this trade. Commissions were set up in France, Britain and

their colonies; their archives testify to the difficulties in separating voluntary from involuntary emigration, first because it was in the interest of the commissions to exaggerate or minimize kidnapping according to their national-imperial interests and second because the boundary was vague in itself. Contracts of indenture included coercion and ensuring the individual's "free will" as the basic condition for separating free from unfree emigration was, at the best, an illusion.

Indians made up the largest immigrant population in the Indian Ocean. The size of the exodus from India reflected rising distress in the territory and its integration into the British Empire. There was considerable migration from rural areas to the cities, short-term migration within British India for seasonal work, indentured migration to Assam tea plantations, and recruitment for public works. While labor mobility between sectors was highly imperfect, relationships between these markets were nonetheless important. The overlapping between labor and credit markets provided an overall connection between different forms of mobility. There was a close link between debt and obligation to work. Creditors exchanged small advances for large quantities of work. Thus, advances on wages and advances on voyages looked quite similar to emigrants and they formed an integrated system of debt, bondage and labor. Landless workers lacked collateral and they were forced to offer months or years of future labor to repay the loan and to secure the debt. As Gyan Prakash has shown, these arrangements were deeply embedded in networks of reputation, deference and community-regulated norms.[29] Recruiters and village creditors were sometimes in opposition; sometimes they were the same person who dispatched workers to different markets. This actually was an operating system for the British Empire, connecting local intermediaries with colonial elites. Recruiters and middlemen were crucial actors.[30] The Indian recruiter or *arkatia* watched the markets, caravanserais, railway stations, bazaars, and so on, for likely candidates. Intermediaries sometimes played a more active role: like the *serang* on ships, the *sardar* recruited and controlled industrial workers. Jobbers not only possessed the power to hire or fire at will, but often controlled access to credit, housing, shops, and medical care as well. Colonial authorities repeatedly stressed the need to avoid abuses and control recruiters. This aim responded in part to the pressure of the anti-slavery movement, and in part to the competitive interest different elites had in recruiting. All the colonial emigration agents thus met from time to time in order to discuss common problems. They shared complaints, in particular about the Indian magistrates and police who were not

cooperative. The recruiting agencies also agreed that fraud and deception should be stamped out. However, the high mortality rate in the depots continued to spark complaints and provide evidence of kidnapping.[31]

Labor exporters who supplied Mauritius with indentured Indians before 1838 tapped indigenous migrant labor systems to do so. Approximately one third of the 7000 Indians who arrived in Mauritius during 1837–1838 were *dhangars* or tribal hill people from the Chota Nagpur plateau in southern Bihar, a region that subsequently supplied 250,000 migrant workers for Assam's tea plantations during the latter half of the century.[32] As an integrated local-imperial-global movement, Indian labor thus migrated not only inside India but also to other British colonies in Southeast Asia. Immigrant workers for tea plantations in Ceylon totaled 1.5 million between 1843 and 1938 (8 million according to Adam McKeown), while the number reached 2.6 million for the rice harvest in Burma during the same period (15 million according to McKeown). Between 1844 and 1910, another quarter of a million Indians went to labor in the colonies that became British Malaya. During the last quarter of the nineteenth century, total departures from India rose from an average of 300,000 a year to over 425,000, of which the overseas indentured component was less than one tenth. As a whole, over 29 million Indians moved to Southeast Asia and the Indian Ocean between 1840 and 1940. Climatic disasters, political events (the Sepoy rebellion of 1857), and the construction of railroads contributed to these migrations.

Most of the 1.3 million Indian emigrants who ventured overseas were processed through British depots, travelled on British ships, and worked in British colonies. Even those who went to Reunion Island were subject to the terms of agreements between France and Britain. At the end of the eighteenth century, Indian laborers were already a common sight in Southeast Asian ports, Ceylon, and East Africa. As in China, overseas emigration formed part of a much larger movement of people.

Many came from the lower castes and classes, but this was not necessarily the case and middle and upper castes migrated too, as detailed studies on Mauritius and Natal confirm.[33] However, our knowledge of the caste status of overseas migrants is dependent upon the recording of these data by the clerks who prepared the certificates and ships' list. Many of them were unfamiliar with castes' names and tended to simplify them. On the other hand, upper classes tended to disguise their status for several reasons: shame, prohibition from crossing the "black water", and the employers' preference for lower castes supposed to be more productive.[34]

Within this context, the case of Mauritius is particularly relevant for our purposes: in Mauritius, the abolition of slavery, followed by the massive arrival of indentured immigrants, took place in a peculiar situation of legal and colonial pluralism: French and British rules coexisted together with French planters and British administrative elites. How did these co-existing elements affect the living and social conditions of laboring people?

Indentured Immigrants in Mauritius: The Overall Picture

Here we will start with an overall description of indentured immigration in Mauritius, and then develop a further analysis by district and plantation in the next sections. Between the official abolition of slavery in 1834 and 1910, 450,000 indentured servants arrived in Mauritius, mostly from India but also from Madagascar. Two thirds remained, and as a result, the Indian population grew steadily from 35 percent in 1846 to 66 percent in 1871.[35] Numerous observers drew attention to the inhuman living conditions of these immigrants.[36] These figures must also be expanded to include other indentured servants from South Asia and Africa: 30,000 in 1851 and twice that number 10 years later. These two forms of immigration to Mauritius led to protests from English landowners and from sectors such as the railway in India and East Africa, complaining of unfair competition on the part of the Mauritians aided by the French, who contributed to this human trafficking both before and after 1848.[37] Female immigration to Mauritius remained secondary, at least initially, and had to be overseen by the state.[38] It did not develop rapidly until the mid-nineteenth century, after the abolition of slavery, due to the arrival of new indentured servants who came with their families and the considerable demand for domestic and urban labor as well as more traditional labor on the sugar plantations.

Indian immigrants came from three ports: Bombay, Calcutta and Madras. Of the 2 million Indians who immigrated to other regions of the British Empire between 1834 and 1912, 95 percent came from Bengal. At first they were recruited in coastal areas; later on, the recruiters widened the radius to include inland territory. Between 1834 and 1842, 15,042 male immigrants came from Calcutta, 9524 from Madras and 264 from Bombay.[39] Of the 50,000 Indian immigrants that landed in Mauritius in 1858–89, most came from the northeast regions. The indentured immigrants from Calcutta often belonged to the caste of untouchables or came from tribal areas in the interior and very often from the northeast. In

all, there were 50,000 immigrants of tribal origin between 1834 and 1870, mostly affected to plantations in the Mauritius districts of Pamplemousses and Rivière du Rempart. This gave rise to strong competition with Assam, whose indentured immigrants were also recruited in the northeastern hills.[40] Assam planters regularly complained about emigration to Mauritius; however, as recruitment was in the hands of local agents, the British did not really intervene until very late, that is, during the last two decades of the nineteenth century, when the demand for labor in Mauritius had already decreased.

There were fewer immigrants from Madras compared with those who embarked in Calcutta: in 1859 there were 1519 versus 6268. Most were Telugu-speaking and came from Tamil districts. The coastal regions provided the most fruitful recruiting grounds for agents. Moreover, many of places of origin mentioned were located in the Godavari district and along the Godavari River.[41] During the first 40 years of indenture, migrants from the present-day states of Bihar and Uttar Pradesh were predominant, with Tamils and Telegu from coastal districts making up the majority of indentured workers.[42]

Contrary to conventional assumptions, detailed analysis shows that lower castes were less common than previously thought, whereas middle castes (craftsmen, mid-level farmers) were numerous. The problem is that our knowledge of the caste status depends on the naming and classifications made by the clerks at the depot, keeping in mind the fact that middle castes preferred to hide their origin, at least at that moment. Thanks to patient work in the archives, scholars have overcome these limitations and reconstructed the real castes and their relative weight based on the names and origins of the immigrants.

As these aspects varied considerably from one district or even one plantation to another, we will attempt to go beyond an overall explanatory framework applicable to the whole island. This micro scale is indispensable if we want to avoid simplistic analyses of the forms of dependency. While we do not wish to give up the valuable perspective provided by general trends and explanations, it is nevertheless important to consider the fact that most of the models of labor dependency—for instance, linking coercion to scarce manpower, plantation size or estate owners' credit access and indebtedness—can be fully understood only by discussing them in their own context, including the particular history of the estate and its owner. *L'engagisme* (the French equivalent of indentured immigration in the colonial world) combined a general legal and economic framework

with the particular forms of coercion specific to each estate and its owner. This was a consequence of the gap between the general institutional rules pertaining to labor, health care, credit, and so on, and their implementation. The way they were applied reflected complex relationships inside the plantation (among the immigrants themselves and between the immigrants, their foremen and the estate owner) as well as with other estates and with the colonial authorities. These details are found in plantation archives and in the reports of parliamentary commissions of inquiry, immigration protection societies and the courts.

Living Conditions and Abuse by Planters

Once they arrived, the immigrants had to cope not only with the coercive attitudes of the planters, but also the hostility of enfranchised former slaves. Some authors think that the slaves were marginalized in Mauritian society,[43] while others claim that their status changed to that of small landowners or shopkeepers and they were therefore much better integrated than Indian coolies after the abolition of slavery.[44] In fact, both scenarios played out; most of the former slaves were of African origin, whereas Indians predominated among indentured immigrants. The two groups sometimes included both ethnic origins: some former slaves were Africans, some were Indians; the *engagés* were usually Indians, but as time went by, African immigration also increased.[45] Along with ethnic origin, the period of immigration and whether the individual was a former slave were important factors.[46] These tensions were ultimately settled by the fact that the former slaves soon left the estates and went to work in the cities as servants or shopkeepers; by 1846, new immigrants made up 85 percent of the island's agricultural laborers.[47] As time went by, the situation was reversed: among the new immigrants, those of Indian origin received higher wages than indentured Africans; this was in large part due to the protection granted by the British to Indian laborers and the conditions they imposed on Mauritian planters in exchange for maintaining the flow of immigrants.[48] Such protection did not exist for African immigrants.

Wage disparities were not the sole cause of tensions between immigrants: Indian and African immigrants did not like sharing the same huts; the Indian laborers immediately complained about their crowded living conditions. Complaints arose even with regard to immigrants from other regions of India. This occurred in "La Providence", a 250-acre estate in Flacq with 410 laborers, including 195 who had embarked in Calcutta,

192 in Madras, 21 in Bombay and 2 of unspecified origin. The Bombay immigrants came from Chiplun in the southern Konkan region. They objected to being mixed together with immigrants from other regions—Mahrattas, Muhajirs and Chummars.[49] According to estate reports and accounts, tensions also arose among immigrants when people of different castes were put into the same dormitory. According to the estate owners, such complaints had a negative impact on productivity and caused unrest on plantations. As a result, most estates preferred to recruit immigrants with more homogeneous origins in terms of castes and regional origin. In Pamplemousses, the "Mon Choix" estate (200 acres) employed 110 indentured immigrants, 104 of whom came from Calcutta.[50] This solution offered definite advantages: it reduced tensions among the laborers and expanded the planters' connections with middlemen from the same part of India. It also had certain drawbacks: it was easier for *sirdars* to side with the laborers and hence, according to some estate owners, conducive to rebellion.[51]

These tensions reflected the problem of controlling the workforce. Small landowners continually complained about runaway laborers, just as they had once complained about runaway slaves. They blamed the major estate owners and the weakness of the authorities.[52] In contrast, owners of large estates complained about high surveillance costs and supported more "liberal" measures in the name of humanitarian principles.[53] How can we explain these different views? Did the "liberal" attitude of the estate owners encourage them to invest, enlarge their estates and count on "free" labor, or was it the opposite, did their large estates allow them to adopt less coercive attitudes?

To answer that question, it is necessary to descend from this overall view of the island first to distinguish between the districts and then to the level of the individual plantation. The first step is to identify the number of laborers in the various districts and differentiate between new immigrants, immigrants with renewed contracts and creoles. This distinction is important, for it indicates the estate owner's ability to retain "old" laborers and recruit new ones.

We will therefore begin by examining these elements in the estates managed directly by their owners; later we will see whether management by *gérant* made a difference (Table 4.1).

First of all, we should note that the districts with the largest number of laborers were not always those with the most estates. Flacq, Grand Port and Savanne had the most laborers, followed by Pamplemousses, Plaines

Table 4.1 Male workers on estates directly managed by their owners, 1874

Districts		*New immigrants*	*Old laborers*	*Creoles of Indian origin*	*Creoles of African origin*	*Free Indian immigration*	*Others*	*Total*
Pamplemousses	36	1212	5725	946	38	67	62	8050
Rivière du Rempart	23	2081	4908	557	58	33	28	7665
Flacq	40	3600	10,950	1411	56	158	90	16,265
Grand port	35	2354	9842	1152	34	133	17	13,532
Savanne	29	2944	6501	819	46	112	46	10,468
Black River	12	619	2477	339	31	44	15	3525
Plaines Wilhems	29	988	5247	718	19	62	28	7062
Moka	19	1011	4141	533	22	56	6	5769
Total	223	14,819	49,791	6475	304	665	292	72,336

Source: ANOM FM (fonds ministériels) SG/REU (série géographique: Réunion) c380 d3228

Wilhems and Rivière du Rempart. Moka and Black River had the fewest laborers. Pamplemousses had the most estates, despite a smaller number of laborers. This observation will serve as the starting point for our discussion of labor relations. To begin with, there were significant differences in the ratio of "old" laborers to new immigrants. This distinction is interesting in itself: it was first introduced by the 1847 Decree, which defined new immigrants as those who had not yet completed their initial five-year indenture contract.[54] When the contract expired, the immigrants could either return to India or renew their contracts, at which point they were classified as "old" immigrants. In theory, old immigrants were free to choose their employer; in fact, as we shall see, they too were subject to the laws against vagrancy applicable to all immigrants, regardless of whether or not they had redeemed their "debt." This clearly shows that the debt itself was often merely a pretext and, in reality, the authorities' primary concern was to maintain public order and control laborers' movements.

The colonial authorities tried to encourage short-term contracts, particularly starting in the mid-1860s, when several decrees authorized contracts for 6 or 12 months instead of the traditional indenture contracts of 5 to 7 years. Officially, the measures were adopted to offer greater protection to immigrants; in fact, they were favored by several planters, partly in reaction to the increasing success rate of immigrant lawsuits in the courts based on formal multi-year contracts. The planters thought short-term contracts would make workforce management easier. They were opposed mainly by the owners and managers of small estates, who were well aware of the problem of retaining laborers and ensuring their replacement at auctions. As we will show in the following pages, the planters multiplied the penalties imposed on laborers in such a way as to maintain their initial indebtedness (the cost of the voyage) and thus force them to renew their contracts. During the 1870s, the large plantation owners ended up embracing the same strategy: short-term contracts became more advantageous when access to machines and capital became more important than manpower. As a result of these changes, in 1876, out of a total of 60,555 newly signed contracts, 52,292 were for a short term. The rate of contract renewal went from 40 percent in 1861 to more than 70 percent in 1881.[55]

In 1871, there were 28,172 new Indian immigrants who signed contracts, compared with 47,713 laborers already on the island who renewed theirs. Two thirds of the latter group changed masters. A pass was required to go to work on a different plantation, which was granted by the authorities after verification with the former planter. As the years went by, the

number of passes increased, rising from 12,597 in 1871 to 17,730 in 1875.[56] This shift is evidence of greater labor mobility and increased administrative control over immigrants' movements using the pass system.[57]

The length of contracts was therefore linked to their rate of renewal, but the connection was not the same in the different parts of the island. In distinguishing the districts, the preceding table shows that Flacq, Grand Port and Savanne, which had the largest number of laborers, also had about a third of the new immigrants. The percentage of newcomers was highest in Rivière du Rempart (about half of its workforce), whereas in Pamplemousses, which had the same total number of laborers, new immigrants made up about one fourth of its manpower. We can therefore conclude that there were considerable differences at the district level, although no significant connection can be demonstrated between the total number of laborers, the size of the estate and the percentage of new immigrants. This indicates that the ability to retain laborers and attract new ones was specific to the individual estate.

On the other hand, the type of estate management unquestionably influenced the rate of contract renewal: as the following table shows, the estates of absentee owners that were managed by middlemen seldom resorted to new immigrants and relied almost exclusively on their "old" ones (Table 4.2).

Table 4.2 Working people on absentee owners' estates, 1874

Districts	*New immigrants*	*Old immigrants*	*Creoles of Indian origin*	*Creoles of African origin*	*Free Indian immigration*	*Others*	*Total*
Port Louis	556	1685	69	14	84	33	2441
Pamplemousses	31	323	17	12		5	388
Rivière du Rempart		105	16		1		122
Flacq		850	67		10		927
Grand Port		349	57		8	1	415
Savanne		275	31	1	1		308
Black River		327	64	6	4		401
Plaines Wilhems	8	322	29		1	3	363
Moka		797	116	1	9		923
Total	595	5033	466	34	118	42	6288

Source: ANOM FM/SG REU c380 d3228

This was a significant factor, above all around the mid-1870s: At that time, the crisis in the sugar market—due to competition from beet sugar and a drop in sugar prices—prompted a switch to mechanization, while at the same time, the availability of Indian labor fell sharply. Under those circumstances, it was hard for absentee estate owners to recruit new laborers and thus to keep their estates; as a result, fewer and fewer estates were managed by *gérants* (typical of absentee owners' estates). The reports of parliamentary inquiries concur with the information in the archives of land offices and notaries in Mauritius. Starting in the 1860s, large properties were broken up and there was a high rate of access to land ownership by Indian immigrants, mostly Indian merchants who then put the estates under management by old immigrants. In all, by 1910, Indians owned one-fifth of the area devoted to sugar cane cultivation.[58] In other words, estate managers were hard-pressed to recruit or even to ensure their own survival and the percentage of direct management by estate owners gradually increased in tandem with market expansion and the decline of indentured labor. What accounts for these results?

To explain them, we must first examine labor relations in detail to see how they were related to recruitment and to the ability to retain laborers. The living and working conditions of immigrants remained extremely harsh, particularly during the 1850s and much of the 1860s, despite the efforts of the abolitionist movement, with its representatives in Mauritius ready to pounce on any disguised form of slavery. The abuses of estate owners were noted in British parliamentary reports[59] and confirmed by estate inspectors.[60] Yet laborers' cases seldom won in the courts, even though a body of judges appointed by London was instituted in the early 1840s to avoid pressure from or collusion with the estate owners.[61] The number of cases brought by indentured laborers against their masters, still few and far between in the 1850s, increased sharply thereafter. Between the 1860s and 1870s, about 10 percent of indentured laborers took legal action against their masters and more than 70 percent of them won their suits.[62] Nevertheless, these outcomes, partly due to pressure from London, were not synonymous with a "march to equality." Over the years, the percentage of withdrawals from contracts by indentured immigrants declined: the number dropped from 5 percent of the total at the end of the 1870s to barely 0.3 percent between 1895 and 1899, and the success rate of immigrant court cases fell to below 40 percent.[63] This stemmed from the fact that, after the favorable outcomes of the 1860s and a new law on labor contracts adopted in 1867, contracts became increasingly verbal, which

made it more difficult for laborers to provide evidence of wrongdoing in court. Immigrant contracts were no longer drawn up directly with the estate owners, by the way, but with Indian middlemen, which no doubt helped to stifle many of the conflicts.

What Were the Laborers' Complaints?

Immigrants often complained of ill treatment, wage retention and poor food.[64] Between 1860 and 1895, non-payment of wages accounted for between 76 percent and 87 percent of complaints, followed by those for insufficient or bad food. There were far fewer denunciations of physical violence, partly due to pressure from the judges and colonial authorities, who emphasized that such occurrences were exceptional, and partly owing to the attitudes of the immigrants themselves, who often declared they could put up with physical violence if need be, but not with the loss of their wages.[65] These attitudes were not equally widespread in all districts (Table 4.3).

From the standpoint of territorial distribution, numerous complaints were lodged by laborers in Savanne and Moka, somewhat fewer in Port Louis, followed by Black River and Plaines Wilhems and relatively few in the other districts. This hierarchy changes when we compare the number

Table 4.3 Complaints lodged by workers, Courts of First Instance, 1875

	Non-payment of wages	*Inadequate food rations*	*Refusal of medical care*	*No certificate of discharge issued at the end of the contract*	*Assaults and physical abuse*
Port Louis	342	29	23	19	34
Pamplemousses	63	4	2	6	35
Rivière du Rempart	20	6	3	10	14
Flacq	44	9	3	9	17
Grand-Port	69	5	5	16	20
Savanne	567	231	21	37	90
Black-river	130	178	3	7	17
Plaines Wilhems	127	6	4	11	29
Moka	574	10	4	5	14
Total	1936	478	68	120	270

Source: ANOM FM/SG REU c380 d3228

of complaints to the number of laborers and the size of the estates: the same number of complaints were filed in the Savanne district, with 100 laborers per estate, as in the Moka district with 600 per estate. The percentage of new immigrants compared with "old" ones did not have a significant effect on the number of laborers' complaints. Therefore, these elements alone do not account for the tensions on the estates.

The fact that an estate was bought by Indians (an increasingly commonplace phenomenon starting in the 1870s) made only a partial difference. Thus, in Pamplemousses, the "Mon Choix" estate was owned by Indian residents. It extended over 200 acres and employed 110 indentured laborers, including 104 from Calcutta. While the living conditions in terms of access to water and dormitories were deemed "acceptable" by the inspectors, medical care and above all the punishments inflicted on the workers were comparable to those on the other estates.[66]

In reality, non-payment or delayed payment of wages constituted an abuse and became a major source of tension as soon as the indenture contract system was introduced. Planters withheld wages for several months or even until the end of the five- or seven-year contract, a practice they justified in two ways: first, they wanted a guarantee that immigrants would pay their debts and not yield to the temptation to run away; second, they claimed that by withholding wages, they helped "alcoholic" and "dissolute" laborers to save their money. The arguments were perverse, precisely because laborers with no wages were forced to remain indebted to estate owners. Moreover, as we shall see in detail in the following pages, the estate owners took advantage of every breach of conduct by the laborer to appropriate part of his wages in the form of a penalty. In view of the situation and under pressure from the anti-slavery movement, the British authorities imposed monthly payment of wages, but few of the estate owners complied.[67] At the 250-acre "Providence" estate in the Flacq district, with a workforce of 410, laborers were paid every four months, which, according to the estate owner, encouraged them to save. Of course the laborers asserted the opposite and sued for their wages.[68] Virtually all the testimony from the estates was divided along the same lines between the estate owners and what they claimed to be the laborers' wishes and the point of view of the laborers themselves.

One important exception seems to have been "La Grande Baie" estate in the Rivière du Rempart district, with 380 acres and 180 laborers, almost all of them from Calcutta. In 1873, the estate owner filed an astonishing complaint: He claimed that although he wanted to pay his laborers every

month as required by law, he faced protests from the laborers, who stopped working and demanded to be paid every two months. The estate owner testified that these virtuous laborers had told him they wanted to save money for their families in India. They had thus suspended their work and the estate owner was forced to inflict sizable penalties on them, taking back a large portion of their wages. The moral of the story: A bad law (monthly payment) had ended up penalizing the laborers.

The laborers gave a radically different account: they *wanted* to be paid every month and, in the face of the estate owner's refusal, they had stopped working.[69] What forms of resistance were available to laborers confronted with these repeated abuses?

Resistances

The attention devoted by estate owners and legal provisions to runaways and absences demonstrates above all the legacy of slavery that continued to weigh on politics and the law as well as on mentalities, even among the Mauritian elites. Laborers were supposed to stay on site unless otherwise authorized by the planter, just as in the days of slavery. The major focus on the absenteeism of laborers also confirms both the eagerness of anxious authorities to maintain public order (former slaves and new immigrants were "free" to sign contracts, but they were not free *not to work* or to change their place of residence) and planters' fears of a manpower shortage.[70] The terms of indenture contracts were modeled on the colonial Masters and Servants Acts and criminal penalties, prohibition of marriage, total availability of laborers and the fight against vagrancy were part of this arsenal. It was difficult for immigrants to use the law to defend their rights because the judges were either corrupt or on the side of the colonial elites. Between 1860 and 1870, some 70,000 complaints were filed against immigrants; 80 percent of the cases pertained to unjustified absences or desertion.[71] For the planters, unjustified absences were a source of even greater apprehension than desertions in the strict sense and generated greater tension with the laborers. From a legal standpoint, any unjustified absence was subject to criminal penalties.[72] These provisions were strengthened by laws against vagrancy, a phenomenon that increased exponentially between 1850 and 1870.[73] The laws expressed a combination of concerns about public order—especially the authorities' determination to know where immigrants were working and residing at all times—and about control over competition from employers seeking to recover other masters' "runaways."

Indeed, as time went by, instead of relaxing the standards regarding desertion and absenteeism, the rules became even stricter and more numerous. An 1860 decree permitted tacit contract renewal at the expense of immigrant laborers and authorized penalties for any delay or failure to complete tasks assigned by the estate owner. Passes with photographs were introduced in 1867. The planters and colonial elites sought to impose the same coercive rules on "old" as well as new immigrants, and hence limit the cost of labor and maintain social order. In principle, a laborer became a runaway when he had been absent for more than two weeks. In practice, the time limit was vague; estate owners denounced their desertion well before the limit was up and judges had a hard time distinguishing between absenteeism and vagrancy. According to estimates, in 1845 there were 35,000 cases of Indian desertion (6 percent of the labor force), another 11 percent of absenteeism and 8 percent of illness.[74] Armed with the new rules adopted during the 1860s, the estate owners increased their complaints, which rose to about 6000 per year; at the time, between 8 percent and 10 percent of the colony's labor force was described as absent; another 8 percent of laborers were arrested every year as vagrants.[75]

Most of these cases were dismissed as the laborers were never found, either because they had gone to live in the city where they were difficult to detect or because they were employed by other planters promising better conditions, who had no interest in returning them to their estates. Consequently, many planters preferred to recruit new immigrants rather than attempt to locate runaways.[76] These were often estate owners who had close ties to members of the island government and an extensive network of middlemen. It was cheaper for them to acquire new immigrants than to hunt down runaways or recover them once they were identified. Small estates suffered the most from this situation; with a very small workforce, they found themselves in a precarious position when *engagés* ran away. This created a vicious circle: due to the deterioration of both the sugar market and the labor market, small estate owners were precisely the ones who imposed the harshest conditions on their laborers and ended up losing them.[77]

The number of estate owners' complaints concerning absenteeism and desertion varied from one island district to another (Table 4.4).

The district with the highest number of recorded conflicts was Savanne, where the estate owners countered the laborers' accusations of abuse and wage retention with complaints of absenteeism. In this case, however, the gap between estate owners' complaints in Savanne and those in other districts was abnormally wide. Nevertheless, even under the special legal conditions

Table 4.4 Complaints lodged by landowners against workers, 1875

Districts	*Refusal to work*		*Unjustified absence*		*Desertion*	
	Complaints	*Convicted*	*Complaints*	*Convicted*	*Complaints*	*Convicted*
Port Louis	13	12	86	79	274	241
Pamplemousses			78	78	96	91
Rivière du Rempart			329	328	142	140
Flacq	18	13	180	176	260	256
Grand Port			569	554	268	261
Savanne	198	162	910	651	256	188
Black River	223	219	214	214	88	88
Plaines Wilhems			136	129	101	97
Moka	4	4	194	194	84	81
Total	456	410	2696	2403	1569	1443

Source: ANOM FM/SG Reu c380 d3228

mentioned earlier, the Savanne planters seem to have had difficulty persuading the judges and their complaints had the lowest success rate on the island.

Our figures confirm a close connection between estate owners' abuse and wage retention, on the one hand, and runaway laborers on the other, leading to punishment and docked wages by the estate owners. In the Pamplemousses district, for example, a scandal arose in 1871 following numerous complaints by laborers at the "Mont Choisy" estate, which had 724 acres and a workforce of 276. An administrative inquiry brought to light extremely frequent wage retention, inadequate food and workdays lasting up to 30 hours compared with the 12-hours statutory limit. These conditions led to high rates of desertion (208 out of 276 workers during the year) and widespread absenteeism, which was denounced by the owner and confirmed by the estate accounts, resulting in inordinately high monetary penalties: of the £11,200 in wages due in the year, the workers received only 8400.[78]

Penalties and Inducement

Overall, of £1 million in wages due in 1874, the masters withheld £229,225 for absenteeism and £91,000 for illness.[79] The following year, the deductions rose respectively to 254,193 for absenteeism and 103,756 for illness. Estate owners withheld a day's wages for every day of illness, and twice that amount for every day in jail or of unjustified absence.[80] The plantation accounts show that this phenomenon was

commonplace. When deductions for theft, inefficiency, lack of respect, and so on, are included, laborers often received only a quarter of their contractual wages.[81] The amount of deductions also varied from one district to the next: in 1875, deductions from wages were highest in the districts of Black River (£20,000 in fines out of 65,000 in wages), Grand Port (55,000 out of 214,000 including 40,000 for absenteeism and 15,000 for illness) and Savanne (48,000 out of 175,000). Next came Pamplemousses (28,000 out of 137,000), Plaines Wilhems (33,000 out of 128,000), Moka (27,000 out of 108,000) and Flacq (25,000 out of 277,000).[82]

We cannot understand this data by applying a simple explanatory model opposing masters with repressive attitudes to "liberal" estate owners. Indeed, there was an elevated amount of wage retention, penalties in the form of wage deductions and protest by laborers in Savanne, which does suggest the classic opposition between repression (and abuse) and resistance. But in Moka, where wage retention was commonplace, penalties for absenteeism and desertion were lower. At first glance, we might be tempted to interpret this in Foucauldian or even management analysis terms (inducement vs. repression): the planters in the Moka district appear to have used wage retention not to repress but to control their workforce. In reality, estate correspondence and archives in this district show that, in most cases, the estates were simply heavily indebted and had trouble coming up with the cash to pay their laborers.[83]

Most often, the conditions specific to each estate played a preponderant role. For example, again in the district of Moka, the 1000-acre "Espérance" estate employed 666 immigrants, almost all of them from Calcutta. An inspector described the lodging and labor conditions and the level of medical care as optimal. A virtuous circle was established at this estate: good conditions meant there were very few desertions—seven in all—in the course of the year; penalties, too, were lower than elsewhere—in the case of absenteeism, a half-day's wages were withheld, compared with one or even two days' on the other estates.[84]

The situation was altogether different at the "Labourdonnais" estate in the district of Rivière du Rempart, with 900 acres and a workforce of 518. Each dormitory had 12 beds instead of the 7 authorized by law; the dispensary was run by a Creole with no medical training and hygiene conditions were substandard. Moreover, the cost of the laborer's voyage and the advances paid at the time of his departure from India were entered in the estate's accounts in pencil rather than in ink as required, therefore enabling significant changes in the initial amounts over time. Penalties were very high and often applied without any real misconduct on the laborer's part.

Thus, the books mention that penalties were imposed because a laborer had damaged or lost his tool (which was punishable by law). Other documents and testimonials reveal that the laborer in question was punished for accidentally cutting young sugar canes instead of older ones, a mistake that cost him several days' wages.[85] Finally, the food given to laborers on the estate did not comply with regulations; in principle, the decrees stipulated *dholl* and salted fish, but in the contracts drawn up at the estate, the "and" was replaced by "or" and the laborers received only *dholl*. Moreover, laborers were paid in dollars rather than in pounds (which was theoretically illegal); wages were rather unequal; above all, there was no record of overtime, although the hours of labor surely exceeded the legal limits. The same was true for workdays: the accounts set the normal number of workdays at 365, and anything less was described as desertion or absenteeism (Table 4.5).

Table 4.5 Labourdonnais estate accounts, 1871

Name	*Monthly wages in dollars*	*Wage rate in 1871 in dollars*	*Deductions for illness or absence*	*Days of work in 1871*	*Days for which no wages were paid*	*Category*
Minien	4	48	8.76	325	28	Servant
Rungan	2.5	30	7.71	318	46	Servant
Agapen	3.5	42		365		Servant
Govinden	2	24	16	147	26	Servant
Galliapen	2.5	30		365		Servant
Gatan	3	36	11.90	305	59	Servant
Vadooran	3	36	7.80	326	39	Servant
Arabiaden	3	40	2.20	344	1	Servant
Govinden	2.5	30	29.33	20	11	Servant
Nieck	3.5	42	11.52	281	25	Servant
Chinapien	1.5	20.25	1.93	339	6	Servant
Gobarree	3.5	42	5.46	332	14	Servant
Godoor	3.5	42	5.48	324	6	Servant
Lohkoo	2.5	30	9.93	303	58	Servant
Bandun	3	36	27	192	99	Servant
Rungen	5	25		151		Guardian
Pooinen	2.5	30	8.79	312	52	Servant
Poinandee	3	36	9.80	307	41	Servant
Mootoo	3	36	9.60	315	46	Servant
Murgen	2.5	27	12.31	198	12	Servant
Bangun	3.5	47	28.86	187	37	Servant
Mooliapen	3	36	17.80	272	83	Servant
					689	

Source: ANOM, Gen c149 d1248

The skills of laborers were not mentioned and, aside from guardians, they were all put in the category of servants; indeed, in the legal English used in the Master and Servant Act in force on the island at the time, this category included virtually every kind of worker.

The accounts also show that wages varied at most estates according to the season. The "Beauchamp" estate in the Flacq district, with 1250 acres and 620 laborers, paid an average wage of £3.5 from January to June; 2.5 in July–August; 3 in September; and 2.5 in October, November and December. Predictably, wages were highest during peak agricultural periods in order to retain laborers.[86]

There were wide disparities between the wages of laborers and *sirdars* (foremen). On the "Providence" estate in the abovementioned Flacq district, laborers were paid 3–4 dollars a month, whereas the *sirdars* earned 8 dollars and deposited as much as 172 dollars a year in the estate bank.

The role of the *sirdars* was complex: They recruited the laborers in India and then managed them once they arrived in Mauritius. Observers at the time and subsequent historians both used the traditional terms for labor organization to debate who benefited most from these middlemen—the laborers or the estate owners. As we said earlier, the estate owners initially saw that using *sirdars* reduced the cost of recruitment and later of supervision and brought considerable benefits. As time went by, the *sirdars* presented a further advantage: transporters and afterwards the estate owners tended to sign contracts with the *sirdars* rather than with each individual laborer. Hence, by law, any laborers that had problems with wages, repatriation, and so on, were supposed to address them to the *sirdars* rather than to the estate owners. For part of the 1870s, this practice helped significantly to reduce the rate of abuse complaints filed by laborers and above all their success in court.

On the other hand, some estate owners blamed the *sirdars* for encouraging resistance and riots, and even the mainland inspectors and observers accused them of siphoning off an excessive portion of the laborers' wages.[87] From this point of view, the inadequate amount of laborers' wages would appear to have been attributable to the *sirdars,* not the estate owners. A comparison of the rate of wage deductions and penalties imposed by *sirdars* vs. estate owners provides additional information. As of December 31, for the island as a whole, the planters had paid immigrants £1.09 million during the year 1874 (£826,000 to "old" immigrants and the rest to newcomers) compared with 114,000 from the middlemen (97,800 to the "old" workers). Yet wage deductions by the planters stood

at 332,690 (almost one-third of paid wages), compared with 26,835 by the *sirdars* (less than one-fifth). Above all, the planters punished unjustified absences (£234,000 were withheld out of a total of 332,690 in deductions), whereas the middlemen punished all absences: £16,000 for illness and the remaining £10,000 for imprisonment.[88] This confirms the fact that, despite the efforts of the planters and the colonial elites to turn immigrants against *sirdars*, relations between these two groups, though by no means devoid of conflict, were nevertheless distinctly less tense than those between immigrants and planters.

We still have to examine how these complex labor relationships and their impact on wages as well as the forms of laborer resistance ultimately influenced the rate of immigrant repatriation and/or integration.

Savings, Repatriation and Contract Renewal

The indentured laborer became increasingly indebted to the planter. This process started with the necessity, often poorly explained at the time of recruitment, for the laborer to repay the cost of travel to Mauritius.[89] In addition, small planters in particular enforced a range of penalties that compounded the debt of indentured laborers, thus increasing the likelihood that the laborer would be obliged to renew his contract; the percentage of contract renewals rose from 40 per cent in 1861 to over 70 per cent in 1881.[90]

Such abuses drew protests from the anti-slavery movement in Great Britain, as well as from the Indian colonial authorities.[91] The Free Labor Association replied that landowners had the right to recover the travel expenses they had advanced, and that the market price did not allow them to raise the wages of contract workers to the level of other wage earners.[92] The estate inspectors, who were introduced specifically to oversee these relationships, confirmed that abuses occurred.[93] Nevertheless, planters succeeded in convincing magistrates appointed by London in the early 1840s that the indentured servants had invented "malicious" complaints against them and ought to have been punished for it.[94] Thus, the courts seldom ruled in favor of the immigrants.

Moreover, many indentured laborers found the cost of the return trip to India to be prohibitively expensive. In 1876, only 2572 of the 150,000 Indians on Mauritius went back to India.[95] Most planters, in particular small planters, did their utmost to oblige workers to renew their contracts, especially from the late 1860s, as Indian immigration to Mauritius slowed.

In 1871, for example, 28,172 newly arrived Indians signed contracts, whereas 47,713 established Indian workers renewed their expired contracts. In addition to this figure, once their initial contract had expired, an increasing number of Indian workers entered into new informal contracts with Indian sub-contractors, who then transferred the immigrants to the planters. All these laborers had to obtain police passes—the number of which increased from 12,597 in 1871 to 17,730 in 1875.[96] At the same time, planters sought local creole workers; those entering into contracts on plantations increased from 2938 in 1869 to 5501 in 1873 and 8001 in 1876.[97]

The government authorities promoted short-term 6- to 12-month contracts instead of the traditional three- to five-year contracts, and most planters followed their advice because they gave them more flexibility in dealing with, and greater control over, immigrant workers. In 1876, out of a total of 60,555 contracts signed, 52,292 were for short terms. Officials believed that such contracts would facilitate the early return of migrant workers to India. In fact, the opposite occurred, and contracts were usually renewed. This was chiefly due to planters claiming damages from immigrants and retaining most of their wages as compensation. This was done in several steps. From the start of the contractual system, planters kept most of the wages due by arguing both that immigrants were in debt to them, and that they would spend any money they received on alcohol and other vices. Such arguments came under increasingly attack by British officials and the antislavery movement and in the mid-1860s, a ruling was made stipulating that wages must be paid monthly. However, as late as 1875–1876, most planters were still delaying the payment of wages to workers by a minimum of three to four weeks. Moreover, masters claimed that workers were indebted to them for most of their wages. In 1874–1875, out of a total of £1 million in wages nominally due, masters deducted £229,225 in 1874 for absenteeism and about £91,000 for costs associated with illness,[98] and in 1875, £103,756 for sickness and £254,193 for illegal absences. Their calculation was simple: a worker lost one day in wages for each day of sickness, and two days' wages for every day in jail or absent.[99] Plantation accounting books also show that planters arbitrarily made other deductions for various offences, including alleged "theft", go-slows, and inefficiency, and on average, the final payment to the worker barely reached a quarter of the contractual wage.[100]

Testaments and successions are also important sources for such investigations. From 1875, vacant estates were put under the administration of a

curator named by the colonial state. The curator provided details for each worker, including name, declared profession, place of birth, last place of residence, type and duration of contract, wages, debts and his or her accounting balance with the estate. This huge mass of data has yet to be analyzed in order to compare worker contracts, wages and debts on estates of different sizes and degrees of capital investment. However, the fact that all plantation workers appear to have incurred debt suggests that all estates were in financial difficulty, and that planters considered their workers to be part both of the problem and of the solution. This is further reflected in curator and public magistrate reports on the resources to be distributed to estate heirs and creditors.

Nevertheless, indentured immigrants were sometimes able to save money. In 1875, for example, when leaving Mauritius to return to India, 2576 former contract workers declared that they were carrying with them a total of 437,039 rupees' worth of money, of which 101,223 was in gold, 201,541 in silver and 134,275 in drafts on British Emigration agents.[101] The bulk of this sum belonged to 1938 men. However, around 1000 of the returning laborers that year had less than 300 rupees each, and 400 had no savings at all.[102] In the following years, declared savings showed a generally downward trend, to 358,314 rupees in 1876, and 281,089 in 1877, before rising to 386,963 in 1879 and dropping again thereafter to 172,653 rupees in 1881. In part, this trend reflected fluctuations in the number of returnees.[103] However, it also reflected the fact that immigrant workers increasingly chose to remit their savings directly. For example, in 1875 the Mauritius immigration office remitted on behalf of workers 146,555 rupees, 48.57 per cent of which was sent to Calcutta, 40.57 per cent to Madras and 10.87 per cent to Bombay.

This flow of money to India encouraged more Indians to migrate to Mauritius, as did the growing possibility for migrants to purchase property. From the late 1860s, competition from sugar-beet production led to decreasing cane sugar prices. To counter this, wealthier planters introduced mechanized farming, while small planters, who lacked the capital resources to mechanize, tried to survive by squeezing their labor force, imposing both harsh work conditions and penalties that indebted laborers to them. However, such methods bought them little time, and ultimately most small planters were obliged to sell their estates. After 1880, large estate owners also started selling off the most unprofitable portions of their land. Such sales gave Indian immigrant workers the opportunity, which they seized, to purchase small plots of land on Mauritius. The process had

started in the late 1840s, but became significant only after 1880, when the scale of large *morcellement* (parcelling estates) accelerated. Most Indian land acquisitions comprised small plots of less than two *arpents* (approximately 6800 m^2).[104] According to bank and notarial archives, Indian immigrants who bought land did so with a mixture of their own savings and bank loans.[105] These small Indian landowners (at least on paper) used family labor to work their plots, growing sugar cane to sell to big sugar producers, and thus to gain the means to pay off their bank loans and remaining debts to plantation owners. In other cases, Indians merchants bought land, and recruited Indian laborers to work it, chiefly on a sharecropping basis.[106]

Conclusion

The analysis of the indentured immigration in Mauritius has allowed us to examine several interrelated questions: the various forms taken by the abolition of slavery and its aftermath; the relationship between the market and coercion; and the tensions between coercion, abuse and laborers' rights. There is no doubt that, until the 1860s, indentured labor was in practice very close to slavery. Laborers had few rights and were subjected to abuse and pressures they could resist only by desertion, absenteeism or reduced productivity. In turn, these types of resistance gave rise to further repression.

This pessimistic view should be nuanced, however. Over time, the institutional conditions and lives of the immigrants improved: their rights were less frequently violated, they managed to save some money, and with the onset of the sugar cane crisis, they acquired greater mobility and in some cases even became managers of small estates.

Furthermore, the tension between coercion and the market was too complex to be fully explained by a simplistic economic or sociological model. The use of coercion cannot be accounted for solely by a shortage of labor as opposed to capital or land. Similar coercive measures were employed at estates where labor was abundant. Conversely, the use of penalties, repression and coercion did not necessarily result from the same economic organization or even the same type of management. Conditions on large estates were often less repressive than on small plantations, not because large-scale planters were less repressive and more enlightened (though sometimes they displayed such attitudes), but because the reputation of their estate in terms of working and living conditions made it easier to recover runaways from other estates. Runaways were seeking better liv-

ing conditions more than freedom, which was abstract and difficult to achieve on an island like Mauritius. Given the possibilities at the time, they could hope to improve their lives either by finding an occupation in the city, for example, as shopkeepers (a solution often opposed by local merchants), by offering their services as servants, or by going off to estates with a reputation for providing better labor conditions and perhaps better pay. In situations of scarce manpower and high recruitment costs, the major estate owners knew full well they could appropriate runaways from other plantations. They were all the more willing to offer better conditions as they benefited from economies of scale on their large estates and could therefore afford to adopt less repressive attitudes towards their workforce.

Yet the causal connection between estate size and form of management was not apparent at the outset. Other variables entered in, starting with the rate of turnover. In the case of high expected turnover, large estates retained their laborers longer, even though they were better able to recruit new ones. In contrast, small estates faced resistance from their workforce and the support of British institutions for the immigrants' cause, which made it more difficult to retain their laborers and acquire new ones. Absentee estate owners were in a similar situation.

In turn, the rate of contract renewal and the mobility of laborers depended on labor and living conditions at the estate. Immigrants did not complain much about physical violence and they were only partly affected by poor food and housing conditions. On the other hand, they were extremely sensitive to the fact that estate owners withheld wages and constantly imposed monetary penalties on them to perpetuate their debt.

The rationale for the masters' attitudes was twofold. First, they had little cash and preferred to keep it; second, they hoped they could keep their workforce in line and reduce the risk of desertion. Their attitudes were thus halfway between the legacy of slavery and views that were quite widespread in post-slavery societies and even in nineteenth-century Europe, which consisted in retaining laborers' wages in order to maintain greater control over them. In Mauritius, this attitude was more commonly found at small, highly indebted estates than at large ones. In post-slavery societies like Mauritius, there was almost no transition from slavery to wage earning or, in Foucauldian terms, from discipline to surveillance. On the contrary, those elements coexisted over the long term, often on the same estate.

The immigration of indentured laborers and their conditions in Mauritius also reveal the limitations of the contractarian approach. The

British imposed formal contracts on indentured immigrants and planters; in principle, formalism was supposed to protect laborers from abuses. In reality, the contracts did not achieve this goal, because immigrants had far fewer rights than masters in legal procedures, and their voice did not carry the same weight as that of their masters. Abuses were widespread under formal contractarian relationships because sanctions on masters' actions were scanty and hard to enforce. As a result, indentured immigrants in Mauritius were constantly abused under the law.

Here we find analogies to and differences from the case of India examined earlier. Of course, the situations were radically different: a subcontinent vs. a small island; the tensions between sovereignty, the EIC, the Crown and local elites vs. the relationships between French planters and British authorities; polities, sovereignty and economic interest vs. sugar plantations and a strategic place in Indian Ocean routes. Moreover, the lack of legislation in defense of laboring people in India vs. the contractarian approach and its use of the law in Mauritius; the former led to violence and submission through criminal penalties as shown in the case of Assam, whereas the latter started from the same approach but evolved into a different configuration—more favorable to indentured immigrants—due to competition in the labor market and geopolitics between Britain and France.

Yet the connections were also important: indentured immigration in the Indian Ocean was part of complex set of multiple but interrelated labor markets in India, the British Empire and the global market. Tea (Assam) and sugar (Mauritius) were strictly complementary items; they supported each other's development: on the demand side in Europe and on the supply of labor in the Indian Ocean. The consumer revolution in eighteenth-century Europe had been strongly supported by slavery; in the nineteenth century, the so-called democratization of colonial items and consumption was founded on post-abolitionist labor under constraint. Indeed, not only people and products but also labor institutions circulated between Britain, India and the Indian Ocean, as the Masters and Servants Acts and the Poor Laws testify.

On a more abstract level, British utilitarianism and various forms of liberalism, despite all the complexity and "flexibility" attributed to them by recent historiography, gave rise to institutions that expressed persistent status inequality even though they emphasized formal equality under contract rule. This approach remains incapable of conceiving institutions that are just—not in theory, using a transcendental approach (like Bentham), but in practice. Therein lies the ambiguity of the contractarian approach,

which hopes to solve the problems of justice by protecting contractual choices. The theory of justice coincides with rational choice and confuses fairness with justice. According to this approach, equal personal liberty is prior to equal social liberty, and therefore no redistribution of wealth can intervene and modify individual preferences. From this perspective as well, it is important to put ideas in a comparative and global historical context. The French relied on different approaches to freedom when they faced slavery and abolition. Were these approaches more favorable to laboring people?

Notes

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CHAPTER 5

How Do You Say "Free" in French?

Countless comparisons have been made between the French and the British Empires, at least since the eighteenth century. They concern the origin,[1] rationale and strength of these empires[2] and the role of a great many different features such as sovereignty,[3] the military,[4] the economy,[5] labor, freedom and rights,[6] and forms of inclusion/exclusion and integration.[7] While taking these broader insights into consideration, we will focus here on labor and the abolition of slavery. It is not our intention to undertake a full-blown discussion of French slavery and abolition. A huge bibliography is available on the topic, whereas the debates tend to highlight first, the differences and analogies between French and other European colonial slaveries, and second, French abolitionism in a comparative perspective.[8] We will summarize the main arguments, concentrating on the question of what freedom meant for former slaves and indentured immigrants. To this end, we will focus our attention on Reunion Island and French attitudes in the Indian Ocean. This study will provide an immediate comparison with British Mauritius. We will then shift to the abolition of slavery in the French Congo in the late nineteenth century. The underlying questions are related to the ideas and practices of labor and freedom in France. The Enlightenment and subsequent forms of French liberalism gave rise to approaches that were analogous yet to some extent different from those adopted on the topic by the British. The two empires defined

A. Stanziani, *Labor on the Fringes of Empire*,
Palgrave Series in Indian Ocean World Studies,
https://doi.org/10.1007/978-3-319-70392-3_5

sovereignty, rights and citizenship differently and those definitions evolved within their respective empires without ever becoming monolithic. The crux of the problem was whether "rights" (and which ones) were to be considered national (under a contested definition) or imperial. From this standpoint, it is symptomatic that British historiography produced a vast analysis of its Empire, whereas France preserved its national approach to many topics such as labor, rights, welfare, citizenship and sovereignty. Colonial studies developed as a separate branch apart from national domestic history. In this way, French historiography constantly tended to turn a blind eye to the major role empire played in France as well.[9] Taking these analogies, differences and mutual influences into account, as in the previous chapters, we intend to test how political and intellectual debates were translated into policies, institutions and labor practices. In every instance, the domestic and colonial stakes were interconnected in France as they were in Britain.

Abolitionism in France and the French Empire

Rousseau, Voltaire, Raynal and Diderot criticized slavery to attack the monarchy. The chronology is striking. Criticisms of guilds, serfdom, and slavery all crystallized during the 1750s; Montesquieu published *The Spirit of the Laws* in 1748, which was soon followed by the first volumes of the *Encyclopédie*.[10] A shared way of thinking thus developed around the status of labor: a group of authors of differing backgrounds looked into slavery in the colonies, serfdom in Russia, and guild labor in France in order to prove that freedom was a "natural right," and, for some, that unfree forms of labor were unprofitable.[11] In these works, the serfdom of absolutist and medieval Europe was contrasted with the free labor of Enlightenment Europe; at the same time, and for these same reasons, "slavery" was a synonym for all forms of strong dependence; it was mostly a metaphor rather than a specific reality.[12] Thus, in 1770, Anne Robert Jacques Turgot—one of the leading economists of the time and future comptroller-general (i.e. finance minister of France)—who had read the accounts of travelers to Russia closely,[13] likened the idea of the "serf to the land" (*serf de la glèbe*, the famous expression popularized by Montesquieu 20 years earlier) to the Russian serf and to the slave, in a letter to Dupont de Nemours; he even spoke of slavery to the land. In France, serfdom to the land belonged to the past. Likewise, the slave in the colonies and the Russian serf would soon become vestiges of the past, though at that time

the use of the term remained justified by the backwardness of the colonies and Russia.[14] As such, slavery included not only dependency in labor, but also any form of civil and political deprivation. This wide definition of slavery expressed the strength, but also the main limits/limitations of the Enlightenment.

This circle of reformers established a journal, the *Éphémérides du Citoyen*, in 1766. Over time, its publications reinforced the discussion of the status of labor and the political and intellectual ties between slavery, serfdom, and guilds. As Abbé Baudeau made clear, the still-enslaved peasants and the Africans were enslaved for the same reason.[15] The connection between these three debates was what made the definition of labor—and the distinction between free and forced labor—take on certain characteristics and not others. The emancipatory effect of the market was strongly emphasized. In the course of the eighteenth century, the work of slaves, serfs, and apprentices came to be viewed not just from an ethical standpoint, but also increasingly from the point of view of efficiency. In this perspective, economic calculations were at once an intellectual and a normative tool. Interest and calculation, rather than morality, were proposed as the foundation of abolitionism.[16] In *L'ami des hommes* (1756–1758), the physiocrat Mirabeau addressed the issue of slavery in the colonies, which he criticized in human terms as well as in terms of its profitability.[17] Another physiocrat, Du Pont de Nemours, calculated the economic losses that slavery inflicted on property and on the whole economy when compared with free wage labor.[18] The normative ambitions of political economy seemed to be borne out by the interest with which enlightened monarchs in France read these works. Thus, referring to Guyana, the Baron of Bessner criticized Montesquieu not for his ideas but for his abstraction and failure to consider practical constraints. In 1774, well before Adam Smith, he stressed the need to condemn slavery on economic grounds. It offered a way out of philanthropy[19] based precisely on economic interests. Yet, for this very reason, alternative evaluations of the comparative costs and benefits of slavery and wage labor were produced. Thus, Turgot, France's Minister of Finance, in spite of his critical attitude towards slavery, nevertheless observed that in reality wage labor was practiced far more extensively in the French West Indies than Du Pont claimed.[20] In the same vein, Condorcet declared that, even if slavery was profitable for an individual master, it was pernicious for the colony and the kingdom. As a form of monopoly, slavery limited competition and therefore production.[21] At

the same time, he included slavery among the forms of inequality: wealth, education and the "hazards of life" were the principal sources of inequalities. Civil liberties and freedom of trade were the main solutions he advocated.

The uncertainty among abolitionists themselves regarding the profitability of slavery and how to calculate it found an immediate echo in the arguments of anti-abolitionists. The well being of slaves was said to be greater than if they had stayed in Africa; profits were relatively limited but abolition would simply lead to the collapse of the colonies and the pauperization of former slaves.[22]

With slave revolts in the colonies, a new alignment of forces seemed to be taking shape. Voltaire, whose thinking had been close to that of the physiocrats, began to attack Necker and Quesnay, questioning the idea that economic freedom equaled justice.[23] The 1780s brought a radicalization of the *philosophes*' positions on the French monarchy, Russia, and ultimately slavery. Rather than trusting reforms implemented by monarchs, who were henceforth regarded as despots, it was now considered preferable to place one's trust in popular movements. Radicalized philosophers celebrated the revolts in Saint-Domingue, and the 1780 edition of Raynal's *Histoire des deux Indes* clearly incited the slaves to rebel. A revolutionary outlook took the place of reformism.

The civilizing mission must be understood in this context. *L'Histoire des deux Indes* as well as Buffon presented the Jesuit missions in Paraguay, Brazil and California as examples of beneficence and civilization.[24] All the same, Voltaire compared Quakers to Jesuits in that they were both carrying out the same civilizing mission.[25] Of course, his preference went to civilization over evangelization; similarly, *L'Histoire des deux Indes* opposed civilization not only to local barbarism but also to violent conquest as carried out by the Conquistadores. However, some observers were skeptical: According to Maluet, a colonial officer in Guyana, the colonial project necessarily involved masters and slaves and emancipating the latter would merely place them in the lowest rank among the "free."[26] In his view, civilization and colonialism were incompatible. In short, between 1750 and the Revolution, the project of a civilizing mission did not receive unanimous approval from either the *philosophes* or colonial officers and this was true with regard to the difficult relationship between evangelization and education as well as between colonialism and civilization.

From the 1780s onwards, Diderot and Condillac associated their skepticism about enlightened despotism[27] with a more general critique of European civilization. As Diderot and Raynal asserted in their 1780 edition of *L'Histoire des deux Indes,* the return of the guilds and the riots in the colonies simply bore witness to the fact that Europe had nothing to teach Russia. Rather than enlightenment, it was barbarism that was spreading, and only Great Britain and the United States seemed to be advancing in the right direction. The publication of the first volume of Gibbon's *Decline and Fall of the Roman Empire* in 1776 and its success in France testify to the same interest in signs of decline, not reform.

Thus, during much of the eighteenth century, the attitudes of the French *philosophes*, economists, and travelers toward forced labor (serfdom and slavery) were nuanced by considerations both economic (forced labor is advantageous in certain situations) and political (reforms have to be gradual, and both owners and slaves must be educated before the system is abolished). These positions became further radicalized in the 1780s. In conjunction with this evolution, another development became apparent: the priority given to economic over political and ethical considerations, previously held only by a few physiocrats, became widespread. From that point on, more and more economists and *philosophes* gave cognitive and normative priority to economic calculation; however, this association came quite late and was not representative of eighteenth-century economic and philosophical thought. Contrary to the retrospective image created from the nineteenth century onwards, almost all of these authors, aside from a few physiocrats, still linked economics to ethics.[28] Humanism and humanitarianism under the French Enlightenment expressed composite attitudes, which, in their diversity, had nothing to do with "human rights" or abstract moral theory. Instead, these approaches sought to measure the tools men had to help other men in a context of conflict.[29] Economic anthropology took the lead over philanthropy in transforming humanitarianism into a practical project of emancipation. Emancipation from slavery constituted a perfect example of this line of reasoning, according to which there is no humanism without human action embedded in facts and contexts. While Mirabeau was directly inspired by his brother's experience as Governor of Guadeloupe, colonial officials often did the opposite, expressing considerations derived directly from the ideas of Mirabeau, Mercier or Diderot and later Condillac. This approach reinforced the connection between labor institutions in France and in its colonies.

Rules of Labor and Rights: Slaves vs. Domestic Servants

It was not by chance that French authors often used the words *serf* and *slave* interchangeably. The difference we recognize—that the slave can be sold without land while the serf is attached to it—is a political and historiographical construct that developed during the nineteenth century. In the late eighteenth century, philosophers and economists conflated the two phenomena, mainly to contrast them with free labor. This construct also responded to a particular intellectual and political context; namely, the question of the status of labor in France. France developed positive law regarding slavery more often than Britain, where rules on the matter were adopted in various American colonies. In France a similar process took place, except that the *Code Noir* or "Black Code" (1685) sought to condense local rules and codes into a single set of laws. The Code also justified slavery according to Christian (actually Jesuit) values. In the wake of the Edict of Nantes, the Code also extended religious intolerance to the colonies.

Thus the use of the law was also different: strictly speaking, slaves had no rights, but masters had an obligation to feed them. Britain relied upon jurisprudence and common law; the Somerset decision was adopted in this mold. By the early eighteenth century, on the other hand, French provincial courts demanded legislation that would unambiguously solve the problem of slaves in France.[30] According to Seymour Drescher, this demand arose because, unlike Britain, the French monarchy did not have to consult an elected body in order to adopt rules.[31] Although this appears to be a plausible reason, there was more involved. On the one hand, French slaves could turn to courts of law in cases of illegitimate slavery—for example in France—or because their masters did not comply with their obligations in terms of food and health. Sue Peabody has carefully analyzed lawsuits by slaves.

At the same time, the legal status, rights and obligations of slaves systematically referred to those of other categories, particularly laboring people and domestic servants, in the mainland. We need to consider this relationship carefully, for it informed ideals, policies and labor regulation in France and its empire up through World War I.

The institutional status of labor in France can be divided into two main topics, both of which have generated debate over continuities and breaks with the past. On the one hand, there was the legacy of the guilds and

how they were abolished, and on the other, there was the long-term process of ending slavery and its legacy in the colonies. In each case, the object of analysis has been unjustifiably restricted. The analysis of labor in France has overlooked work outside of guilds and, above all, in agriculture; and in the analysis of labor in the colonies, slavery has received far more attention than other forms of bondage. Our aim is to re-examine the issues surrounding the institutional status of labor and its practices, as well as how they were passed on over time, by focusing on agricultural laborers and *engagés* and ultimately on the historical relationship between these two groups.

In the past, historians have been fond of opposing the persistence of guilds and the corporatist spirit in French labor law to the free market of Anglo-Saxon labor.[32] This contrast is no longer relevant and the regulation of labor in France is no longer viewed as being in opposition to market growth.[33] From this standpoint, what is important is that France appears to be the first country to have abolished lifelong domestic service as well as criminal penalties in labor disputes.[34] The chronology of these developments requires further explanation.

As late as the eighteenth century, France's leading legal experts considered labor to be a service provision.[35] 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 of longer than a year obliged individuals to spend all of their time in the service of their employers,[36] which prompted the writers of the *Encyclopédie méthodique* to denounce such contracts as "slavery."[37] The French Revolution eliminated lifelong domestic service and, as confirmed in the perceptions of that time, slavery and domesticity were strictly related. Thus in Guadeloupe, in 1792, the sale of servants was forbidden; at the same time, in France as in the colonies, the Revolution did not change their other obligations and legal constraints. In particular, the new legal order retained both forms of contracts from earlier periods: hiring for labor (*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. Alain Cottereau has 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.[38] This argument, while not false, is restricted to the fields studied; namely, the

textile industry and certain urban milieus. But what about the other sectors, especially agriculture?

Both before and after the revolution, legal text classified working people in agriculture either as laborers or "task workers" (*tâcherons*), or still as servants in husbandry.[39] In the eighteenth century, servants in husbandry were by far the largest group of wage earners in French agriculture, as well as in Great Britain.[40] What defined domestic servants and differentiated them from other agricultural wage earners was the nature of the contract; that is, the content of the commitment, which was almost always tacit and which could not be broken "except for the most serious reasons." Domestic servants were subject to their master's will, which meant they "owed all [their] time to the master for any labor demanded." This subordination to the master's will resulted in making the promised *gages* a lump sum. 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/judges. The master could discharge the domestic servant without notice or compensation for "dishonesty, "disobedience," "forgetting duties," cursing, or acts of violence. The domestic servants, for their part, complained of poor or inadequate food.[41] Domesticity influenced apprenticeship, indentured labor and the status and rights of manumitted slaves. Thus, since the seventeenth century, contracts of *engagement* explicitly mention hiring for service: The *engagé* rented his services; namely, the totality of his time, to his master, and terminating a contract was difficult, especially for the *engagé*.[42] 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.[43]

However, two clauses differentiated the apprenticeship contract from the contract of *engagement*: the act of apprenticeship emphasized training in a trade, whereas in the contract of *engagement,* the *engagé* first owed his labor 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 the apprentice.[44]

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.[45] The overwhelming majority of the contracts studied by Gabriel Debien concern fatherless *engagés*. And finally, the contract of *engagement* also borrowed from the sailor's contract in that it clearly stipulated the length and type of service required and, above all, the penalty for desertion.[46] Finally, in addition to the trade involved, our understanding of contracts of *engagement* should be qualified according to the destination (French West Indies, Canada, or the Indian Ocean) and the historical period. In the seventeenth and eighteenth centuries, the contract of *engagement* mainly concerned whites that went to the French West Indies and Canada as well as to the Indian Ocean. Between 1660 and 1715, 5200 *engagés* left for the French West Indies from La Rochelle alone. This figure is much smaller than the 210,000 indentured Britons who left for North America between 1630 and 1700.[47]

These features help to explain the change of status of slaves in France. According to the Edit of 1716, slaves could be brought to France only to be taught religion or a trade. In all other cases, special permission had to be obtained; otherwise, the slaves would be freed when they reached France. In such instances, slaves became domestic servants provided with food, clothing and lodging. This is where the boundary between freedom and unfreedom became blurred. Domestic servants did not always receive monetary wages; they could be punished and beaten. In the colonies, too, the legal status of manumitted slaves was close to that of servants. The absolute number and percentage of *libres de couleur* (freed colored) increased during the eighteenth century, especially in Guadeloupe and Martinique where they reached respectively 18 and 31 percent of the population in 1788.[48] In the face of this trend, during the 1720s and 1730s French and local authorities decided to introduce new taxes on manumission and impose stricter conditions for granting it. New rules also limited the rights of freed slaves. However, the Seven Years' War led to a further increase in manumissions, this time granted by the state itself in exchange for voluntary service in the army. It is from this point in time that we can follow the concrete abolitionist policies adopted in France.

The Multiple Abolitions of Slavery

France abolished slavery first in 1794. Then, following the Napoleonic restoration of slavery in 1802, it was abolished again in 1848.[49] Most histories of French abolitionism separate the two events and confine this story within national boundaries.[50] More recently, France's (re)discovery of the Haitian Revolution has shifted the focus of the discussion regarding the tensions of empire and those between the Enlightenment and slavery.[51] Historians have widely debated the restoration of slavery under Napoleon and the weakness of the French abolitionist movement compared to its counterpart in Britain.[52] Lack of industrialization or of groups like the Quakers in France as well as the absence of pressure from the American colonies have been invoked to explain these differences.[53]

Other works trace the abolition of 1794 and the restoration of 1802 to contingent events and external pressure, namely war.[54] According to some authors, the emergence of human rights in a political context specific to France had produced this result; nationalism[55] and the role of the state[56] have also been cited to explain the phenomenon. More radically, other authors attribute these outcomes to the main features and limitations of the French Enlightenment itself; this is a controversial topic, with a large bibliography debating the connection between the Enlightenment, slavery and the Revolution.[57] Clearly, unlike conventional national (and nationalistic) histories, the French Revolution responded to global and imperial turmoil: the emergence of global economies and their impact on *ancien régime* France,[58] the dislocation of empires in Asia and the transformation of polities in Europe, together with the decline of the Mediterranean and the development of Atlantic economies.[59]

Moreover, views from specific colonies shed a new light on this debate. Initially, the implementation of the Revolution encountered serious problems in the colonies where the "freed colored" requested their full integration in terms of rights, while whites—not only masters and elites but also those from other countries whose rights had just been acknowledged—resisted them. The outcome differed according to the place: civil rights were granted to the "freed colored" in Mauritius, but not in Reunion Island, where they did not win their political rights until 1793.[60] A similar distinction was found in the French West Indies, where freed colored people won the right to vote in Saint-Domingue but not in Guadeloupe. However, even in these cases, the central government in Paris and the elites on the island repealed the law. Slave insurrections altered this

outcome. Freed colored people formed alliances with the whites and won their rights.[61] The Haitian Revolution has been the most thoroughly studied among the colonial uprisings.[62] In fact, in Saint-Domingue, liberal arguments from the mainland were translated into something different (along with strategic use of American independence): liberty meant emancipation of the island from revolutionary France, certainly not freedom for slaves. Thus, when the slave revolts began, everyone had to rethink their positions in France as well as in its colonies. The changing alliances between the various revolutionary elites, white elites, "freed colored" and slave movements have been investigated in depth and we will not summarize them here.[63]

The abolition of 1794 was a radical and revolutionary act; it was a response partly to previous debates about freedom and partly to the evolving political situation in France, Europe and the colonies. The universality of rights and the extension of citizenship were ideals as well as a practical tactical necessity at a time when the British occupied several French colonies.[64]

Napoleon consolidated some revolutionary principles but not universal freedom; he sought to reconcile citizenship for some in the mainland with slavery and the empire. In principle, only slaves freed before 1789 remained free; however, in practice, almost none of the slaves emancipated during the revolutionary period were re-enslaved.[65] This approach was reinforced during the British occupation of French colonies (1810–1814) when voluntary manumission was encouraged. The Restoration confirmed, much more than reversed, this trend. In the 1820s as well as under the July Monarchy, two contrasting trends emerged: while in most French colonies manumission and the social conditions of freed slaves improved (in Martinique, freed slaves owned slaves and had trades[66]), there was an increase in illegal slave trafficking to the French West Indies and Reunion Island, partly in reaction to this trend and to the mounting difficulties in French colonial production. An estimated 45,000 illicit slaves were imported to Reunion Island between 1817 and 1835.[67]

In France itself, the attention given to slavery began to evolve. Under the Restoration, the abolitionist movement was extremely weak; a few authors called for abolition of the slave trade. People like Abbé Grégoire (first a deputy in the Revolutionary Constituent Assembly, and later a senator) were among the most active in the anti-slave trade movement.[68] In 1789, he had already stigmatized the restriction of revolutionary rights to white people only.

In 1821, the Duke de la Rochefoucauld chaired the first meeting of the newly created Société de la Morale Chrétienne, connected to the Quakers' abolitionist association in London. The economist J.C.L. Simonde de Sismondi (see below) and Benjamin Constant were among its members. In 1822, Victor de Broglie strongly criticized the slave trade and recalled the French agreement to abolish it; however, with regard to slavery itself, he postponed its abolition until after a transitional period during which increasing mixed marriages, education and insertion in the society were supposed to be encouraged.[69] On the whole, philanthropy and charity were still the two dominant arguments behind abolitionism, as Louis-Philippe, Duke of Orléans and King in 1830, confirmed.[70]

The ambivalence of French abolitionists was reflected in the political and economic thought of the period. Jean-Baptiste Say, a follower of Smith and Jeremy Bentham, who was initially a radical critic of slavery on the grounds of Smith's arguments, gradually changed his mind. In the mid-1820s, he morally condemned slavery, but added that the right of slave ownership imposed constraints on the master as well as the slave, particularly against encroachments by the master and against any injury to the slave's capacity for labor. He also saw slavery as beneficial to the division of labor and to productivity.[71] Along similar lines, in one of the letters Frédéric Le Play wrote to his sister in 1844 from Nizhnyaya Salda, he marveled at the beauty of nature and the conditions of the serfs: "The peasant serfs in this part of Russia, and particularly on this estate, enjoy a degree of well-being that French peasants and workers could not imagine. Every family owns a house and garden as large as it could wish. In the same enclosure, apart from the house and garden, there is a courtyard and a building for the animals and provisions."[72]

In 1833, Sismondi, a well-known advocate of peasant farming, regretted the lack of a genuine anti-slavery movement in France. At the same time, he objected to the British approach to abolition, which had emancipated slaves without giving them land. In his view, apprenticeship was a form of disguised slavery, whereas the compensation paid to planters was insufficient to pursue production on a new basis. He proposed adopting a system similar to sharecropping which, in the colonial context, would bring about the best outcome for everybody.[73] Four years later he added that, unlike Britain, which had transformed slaves into proletarians, France had to turn them into peasants.[74]

In 1833, conservative authors like Maurice Rubichon contrasted British proletarians, whose condition was close to that of galley slaves, with French

peasants.[75] Others were quick to describe industrial society as the new feudalism.[76] Proletarians were widely described as "black slaves," not only by conservative but also socialist authors.[77] These authors associated the two groups with different goals in mind: conservatives sought to limit proletarization and avert the danger of socialism, while socialists magnified the condition of laboring people in France. For both, slaves in the colonies were a secondary concern. Both expressed protectionist tendencies: national labor had to be defended against the free market and free immigration. As a result, abolitionist and free trade concerns never converged as they had in Britain.[78]

In 1834, a society for the abolition of slavery, connected to the British associations, was created in Paris. Led by Duke Victor de Broglie, the French society encouraged legislative reforms, manumission and limited recognition of civil rights for people of color. However, when Duke de Broglie was appointed first minister in 1835, he was forced to curb preparations for the general abolition of slavery due to strong resistance from colonial lobbies. Several pamphlets and studies produced by parliamentary commissions summarized the long-standing debate over the comparative efficiency of wage labor versus slavery.[79] Contrasting estimates were produced, with some claiming the profitability of slavery and others challenging it. At the same time, new considerations arose: The profitability of slavery was said to be demonstrable only for the individual planter, but not for the "nation." Two main positions emerged; for some, slavery was an ethical and religious affair more than an economic issue. To this argument, anti-abolitionists replied that Africans would suffer famine if left in Africa; slavery was openly declared to be a humanitarian project.

Another argument invoked the overall market trend: slavery artificially raised the price of sugar and diminished the well being of French workers. Anti-abolitionists replied that, on the contrary, it provided cheaper sugar to French workers.[80] In 1838, Hippolyte Passy presented a bill in favor of gradual emancipation: children born in the colonies after the adoption of the bill would be free, while slaves could purchase their freedom.[81] The bill was stopped in parliament. The following year, a new commission was set up, chaired by Alexis de Tocqueville; he produced a final report, using an enormous amount of statistical data to establish the need for immediate emancipation. Tocqueville justified this conclusion by pointing out that gradual emancipation would require special rules for a particular group of laboring people, with the attendant risk of social tensions. Instead, a general emancipation would simplify the issue. Tocqueville

added the usual considerations about slaves' lack of motivation and low productivity. He also criticized the British solution of an apprenticeship period, which he saw as the source of undue abuses by planters and thus of social conflict.[82]

It was in this context that tensions heightened between France and Britain over the "right to search" for disguised slaves on French ships. The question turned into an issue of national sovereignty and British interference, and abolitionists were accused of being Britain's allies.[83] Despite this unfavorable climate, in 1842 Victor Schoelcher submitted a detailed plan for abolition in which he assigned a central role to the "association principle" allowing groups of freed slaves to form an association with their former masters and share the profits.[84] He drew inspiration from the difficulties emancipated slaves had encountered in the British colonies as well as from Charles Fourier and Louis Blanc, who developed their theories during these years.[85] The thinking of liberal economists like Michel Chevalier evolved in the same direction: workers' association and brotherhoods would improve both the economy and morality at the same time.[86] The *Journal des Économistes* expressed similar ideas under the influence of Henri de Saint-Simon and Christian socialism.

In 1843, the De Broglie Commission published three volumes of its minutes and criticized ownership of slaves as a natural right. It also added a new insight: the need for strict regulation of free labor. The argument was the same as the one we found in the British context: once freed, the slave had no interest in increasing his workload and compulsory measures were required. In the end, the Commission opposed immediate abolition and suggested two alternative, gradual forms of emancipation, one over 10 years, the other over 20 years. Opinions were also divided over the amount of compensation owed to slave owners and who should pay it.[87] The government took advantage of these divisions to delay its decision.

In response, Schoelcher and the other abolitionist leaders intensified their action. In 1844–1845, they gained the support of workers' associations, which sent several massive petitions to the government demanding the immediate abolition of slavery.[88] A timid law was therefore adopted in 1845, encouraging manumission and the gradual purchase of freedom by slaves themselves. The slave was granted legal capacities and could therefore own movable and fixed property. However, this approach soon ran up against a swiftly evolving situation in the colonies as well as in France. In 1846–1847, in the West Indies, several thousand slaves escaped from French to British islands (5000 from Guyana to Trinidad, 2000 of whom

reached their destination) and 1000 from Guadeloupe to Dominique.[89] In response, slave owners in Saint-Martin (a small island shared by the Dutch and the French) sent a petition to the Chamber of Deputies requesting the immediate manumission of their slaves to prevent them from fleeing to neighboring British islands.[90] Rising sugar production in Mauritius as well as rapidly developing sugar beet production in France, combined with plummeting sugar prices, exacerbated the situation.

Social tensions escalated in France as well: artisans complained of increasing difficulties and urban workers protested against low wages, long workdays and unstable employment. Strikes intensified in Paris and France in 1847. In August of the same year, Victor Schoelcher and the French Society for the Abolition of Slavery sent a new petition urging immediate abolition.[91] Alexandre Auguste Ledru-Rollin supported this position, but part of the Higher Chamber (*Chambre des pairs*), led by François Guizot, still favored delayed, gradual emancipation. Planters spoke of ongoing transformation through voluntary manumission under the law of 1845 and the introduction of machines and free indentured immigrants. Such an evolution would take time and the legislators concluded that immediate abolition would put an end to this positive process. Nevertheless, strong state support was required to promote these dynamics.[92]

Meanwhile, tensions increased between masters and slaves in the French West Indies and in Reunion Island; in Martinique and Guadeloupe, there were several cases of mayhem and fires set by slaves in addition to the growing number of lawsuits brought by slaves against masters for violence and abuses.[93]

In 1847, a parliamentary commission was set up under the authority of Ledru-Rollin to examine crimes committed against slaves by their owners. For the first time, individual crimes were described as an *attentat contre l'humanité*.[94] Then, immediately after the Parisian uprising in February 1848, commissions on the abolition of slavery were formed in March and April. Nelly Schmidt carefully studied the petitions, reports, statements of case, parliamentary discussions and pamphlets produced in these months by planters from different colonies, manufacturers, Atlantic merchants, societies in defense of human rights, brotherhoods, friends of black people, and so on. Led by Schoelcher, a parliamentary commission put forward a bill in favor of the immediate abolition of slavery, entitling all manumitted slaves to become French citizens. There were discussions concerning compensation for slave owners and a possible a period of

apprenticeship—the majority of the commission was favorable to both.[95] Freedom was considered a natural right and all emancipated slaves were declared French citizens.

The decrees issued on slavery in March and April 1848 were a synthesis of various pressures and influences. The three stated aims were freedom, public order and colonial prosperity; the immediate sources of inspiration were the de Broglie Commission of 1840–1843, the British Parliamentary Commission of 1832–1833 and the commission chaired by Louis Blanc on the new labor rules to be adopted in France.[96] The first two influenced the content of the decrees as well as, *a contrario,* the rejection of what was considered the primary mistake to be avoided; namely, a transitional period of apprenticeship. The British and previous French commission results also weighed on decisions about masters' compensation, the use of indentured immigrants following abolition and the strict control of labor to prevent "disorder and anarchy."[97]

The connections between the parliamentary commissions on slavery and on labor were crucial. Several topics were common to both, including the organization of legal courts to handle labor disputes, pensions for the infirm and the elderly, national workshops (*ateliers*), the control and punishment of vagrancy, and workday length.[98] Thus, in February 1848, the workday was limited to 10 hours in France[99]; it followed a similar rule adopted in Britain in 1847 (on child labor)[100] and the French law of 1841 restricting child labor.[101] The new decree sparked widespread debates among workers, entrepreneurs, chambers of commerce and other institutions, as well as innumerable discussions in the parliament and in the commission on labor.[102] In May, the provisional government decided to set up a commission on labor to determine the labor conditions and workday length in different activities and regions.[103] Finally, the March decree was repealed in early September and the 12-hour workday reinstated.[104]

This issue had a major influence on the debates over labor conditions in the colonies. Initially, in the British abolitionist commission, freed slaves and new immigrants were placed under a rule quite similar to the one in force in the mainland—that is, a 10-hour workday—except in special circumstances such as the sugar harvest. However, the repeal of the law in France encouraged local colonial elites to ignore all rules regarding workday length, as we will see in shortly when discussing the case of Reunion Island.

A second mutual influence between labor reform in France and slavery in the colonies concerned the so-called "national workshops." Already

under discussion at the time of the Revolution of 1789, they had come up again in the 1830s when Louis Blanc advanced his idea of collective workshops. Schoelcher saw them as an advantageous solution for emancipated slaves who found themselves without work. In France, in the specific context of 1848, these workshops were a response to unemployment in previous years. The "right to work" was backed by the various socialist currents but, after lengthy debate in the commission on labor, the Constitution of 1848 decided not to include it. Pierre-Joseph Proudhon, the socialist movement and republicans developed the notion along different lines. The right to work was variously related either to socialist equality or solidarity, republican welfare and possibly charity or liberal paternalism and philanthropy.[105] Tocqueville and Catholic thinkers like Baron de Girando thought the Poor Laws in Britain had been reformed in 1834 precisely because of their perverse effects; namely, people became less willing to work.[106] Likewise, Adolphe Thiers argued that social welfare and social rights (*droits sociaux*) could not, strictly speaking, be "rights" because they depended on the situation of each person, whereas rights were by definition universal.[107] In the mainland context, the right to work was above all a reaction to the economic crisis and earlier unemployment.[108] But it was also a form of labor right, in particular the right to wages. From this standpoint, the slavery of the working class and slavery in the colonies were sometimes considered synonymous and sometimes seen as an expression of the competition between the two.[109] The commission on labor talked about forms of pensions and mutual insurance for workers, which had been an important topic since the Revolution of 1789: social welfare was brought up several times but, in the end, individual solutions, family networks and public assistance to the poor were the principal solutions.[110] In 1848, however, support for public insurance and state support found voice only among certain socialist groups, while worker solidarity, and in some instances philanthropy, met with majority approval.

This helps to explain why the right to work, proclaimed in February 1848,[111] did not measure up to abolitionist ideals. In the colonies, the national workshop became a sort of workhouse and the right to work was transmuted into an obligation to work.[112] This attitude was already visible in 1848 in the way colonial elites interpreted the emancipation decrees; work became compulsory in 1852 when vagrancy was again declared a crime and the worker's booklet was introduced in the colonies. Indeed, the repression of vagrancy, though severely criticized in France, was introduced in the colonies after emancipation and justified by the "natural

indolence" of former slaves and new immigrants as well as the need to maintain order in post-abolition society. A further argument justifying the duty to work instead of the right to work in the colonies was that the new citizens could hardly be in a position to pay taxes while benefiting from the support of the French state. As for elderly and disabled people, one of the decrees of 1848 stated that they could stay on the plantation or in the workshop if the other former slaves agreed to feed them. Schoelcher also failed in his attempts to include in the decrees his proposals to pay damages to the slaves (and not only to their masters), along with the mandatory transfer of a small amount of land, and to give priority to European workers in replacing slaves. In both France and its colonies, pensions were not yet on the agenda.[113]

Finally, the reform of the *prud'hommes* (industrial or labor tribunals) in France also had an impact on labor law reform in the colonies. In France, these courts were created under Napoleon in 1806, and then gradually extended to large cities during the first half of the nineteenth century. Unlike the corporative municipal courts of *ancien régime* France, the *prud'hommes* were based on conciliation rather than arbitration. The latter was compatible with paternalistic justice, which gave notables arbitrary power; conciliation, on the other hand, meant that the parties were invited to the tribunal, which sought to reach a *super partes* agreement.[114] During the first half of the nineteenth century, even though employers had more representatives than workers in these courts, the court often protected workers. However, such outcomes were more common in Paris, Lyon and Roubaix—urban areas with large textile industries—than elsewhere in France.[115] This helps to account for the considerable number of petitions that workers addressed to the legislative commission on labor asking for reform of the *prud'hommes.* The workers were ultimately awarded more representatives. Yet this result only increased the gap between the industrial areas and the rural areas, which had less access to *prud'hommes.* In rural areas, justices of the peace were empowered to rule on labor disputes and it was no accident that, on the national scale, they dealt with far more cases than the *prud'hommes.*[116] The difference was that worker representatives were not invited to the office of the justice of peace.

In line with mainland legislation, colonies were therefore supposed to have justices of the peace, not *prud'hommes.* After 1848, *jurys cantonnaux* (the equivalent of justices of the peace) were introduced in the colonies. These regional juries were supposed to resolve conflicts between former masters and slaves, as well as within each group, on a wide range of topics

such as housing, land, wages, labor, and so on.[117] In 1849, former slaves immediately began taking their cases to these courts; however, as we will see in following pages, it was very difficult for them to prove their arguments, particularly in lawsuits against their former or current masters.

These developments gave rise to different outcomes depending on the colony. In Reunion Island, where there were no indigenous courts, French law regulated labor relations and post-slavery dynamics, without any consideration for the condition of immigrants and former slaves. On the contrary, the experiences in Algeria and Senegal were to have considerable influence on French legal and labor policies in sub-Saharan Africa after 1880.

At the end of 1848, conservative parties led by Louis Napoléon won the elections; their success reflected the fears of rural and financial elites in the face of the emerging socialist peasantry and proletarians. Those fears were confirmed in May 1849 when the new tendencies dominated, especially in the countryside. The Second Empire would attempt to re-integrate the peasantry among its supporters. The social legislation adopted in 1848, which was relatively favorable to the workers, was mostly repealed.

Here let us summarize the main lines of our argument. Until the 1980s, historians saw 1848 as a decisive moment in history. Marxist historians in particular, Eric Hobsbawm above all, followed Marx and Marxist historiography in giving crucial importance to 1848 as a turning point: old aristocracies and the Restoration world were swept away and peasants definitively turned into proletarians, while the bourgeois discovered the menacing presence of the proletarian revolution. This view has changed since then; already in the 1980s, Arno Mayer argued that the old regimes did not really collapse until World War I. Following other lines of reasoning, several works turned the emphasis from the town to the countryside, where uprisings took on major significance. The geographical focus also shifted from Western to Central and Eastern Europe. Recently, global historians such as Christopher Bayly and Jürgen Osterhammel have minimized the impact of 1848 compared with the 1780s–1820s and 1905–1918. Unlike these other periods, they argue, 1848 was far from a global event as Hobsbawm maintained. Compared to these other moments, it produced few changes. From our standpoint, it is interesting to note that none of these works included the colonial world in their perspective; they gave minor importance to the fact that France abolished slavery in 1848, which was considered a late, delayed consequence of the abolition of slavery in the British world. This historiography explicitly

views the Atlantic revolution as the real turning point in global history during the long nineteenth century, whereas the effects of the continental revolutions in 1848 are minimized. This view runs the risk of underestimating the continuities in the Atlantic world despite the revolutions: the persistence of slavery in the Americas and of the old aristocracies and labor rules in Britain, as well as the limits on democracy up through World War I in Britain and even longer in the United States. When viewed from this angle, the persistence of slavery and bonded labor in the French Empire no longer looks quite so exceptional, particularly when compared with the Americas, India and the Indian Ocean World.

Historians of France have devoted greater attention to 1848; specialists of slavery tend to attach too little importance to the overall social and political dynamics in France, whereas, at the other extreme, historians of 1848 mostly focus on France and quickly bring up the colonies. This sharp division among historiographers—with a few exceptions, Laurence Jennings in particular—has led to a serious misunderstanding of these events. The evolution and later the abolition of slavery and the continuation of disguised slavery cannot be fully understood without the continuation of aristocracies in France before and after 1848. Conversely, landed aristocracies in France and colonial elites supported each other against new bourgeois and radical parties. Indeed, the transformation of society and the economy in France during the first half of the nineteenth century can be summed up much less as British-style industrialization than as widespread development of proto-industry and manufacturing, in which the peasant-worker was the central actor of these economies. Corresponding to these socioeconomic features were legal regulations that sought to control peasant-worker migrations and movements, while limiting their political and civil rights. Despite pressures from Britain, these attitudes strongly curtailed the rights attributed to former slaves and new immigrants in the colonies, partly for humanitarian reasons and partly out of economic interest. It is with this broader background in mind that we can now go on to examine in detail the impact of the 1848 revolution in the colonies. The French West Indies have received wide attention,[118] while the impact of 1848 in Reunion Island has been relatively neglected—with the major exception of Sudel Fuma's work.[119] In the following pages we will study the situation of laboring people in Reunion Island after 1848, with particular emphasis on living and working conditions up through the 1870s. This overview will provide analogies to and reveal differences from nearby Mauritius as well as the British Empire; it will also serve as the starting

point for our discussion of how French abolitionism was practiced and its main results in terms of freedom, rights, and inequalities.

Empire on a Rock: Immigrants and Coercion on Reunion Island—From Slavery to Indentured Immigrants

In the eighteenth and nineteenth centuries, about 200,000 slaves were imported to the Reunion Island, mostly from Madagascar and East Africa. Indians were also present: in 1708, the total count of adult slaves was 268: 197 men and 71 women; 20 percent of the men and 36 percent of the women were Indians.[120] A century later, they comprised about 3 percent of 54,000 slaves.

Along with slaves in the strict sense,[121] the use of *engagé*s of color developed in the eighteenth century and even more in the nineteenth. This immigration was partly linked to the need for artisans (Indian carpenters and masons), but above all to the demand for additional laborers at a time when, under pressure from the English, the price of slaves was constantly rising and "rumors" of the abolition of slavery in France and its colonies were growing.[122] In all, about 160,000 slaves are estimated to have been imported to the Mascarene Islands prior to 1810[123]: 45 percent were from Madagascar, 40 percent from Mozambique and the African coast, 3 percent from India and 2 percent from West Africa. The East India Company controlled this traffic until 1769 and imported 45,000 slaves; then, French merchants took the lead. They established networks with the Omanis as well as with other merchants along the East African coast.[124]

Maroons were more numerous than in other French colonies. As a percentage of the slave population, they accounted for about 6.6 percent in 1740, 4.7 percent in 1824, and 6.24 percent five years later, whereas in Guadeloupe they seldom made up more than 1.5 percent.[125] Almost 80 percent of them were Malagasy.[126]

Since the end of the seventeenth century, mixed marriages were extremely common: 67 percent in 1690. The Royal Declaration of 1698 acknowledged children of mixed couples as French if they were baptized. In 1735, in Saint-Louis and Saint-Pierre, 86 percent of estate owners were *métis*.[127] This encouraged the rate of manumission, relatively high on Reunion Island, in particular in the presence of kinship and family relationships between the master and the slave. As a result, unlike the American

colonies, in Reunion freed colored people were not counted until 1767 when most *métis* were classified as white. Here, because of the long tradition of mixed marriages, a person's social condition seemed to be more important than the color of his or her skin.[128]

After 1789, in Reunion Island as well as in the Antilles, clashes intensified between freed colored people and whites. In Mauritius, the freed colored won the right to vote—but not to be elected—in 1790. This was not the case in Reunion Island, where they were radically excluded.[129] After the abolition of slavery in 1794, a backlash developed in Reunion Island when representatives from Paris arrived in 1796 to implement the rule. They failed and the French colonies in the Mascarenes were excluded from the general abolition of slavery. Instead, to prevent an eventual insurrection, local elites in Mauritius proposed a plan to gradually abolish slavery within 30 years. Manumissions increased during these years, but in 1800, the central authorities in Paris suspended them in both Mauritius and Reunion Island. In 1802 in Reunion and the following year in Mauritius, mixed marriages were made extremely difficult and even forbidden (in Mauritius).[130]

The use of *engagés* of color increased during the eighteenth and even more in the nineteenth centuries.[131] Slaves continued to be imported until 1848, when the practice was finally abolished. Under these conditions, the distinction between slave and *engagé* was difficult to determine; the fragile boundary was noticeable on arrival and departure. Ships' captains transporting Indians often resorted to fraud; contracts of *engagement* to Singapore were signed, but the *engagé*s ended up being sent to Reunion Island.[132]

The French colonial administration encouraged the Indian *engagés* and tried to establish rules of law that were sufficiently clear to avoid trouble, but they also worried about their actual enforcement.[133] Translating those principles into action remained difficult. During the first half of the 1830, Indian *engagés* numbered about 3000.[134] The legal rules in force provided that the *engagé*s should receive food, lodging, and wages.[135] In practice, however, the employer-landowners seldom complied with the rules and, in the event of a dispute or a problem with the administration, the settlers justified withholding the wages of the Indian *engagé*s by claiming they had failed to fulfill their commitments. Several riots took place, against planters and above all against their overlookers.[136]

The Indian *engagé*s resisted not only by fleeing (runaways), reducing the amount of work they did, and rioting, but also by taking their cases

to court.[137] However, faced with the unfavorable attitude of the magistrates and the administration, Indian *engagé*s formed a trade union in which the members with the best mastery of the French language played a highly active role in formulating appeals, intervening with the authorities, and so on.[138] In some trials, Indians won favorable decisions and were able to recover their wages or leave without having to pay "compensation" to their masters. Debates arose among the settlers and rumors spread of increasing appeals by the *engagé*s that would inevitably lead to the breakdown of the whole social order. In 1837, the trade union was prohibited.[139]

At that point, the *engagé*s discovered a different instrument: competition among employers. If they did not like their working conditions, they simply left their employers and went into the city where they worked as domestic servants. They became "fugitives" and "deserters."[140] Many landowners did not demand the return of their runaway *engagé*s; they knew perfectly well that it was in the interest of many planters to appropriate *engagés* belonging to other settlers.

Competition between planters and estate owners reinforced the immigrants' resistance, but so did the different attitudes among colonial rulers. Some rulers, such as Governor Pujol, requested legal protections for immigrants like those already in place in Mauritius[141]; other colonial administrators and plantation owners thought this state of affairs was due to Indian indolence rather than to contracts of *engagement* and lack of cooperation among landowners. Alternative solutions were then considered, starting with the importation of Chinese *engagés*. A new decree was adopted in 1843 to regulate these *engagés*: Their contracts were supposed to last at least 5 years, and the minimum age of the *engagé* was set at 16; the landowners had to agree to pay wages and the return trip to China; ill treatment or a two-month delay in wage payments was sufficient grounds for the administration to nullify a contract.[142] By tightening the legal rules in favor of the *engagés*, the administration hoped to solve the problem of labor shortage and the social issues raised by the Indian *engagés*. However, once again, estate owners seemed unwilling to comply with the rules.[143] As a result, the few dozen Chinese who arrived soon adopted the same attitude as the Indians. At first they protested against their living conditions and overdue wages, and then they started legal proceedings or left their employers.[144] Thus, barely three years after the decree regulating the importation of Chinese *engagés*, a new decree was issued prohibiting Chinese *engagés*, who were now seen as troublemakers.[145] It was in this

context that slavery was abolished in France and its colonies. Did this step mark a new departure, or did it simply consolidate existing practices under a new name?

Engagisme After Slavery

In Reunion Island, planters and elites resisted emancipation even more than in other islands, especially the French West Indies. Between 1830 and 1848, the number of manumissions reached a total of 4736, mostly women (1808) and children (2002), rather than men (926).[146]

Immediately after the decrees of May 1848, the elites of Reunion Island gathered to prepare a petition and a series of documents intended to demonstrate the need to postpone abolition in order to preserve the economy and stability of the island. Otherwise, they argued, the whole population, including the slaves, would suffer from the sudden collapse of sugar production.[147]

In 1848, the General-Commissioner of the Republic, Sarda-Garriga, was sent to the island to enforce the abolition decree. He immediately ordered the plantation owners to free their slaves and the latter to respect public order and not turn into vagrants. Freedom, he declared, makes work a duty.[148] In principle, on December the 20, 1848, 62,000 slaves on the island were manumitted.[149]

Indeed, when the French abolished slavery in 1848, unlike the British they did not impose an intermediate period of "apprenticeship" but instead practiced disguised forms of enslavement. Recruitment in India, Madagascar, Mozambique and the East Coast of Africa relied on networks that had been in place since the eighteenth century. It employed the same practices as the slave trade, often involving violence, sometimes with the help of local tribal chiefs.[150]

In 1847 there were a total of 6508 *engagés*—Indians, Chinese, Africans, and Creoles combined.[151] The lack of available labor encouraged several landowners to call for the importation of additional *engagés*, but this time from Africa, especially since France was moving towards the abolition of slavery. Indeed, as in the British Empire in the 1830s and 1840s, the abolition of slavery in the French colonies in 1848 was followed by a revival of the *engagement* system. While only 153 African *engagés* entered into service in 1853, thereafter, on average, about 4000 Africans were imported each year between 1851 and 1854; 10,008 were imported in 1858 and 5027 the following year.[152] The routes supplying *engagés* and immigrants

partly reproduced those of the slave trade and commercial networks already in place. Indian laborers were brought to the island with the help of Arab and Indian middlemen, who were often in competition with each other. Taking advantage of the British peace and permission to sail under the British flag, Indian merchants (often from Bombay and the Malabar Coast) gained a considerable competitive advantage in transporting coolies and goods between the Indian Ocean and India.[153]

On the western route, between Reunion Island and Africa, the annexation of Mayotte opened up new supply sources in the Comoros archipelago itself, in Madagascar and on the West Coast of Africa. Between 1856 and 1866, about 8000 *engagés,* nearly all of them from Mozambique, were transported via Mayotte to Reunion Island.[154] According to the 1866–1867 census, of the population of 11,731 inhabitants, 3716 were Africans (31.7 percent); the vast majority (2245) of them were *engagés* from Mozambique.[155]

The demand for manpower was so high that Reunionese estate owners even tried to annex Madagascar, where they had the support of the Arab and Sakalava communities in the Mozambique Channel islands. Trading houses and transport offices in Nantes, Bordeaux and Marseille also played an active part in these operations.[156] Relying on already existing slavery and the support of the local sultans, these merchants established stable, wide-scale commercial contacts in Reunion Island for *engagés* in Madagascar, Gabon, the Congo and even West Africa.[157] The recruitment process in these areas, sometimes assisted by the heads of local clans, was often quite violent. Indeed, several different actors were required to conduct an operation: the agent in charge of recruitment, the middleman who had found the laborers, a representative of the colonial administration, and in the territory of origin, a representative of the village and of the sultan.[158] In 1853, France built new centers in Gabon and Senegal to expand the zone for "redeeming" *engagés*; similar operations were carried out in Zanzibar and Mozambique.[159] The "redeemed" (actually newly purchased) Madagascans and Africans finally boarded ships for Reunion Island, often passing through the Seychelles. In all, between 1851 and 1860, 20,000 *engagés* were exported from Portuguese Africa and the same number from the Swahili coast; 10,000 landed in Reunion Island and Comoros.[160]

When the Portuguese protested against these practices, it was officially to protect the rights of the *engagés*, but in fact it was to control and deliver the manpower to Brazil.[161] The Portuguese, like the French, engaged in

"prior redemption." Both were criticized by the British, who did not hesitate to call it slavery in another guise. The British ships sequestered several cargoes of *engagés* bought by the French or the Portuguese.[162] Finally, in 1861, a Franco-British agreement provided for the cessation of French prior redemption in Africa in exchange for the possibility of resorting to Indian coolies.

In reality, the French ran up against competition from the other European powers in the region as well as the hostility of the Madagascar elites who depended on slaves. The Merina Kingdom made regular use of palace slaves and slaves also performed labor services for the rest of the population; hence the elites tended to oppose exporting them. On the coast, local sultans, who were partly allied with the Madagascan elites, decided to limit labor contracts to two years, whereas Reunion Island and Mayotte were asking for five. Some sultans succeeded in prohibiting emigration to Reunion Island altogether, thereby drawing protests from the French.[163] This already complicated play of forces became even more difficult due to the growing number of Arab merchants in the area, particularly after the Omani elites moved to Zanzibar when the British annexed Aden in 1839. During the following decades, these merchants gradually penetrated the Swahili commercial networks as well as the Arab colonies in the Comoros and on the coast. They became the leading operators to the east and west of Madagascar, sending caravans to the African interior to link up with the inland slave trade; they also sent *engagés* to the Red Sea and Aden or sold them to Portuguese and British traders who in turn shipped them off to the Atlantic.[164]

Initially, those put to work under contract of *engagement* were either new immigrants or local freed slaves in almost equal numbers. Thus, in 1854, 34,650 men and 4709 women immigrants were added to 22,650 "local" male indentured and 9022 females. Local workers under other agreements than *l'engagement* were a tiny minority: 3763 males and 3116 females. The total number of workers came to 86,028.[165] Seasonal variations were nevertheless significant: in the first quarter of 1855, there were 61,191 workers in all, including 37,062 new male immigrants, 5049 female immigrants, 9545 local males and 4785 local females. At the moment, contracts for one year (or longer) were the rule; only 1683 workers were under shorter terms. These numbers did not reflect reality: the law required long-term contracts; the planters therefore provided this kind of contract, but they actually employed short-term workers as the seasonal variations demonstrate. In the second half of 1855, during the

peak agricultural season, the number of working people jumped to 91,276, including 41,155 new immigrants, 33,228 members of the "local population" and 9214 without a contract of *engagement*.[166]

With less compelling rules on contract, short-term engagements were officially declared. In 1859, 83,042 long-term contracts and 14,752 short-term contracts were recorded. The latter concerned almost exclusively the "local population". Most of the new immigrants were engaged in agriculture (43,841 males and 3521 females, and only 6818 and 1912 respectively in town, with a higher percentage of females).[167]

Labor, Violence, and the Use of the Law

Whereas the rules adopted in France were increasingly favorable to workers in the early 1850s (e.g. the law prohibiting child labor, and the abolition of a criminal charge for forming workers' coalitions), the Second Empire imposed tighter restrictions on emancipated slaves and *engagés*. A contract of *engagement* was imposed on all workers in the colonies; the legal rules governing the *livret ouvrier* (worker's booklet) were widely implemented and enforced.[168] Anyone without fixed employment (defined as a job lasting more than one year) was considered a vagrant and punished as such.[169] The penalties were considerable, but the law was also frequently circumvented through fictitious contracts of *engagement* that some—especially women—signed with landowners who were interested in having occasional laborers.[170]

In principle, *engagés* had the right to go to court and denounce cases of mistreatment and abuse. We have seen that under slavery, those rights had been largely ignored. Abolition did little to change those attitudes; in practice, it was still extremely difficult to make use of the rules, mainly because colonial law courts were in the hands of local elites. Thus when immigrants addressed courts to denounce abuses, they were often sent back to their employer, who, at best, punished them and docked their wages for insubordination; at worst, the employer would sue them for breach of contract and slander. In the face of these difficulties, workers sometimes joined together to denounce illegal practices, but they risked being sentenced by the judge and the police to two months of forced labor in a workhouse for illicit association and breach of the peace.[171]

Following protests by Indian immigrants and the British consul, in the late 1850s, permission was given to form a union for the protection of immigrants. It was granted the authority to inspect estates and was

supposed to safeguard immigrants' legal rights. However, the union performed its mission poorly, at least until the late 1860s; inspections were seldom held, and legal assistance was offered only to those immigrants who had completed less than five years of a renewed contract. This approach provoked a counteraction on the part of immigrants and the British consul, but the initial decisions of the courts validated the conservative interpretation and rejected claims denouncing unequal treatment under the law.[172]

Summaries of judicial statistics on Reunion Island are not available. We must rely on detailed archival cases and monthly reports made by justices of the peace and appeals courts. Contract renewals, wage payments, and corporal punishment were the most common issues in the lawsuits filed by *engagés*. Unlike slaves, *engagés* had the right to return home; terms were negotiated in the contract, which was supposed to comply with general provisions of the law. In practice, however, repatriation was difficult. During the 1850s and 1860s, one third of the indentured immigrants returned home (mostly Indians). This percentage was close to that in Mauritius, the Caribbean, Surinam, and Jamaica at the time, but it was far from the 70 percent repatriation figure recorded in Thailand, Malaya, and Melanesia. Distance and the cost of transport were only two of the variables affecting repatriation; politics and concrete forms of integration were also important factors.[173] On Reunion Island, in particular, urban traders and certain colonial officers encouraged *engagés* to return home. The former group argued that once the immigrants had completed their commitment, they settled in towns and engaged in illegal trade and unfair competition. Colonial administrators were inclined to support this view: the defense of public order required the repatriation of immigrants.[174]

In contrast, several employers and estate owners, especially small ones, were hostile to the resettlement of immigrants in town or their repatriation, and they pushed for the renewal of contracts. Their attitude can be explained by the fact that unlike large estate owners, they faced increasing problems finding the financial resources, networks, and diplomatic support for new recruits. They therefore made use of every legal and illegal means to retain workers at the end of their contracts. In particular, they seized immigrants' wages and *livrets* and added severe penalties whenever possible ("laziness" and failure to accomplish assigned tasks in due time were the most common arguments for applying penalties). Hence, the worker's "debt" was never repaid, and the contract was protracted. Day labor standards and objectives were gradually raised so that few workers

could meet them; they were thus subject to stiff penalties while working 18 to 20 hours a day instead of the 10 mentioned in contracts and official rules.[175] And as if all this were not enough, employers had no qualms about using physical force to make workers renew their commitments.

These practices had been informally denounced since the 1850s, but it was not until the 1860s that they were brought before the courts, under pressure from British diplomats and French central government authorities.[176] Even then, lawsuits often dragged on for years and involved only a very small percentage of workers. At a time when there were several thousand workers on the island, local court records list only a few dozen cases of contractual abuses and illegal wage retention per year. And in these few cases, employers were merely forced to pay their workers due wages, with no damages or interest, though many immigrants were also granted permission to terminate (illegal) contracts and abuses without paying penalties.[177]

Aside from contracts and wages, corporal punishment and violence were the most common crimes brought before magistrates. In the late 1860s and 1870s, special investigative commissions were set up, most often in response to British diplomatic pressure. Their archives testify to widespread corporal punishment—but also to the resistance of commission members to acknowledging its existence. In most cases, abuses were described as "exceptional," though in fact they were common occurrences—even in the case of the death of brutalized workers, employers were only sentenced to one month of prison.[178] In first-level courts throughout the 1870s, no more than seven employers were sentenced each year for inflicting injuries and other violence. At the appeals court level, the figure dropped to one per year, the sole exception being four individuals convicted in 1875, but this was a single lawsuit and the three people receiving sentences were themselves immigrants working as foremen.[179]

On the other side, every year employers sued several hundred workers for breach of contract. Sentences were usually favorable to the plaintiffs, and the workers had to face severe monetary penalties, which often translated into forced labor. Immigrants were also dragged into court for robbery, for which the sentences were very harsh—for instance, five years of forced labor for a stolen chicken.[180]

Theft was mentioned in one case in which Chinese coolies were sued after refusing to allow their employer to "safeguard" their savings. The police confirmed that they had found an "unjustified" amount of money

in their barracks; the coolies claimed it was their savings, with the employer claiming it belonged to him. The coolies were sentenced to five to seven years of forced labor.[181]

Penalties were usually calculated in workdays. During the second quarter of 1855 in "Entre-Deux," a section of the District of Saint-Pierre, eight laborers were condemned to pay fines of 270 francs, which were converted into 205 workdays. In Saint-Leu, during the second quarter of 1859, 82 individuals were sentenced to 2283 workdays; in the third quarter of 1859, 77 laborers received a combined punishment of 2261 workdays. In Saint-Louis, in 1856, 51 convictions translated into 999 workdays. Two years later, in the same district, 281 laborers were sentenced to 6264 workdays.[182]

Two points should be made here: In 1856 a handful of laborers decided to pay the fines in Saint-Louis (just five of the 51 who were convicted); two years later, the number was 30 out of 281.[183] The estate owners and public authorities argued over who was entitled to benefit from these workdays. As time went by, the use of coercion became increasingly essential in public governmental activities such as building and repairing roads, bridges and ports. Forced labor as a disciplinary measure and workhouses had already existed at the time of slavery for the punishment of slaves who were under the jurisdiction of the public authorities; slaves were therefore assigned to workhouses or public works rather than to their masters to expiate their punishments. In February 1831, colonial workhouses had a total workforce of 888 (612 men, 180 women and 6 children) in its so-called "mobile" department—forced labor performed in various parts of the island; the sedentary department had a total of 202 laborers (148 men, 28 women and 26 children). They were categorized and described as day laborers, masons, maids, nannies, carpenters and watchmen. Yet virtually all were classified as laborers and assigned to the civil engineering departments in Saint-Denis and Saint-André.[184] The mortality rate in these activities was very high: by 1831, an estimated 303 deaths (out of 12,347 prisoners) had taken place in the workhouse since it was set up in 1826.[185]

Such coercion continued after the abolition of slavery. In Saint-Leu, in 1859, there were 321 people in the public workhouses, with 70–80 prison sentences per quarter. In contrast, only 16 people were engaged in disciplinary forced labor by the end of 1858.[186]

In sum, after the abolition of slavery on Reunion Island, access to justice was extremely limited for immigrants, and their living conditions were

extremely harsh. Legal redress for laborers and their employers was unequal; abuses, corruption, or simply partisan attitudes were commonplace among local officers. Yet *engagés* were not slaves, and the differences became more pronounced over time. This was due to several factors, not the least of which was the persistence of the immigrants themselves, who continued to denounce abuses despite the difficulties they faced in so doing, and their passive resistance, as well as absconding and forming groups and pursuing lawsuits through the courts. These approaches met with increasing "benevolence" on the part of colonial elites, in some instances because the latter firmly believed in freedom and/or the virtues of the free market, and in other cases in response to political pressure from Paris and London. Britain was doubtless inclined to protect Indian immigrants on Reunion Island not only for humanitarian reasons, but also to guarantee a labor force for British employers in India and other parts of the empire. Whatever the rationale for Britain's action (likely a combination of both motives), the final outcome was increased legal protection for immigrants. Unfair competition between small and large estate owners and between rural and urban masters on Reunion Island were also contributing factors. Major employers were much more favorable than small ones to a fair labor market insofar as they benefited from economies of scale in the recruitment and exploitation of workers.

A third factor affecting immigrant conditions was the decline of sugar prices on the international market. In the early 1840s, the average producer price of sugar was some £39 sterling a ton. By the 1870s, it was £22 a ton and, as the glut grew in the 1890s, it fell by £12, reaching a low £9.60 in 1896.[187] Small producers tried to cope with this trend by imposing increasingly grueling labor conditions, which provoked massive absconding (actually transfer to large estates) and worker resistance.

While the estate owners retained a portion of wages to pay the tax on *engagés*, the tax offices noted the taxes were unpaid.[188] There was thus disagreement between the various offices involved: the tax office allowed the estate owner to collect and hand over the tax amount, whereas the immigration department considered this procedure illegitimate; in their view, the tax should be paid directly by the immigrants once they had received their full wages.[189] In 1901, the French Council of State approved the second option and called for the tax amounts to be returned to the immigrants. However, from the point of view of the tax office, those amounts corresponded to taxes, not wages; consequently, only those

registered on the tax rolls could claim the amounts due. It was therefore impossible for the immigrants to recover their money.[190]

Despite the development of labor law in France, the rules governing labor on Reunion Island remained unchanged. As we will see in detail in the chapter on the Congo, starting in the 1880s, the former "hiring for labor" and "hiring for services" contracts were replaced in France by "labor contracts." The labor contract solution was adopted alongside the introduction of the first forms of employer liability for occupational accidents and workers' health care and it initiated the creation of insurance and social security systems. A survey was launched in 1909 on labor conditions in the colonies; by 1911, most of the colonies had replied to the ministry questionnaire, but Reunion Island lagged behind and the enforcement decree of the labor laws was not implemented until 1912.[191] The replies provided by the planters and the major concession companies such as the Crédit Foncier Colonial, which owned or ran several estates, shows that the laborers were again divided into "free laborers" and "contract laborers." The former, who did not have formal contracts, were paid by the day, the month, the task or the piece. Health and accident insurance existed on paper. In reality, the reports and survey replies from the chamber of commerce and the chamber of agriculture simply restated the terms of the law and said they were being honored. The report from the trade union, on the other hand, noted abuses, wages paid not in money but in vouchers for purchases at the planters' stores (which was against the law), wage retention and unpaid additional hours of labor.[192] Moreover, the provision of adequate food for the immigrants—which in principle was the counterpart of their status as domestic servants—was far from guaranteed.

Feeding the Immigrants: Abuses, Benevolence, and Colonial Welfare

Unlike wage earners in the strict sense, indentured immigrants were akin to domestic servants: they received lodging, food and wages. The cost of food provided by the master was therefore counted in their wages. How could they protect themselves from abuses?

Furthermore, the distribution of certain kinds of basic commodities became a common practice in preindustrial states, often until the arrival of the welfare state. Charity, paternalism and social control went together. These elements, present in France and in Europe until the late nineteenth

century, acquired a special dimension in the colonies, where they supported the existing economic organization and social control over the very long term. Social and political conditions (race, plantation labor) as well as the environment (tropical climate) were often invoked to justify abuses and unequal distribution of staples. In the following pages, we will look at how essentials were provided on Reunion Island around the mid-nineteenth century. When planters failed to honor contracts and delivered inadequate supplies of poor quality foodstuffs, was it simply a case of abuse on their part (as the laborers maintained) or was it due to environmental circumstances beyond their control such as cyclones (as the estate owners claimed) or even to the market?

In Reunion Island, the problem was not so much famine but rather how external shocks (cyclones) and the subsequent lack of food for indentured immigrants converged with limited imports and widespread adoption of sugar monoculture on the island. Our main goal here is to understand the relationship between the weak legal, political and economic rights of immigrants studied in the previous pages and disaster relief policies.

The monsoon regime has shaped the agricultural production in which the vast majority of the Indian Ocean World population was, and still is, engaged. It largely dictates precipitation patterns on the Asian continent, both in coastal regions and inland, thus critically influencing production patterns and social relations. From April to September, the Asian continent heats up and hot air rises, producing a vacuum, which sucks in air from the ocean, thereby creating the southwest monsoon. During the alternate winter months, the opposite occurs, creating the northeast monsoon.[193] The climatic conditions of the IOW thus play an important role in explaining the peculiar link between local bondage, emigration and new forms of global dependency.[194] Studies indicate that extreme disturbances to this system could be life threatening and drive people into human bondage.[195] One major peculiarity of Reunion Island (and Mauritius) is that instead of monsoon, rain and/or drought, it endures violent storms. Small islands are particularly exposed: changes in sea level, variations in rainfall regimes and winds have a strong impact. The same is true for external market shocks and food security problems in a context where small crops are marginal and the economy is dependent on a major sugar monoculture. However, this does not suffice to explain the highly differentiated impact of cyclones depending on the crop (rice or maize) and the socioeconomic group (planters or indentured immigrants). To this end,

we need to consider carefully the relationship between the environment, production choices and strategies, and social hierarchies.

In February and March 1806, two cyclones hit Reunion Island. The coffee plantations were almost entirely destroyed. On February 27, General Des Bruslys sent a letter to Governor-General Decaen in which he attempted to describe the extent of the catastrophe: "There is not a single inhabitant who has not suffered damage, either to the buildings or in the plantations." In the report that the General Agent of Police Bédier has sent to Sub-Prefect Marchant, he lists the damage that the colony has incurred. "The inhabitants may only reasonably expect to recover one-third of the maize harvest and one-half of the coffee. The clove trees have been almost completely destroyed throughout the eastern part of the island." "The countryside has been totally devastated […] All of the Black people's dwellings and the stables adjoining domestic properties have been blown away."[196]

These were major setbacks for coffee producers, especially the smaller ones. With the conquest of Mauritius by the English and the evolution of the slave trade in the Atlantic (English embargo), the worldwide sugar market took off. Prices soared, and Reunion producers, wishing to profit from the situation, abandoned coffee for sugar cane. This conversion went hand in hand with a significant increase in the importation of slaves, despite the English embargo. Following a period of relative respite during the 1820s, sugar production also found itself facing climate issues. Cyclones hit the island in 1830 and again two years later. Although most ships were spared, damage to infrastructures and farms was extensive, albeit varying from one region or crop type to another. Assessments by experts, gendarmes and the botanist from the island's department of internal affairs reported losses equivalent to one-ninth of the manioc harvest, one-third of maize, three-quarters of rice and almost all fruit and cloves. Coffee and sugar on the other hand suffered losses of between one-eighth and one-ninth of the total crops.[197]

Yet in a later letter (March 14th) to the Minister of the Colonies the governor wrote that according to the agronomist "association-owned plantation, those finding themselves in a state of collapse or bankruptcy, have exaggerated their damage and losses; damage assessment was lower in the more robust plantations."[198]

During the weeks and months that followed, the governor introduced incentives and exemptions from duties on imported foodstuffs, along with exemptions for cloves "on the condition that they be converted into

American grains." Yet while on the increase, especially from India, food imports were insufficient to meet demand and the archives show a deterioration in the conditions for slaves on several plantations, along with protests from the first Indian and Chinese coolies employed during the 1830s who continuously complained about the poor working conditions, food, housing and mistreatment by the planters.[199]

This scenario was repeated in an even more dramatic fashion in 1844–1845: an extremely violent cyclone on December 21, 1844 was followed by floods on January 4, 1845 and then by a new cyclone on March 8–9, 1845.[200] In his report to the Minister of the Colonies, the governor of Reunion noted that the colonial coffers were empty. In order to repair the damage done from these natural disasters, 339,000 francs had to be taken from the reserve fund. The governor asked for special aid from Paris and for the law on the colony's tax allocations to be modified.[201] In addition to the flooding of several rivers, severe damage had been caused to roads and plantations. As in 1832, food crops were more affected than sugar. Damage to the rice crop led to a sharp increase in the price of rice from 16–17 to 25 francs per 75 kg. Five ships were due to arrive from India with approximately twenty thousand 75-kilo sacks of rice. But these imports were scheduled to meet the island's usual chronic deficit in rice resulting from production strategies (increase in the amount of land used for sugar cane at the expense of other crops). The arrival of these ships would therefore be insufficient to meet crisis food requirements.[202] As a result, food on Reunion plantations was scarce and conditions deteriorated, notably for slaves and indentured immigrant workers—comprising Indians and newly arrived Chinese coolies—who complained bitterly about the lack of provisions.[203]

Reconstruction was far from complete by 1847 when another storm hit the island two years later. This time the different authorities were divided as to the degree of damage. While in his report to the Minister of the Colonies the governor spoke of a "ravaged island," the director of internal affairs considered that it was essentially foodstuffs that had been damaged, rather than sugar cane, and that the areas that were suffering had long been in difficulty. Factories and sugar refineries were, however, more severely affected.[204]

The abolition of slavery in 1848 accentuated the island's problems. In order to compensate for the increased costs caused by the move from slavery to indentured labor, planters once again expanded sugar cane cultivation and looked for ways to reduce the food rations for their

workers, at a time when their numbers were constantly rising. As we have seen, 43,958 Indian recruits would arrive on Reunion Island between 1849 and 1859.[205] This growing population put further pressure on food resources precisely at a time when the amount of land devoted to the production of maize, manioc and rice was being reduced in favor of sugar. It was within this context of latent shortages and virtual sugar monoculture that a new series of cyclones hit the island. In April 1850, one source noted: "It has hardly stopped raining since the beginning of the month, resulting in the destruction of part of a clove tree harvest."[206] Five sugar refineries were destroyed. The violent wind blew away the roofs of numerous dwellings, notably those of "this interesting segment of the population which, recently emancipated, is devoting its freedom to work."[207]

On the other hand, whilst the sugar plantations were hit, generally speaking they came through it quite well, unlike the maize and rice crops and the foodstuff reserves that, as usual, were almost entirely destroyed. In its deliberations on March 28, the island's council asked for 10,530 francs in aid and 2480 sacks of rice. But due to the lack of resources, the governor only agreed to half of the requested aid and 2000 sacks.[208]

After a tidal wave hit in July 1853,[209] a new cyclone struck the island in 1858 causing considerable damage, particularly to the port, and to crops and food stocks: "Almost all food reserves have been ruined; the maize harvest is almost entirely lost. A large number of recruits' dwellings have been destroyed." The damage varied, however, from one plantation to another.[210]

A few months later, during the first few days of November 1858, Sainte-Rose, one of Reunion's volcanoes, erupted. The lava flowed down to the sea, cutting off the island's ring roads. The eruption continued until the end of the year. On March 19, 1860, another volcanic eruption caused further destruction through a phenomenon that is relatively rare on the island: a rain of ash fall that spread rapidly in two thick clouds on either side of the volcano, one heading northeast the other southeast, affecting 60,000 hectares in all or one-fifth of the island's area.[211]

It seemed as though this tragic series of events would never end. Although a cyclone recorded the following year was weaker,[212] "one of the most powerful" cyclones (according to the head meteorologist and other observers) struck the island in 1863. "Everything in ruins" wrote the governor to the minister.[213] The sea overran coastal lands, rivers and streams overflowed, and the roads were blocked. The food depots, and maize and manioc crops were all but destroyed, and "the sugar cane suf-

fered, though not as much as we feared."[214] According to assessments, the sum of 1 million francs was needed to repair the damage. Given the customs deficit that was forecast due to the reduction in sugar exports, the governor decided that it would be necessary to borrow.[215]

Official reports provided an unusually detailed region-by-region, village-by-village account of damage to plantations, infrastructures, industries, transport and communications.[216] Five years later, when a new cyclone struck the island, the report was even more detailed than that of 1863, assessing the physical damage and monetary loss in terms of bridges, roads, ports, buildings, plantations, crops and depots for every municipality. Total losses were assessed at 10.7 million francs.[217]

Such constant cyclone damage exacerbated tensions both between authorities in the colony and the central government and between factions within the colony. Of course, the scarcer the available resources, the greater the tensions. French colonies such as Reunion received very little aid from the central government, which expected colonies to be self-financing. However, local revenues were limited. After abolition, they derived chiefly from a registration duty on recruits (paid by hirers), taxes on wages, and customs duties, though in the 1860s such duties fell, notably on sugar exports. Heated debates in the general council about the distribution of aid followed the natural disasters. In the French Caribbean, most aid went to those hardest hit. On Reunion, local representatives, small landowners in particular, were quick to respond: the situations in Guadeloupe and Martinique were not comparable, and that if aid was allocated to those who declared themselves to have suffered the greatest losses from a cyclone, it would favor the biggest landowners to have been affected. Some pointed out that the heavy rainfall following the cyclone had allowed many of the plantations to be rebuilt, so damage assessments immediately after the cyclone had hit should not count. Several representatives claimed that the most affected domains were those already in difficulty due to incompetent owners, who should not thus be allowed to claim full cyclone damage.[218] Others concluded that some parts of the island had been damaged more severely than others and therefore aid should be distributed accordingly. They should prioritize the municipalities, where the money would be used to repair the infrastructure and thus benefit everyone.

As the figures in Table 5.1 show, while the 1860 cyclone had little effect, that of 1863, combined with the spread of sugarcane disease in the early 1860s, led to a decline in exports of sugar in both quantities and

Table 5.1 Reunion island sugar exports

Year	*Millions of tons*	*Millions of francs*
1860	5.6	36
1861	6.9	31.5
1862	7.6	31.2
1863	7.6	20.8
1864	5.8	22.1
1865	5.7	20.7
1866	5.5	23.7

Source: ANOM FM SG/Reu C 124 d 945 cyclone of March 12–13, 1868

value. Prices fell in the early 1860s, stabilized towards the middle of the decade and then collapsed once again during the years that followed. To aid the sugarcane planters, the governor released 500,000 francs in aid from the treasury and authorized a "temporary withdrawal" of 125,000 francs from the immigration fund (*Caisse d'immigration*). This fund had been created in 1860–1861 due to pressure from the French minister for the colonies and the British consul, to protect immigrants from mistreatment by the planters who took their wages, promising to give them back when they left. Employers were obliged to deposit workers' wages in the fund after deducting subsistence and accommodation costs and whatever form of guarantee they deemed to be suitable. The fund was also intended to be used to pay the medical expenses of immigrant workers and fund their passage back home. However, it became another source of injustice, for planters did not pay their contributions, medical care was not provided, and worker wages were appropriated by the planters who justified their actions by claiming that workers broke their contracts, or were guilty of stealing, and so on.[219] Finally, as noted above, even the colonial authorities dipped into the fund in order to provide aid for victims of cyclones.[220]

The minister for the colonies in Paris, under pressure from the British consul, ordered the governor to rapidly reimburse the immigrant fund. Nevertheless abuse of workers continued. The lack of food, and the inappropriate use of the colonial fund reflect attempts by planters and colonial authorities to pass on to the workers the cost of lower sugar prices. To what extent was this strategy effective?

Between 1850 and 1860, the area of cultivated land devoted to monoculture sugar plantation increased from 50 percent to 68 percent, which with the corresponding decline in the land devoted to food crops,

Table 5.2 Reunion Island rice imports, special trade, in francs

Year	*Francs*
1847	468,555
1848	245,542
1850	120,097
1851	96,180
1852	264,709
1853	335,712
1854	601,518
1855	895,000
1856	427,000
Average 1847–1856	337,026
Average 1837–1846	100,961

Source: Ministère du Commerce extérieur (1857) *Tableau général du commerce, année 1856*, (Bruxelles: Imprimerie Nationale): 59

considerably amplified the risk of famine following cyclones, and increased reliance on food imports (Table 5.2).

We can see that while on average rice imports increased after abolition, they were relatively unstable from one year to the next and never compensated for the fall in rice production of up to 50 percent, despite major population growth due to the rising number of indentured immigrants. The island's population grew from 100,000 in 1850 to 178,000 ten years later. This meant that the quantities of rice, manioc and maize available per capita in 1860 were much smaller than in 1847. The price of rice was rising, and given the serious inequalities on the island, access to provisions varied considerably, not only between whites and immigrants of color, but also between landowners and "poor whites." Landowners, especially the smaller ones, looked to reduce their workers' food rations, or even to keep their wages for themselves. Many planters reacted to rising rice prices by reducing contractual food rations and/or substituting manioc and maize for this staple. This triggered an outcry from the immigrant workers, followed by official protests from the British consul.[221] However, it was only at the end of the 1860s that the governor of Reunion admitted that the substitution of manioc and maize for rice was legitimate only in "exceptional years" and could not become the rule.[222] Planters' attitudes remained unchanged, however, and mistreatment of immigrants continued. Food ratios were below the legal minimum and of poor quality, wages were

seized and healthcare almost non-existent—indeed, time off work due to illness was considered to constitute absenteeism and punished as such.[223]

It was against this backdrop of crisis that France was defeated by Prussia and the Second Empire collapsed. The French Empire became part of Algeria, Guyana, French Cochinchina, New Caledonia and a few islands in the Antilles. In the mainland, the newborn Third Republic was mostly concerned with deficit financing and political stability.

When yet another cyclone struck the island in March 1873, Paris recommended a new system to assist not only direct victims of such disasters, but also the islanders as a whole. To this aim, a new Public Assistance Administration was established in 1869 and completed on May 16, 1873 with a decree creating in each of the island's municipalities a charitable office (branch of the Assistance Administration). This system divided the population into three categories: "natives whom the cyclone has left without resources and unable to work," whose needs were estimated at 521,106 francs; "needy persons to whom aid may be granted with a view to helping them to rebuild their small crops, small businesses and workshops, and reconstruct their dwellings," whose needs were estimated at 879,508 francs; "landowners not asking for any aid," whose total losses were assessed as 4.7 million de francs.[224]

This proved to be a turning point: with the sugar crisis, both immigrants and the *petits blancs* or poor white settlers fell into the "native" category. To these were added those who intended to restart a small farm or commercial business. As a whole, these blurred categories confirmed the increasing difficulties of *petits blancs* whose conditions were gradually assimilated to those of immigrant workers and former immigrants without resources. The assimilation of these two categories into a single group may be correct from a purely economic resource-based perspective, but it hides the profound institutional and legal differences between them. Even if they were relatively poor, these French citizens were nevertheless different from French subjects and immigrants who had fewer if any rights compared with French citizens. The evolution of their economic entitlements and civil and political rights was not the same. The colonial government sought to reinforce the legal differences by providing economic support to poor whites. However, the resources devoted to this end were limited and economic dynamics took the lead. Moreover, large estate owners were less concerned about *petits blancs* than about the expansion and modernization of their own properties. In the end, numerous small properties disappeared. Poor white settlers sold their land and moved to

the highlands.[225] Meanwhile, the largest properties were merging; an increasing number of former immigrants—Indians for the most part—were buying land from former white landowners or cultivating it under new forms of sharecropping.[226]

To summarize, the cyclones had a significant impact on social hierarchy and economic relationships in Reunion Island, inasmuch as they affected the access first of slaves and later of immigrant recruits to food and influenced the strategies employed by planters and the colonial elite. The price of rice increased in the region due to the weakening of summer monsoons in India at the very time its importation became the most vital to Reunion. At the same time, the effect of these events on the island were compounded by the fact that planters had already shifted production to sugar cane monoculture (vulnerable to floods), food reserves were insufficient and poorly protected and preserved, and the mistreatment of workers continued despite the standards which the British sought to introduce. Lack of rice on the plantations was due to far more than cyclones and could not be justified by them alone. This issue reveals an overall problem common to societies after slavery. In general, the social condition of slaves—food in particular worsened during the first decades after emancipation. The rates of mortality and illness, and even the average height tended to stagnate if not decrease.[227] The rate of recovery depended on the specific place. The same was true for indentured immigrants. Although their conditions were said to have been better than those of freed slaves, they nevertheless suffered from the inadequate amount and poor quality of food. It is worth noting that a clear-cut connection existed between sugar monoculture, importation politics and labor relationships. Of course, the specific features of Reunion Island market dynamics and previous investments played a crucial role. However, here we are primarily concerned with the relationship between the contractarian order, post-slavery societies and social welfare. As the case of Reunion shows, colonial authorities encouraged planters to respect their contracts, but except in unusual circumstances, the rules were poorly enforced, particularly as regards food. At first, disaster relief was delivered hesitantly for both fiscal and political reasons. During the period under investigation, British and French colonial authorities considered local solidarity and local colonial funds capable of managing food crises. At the same time, a break appeared in the British Empire chronology. Before the great Bengal famine of the 1870s, the liberal credo left the task of coping with famine and providing relief to missionaries and "local societies." It was only afterwards that a more active

policy emerged with the first "development" policies to subsidize the construction of roads and canals and introduce new agronomic methods in India.[228] In contrast, French political elites were hard-pressed to provide assistance. Under the Second Empire, the colonial world, as the example of Reunion Island illustrates, was left to its own resources and/or to raising private credit in Paris. In the early 1870s, the Third Republic adopted a similar attitude, while, at the same moment, public assistance (*bienfaisance*) and more generally state and municipal intervention developed substantially in France.[229] It is striking to note that in 1872–1873, when the environmental and economic crisis in Reunion reached its peak and the island was left without help from the mainland, a parliamentary commission was set up in France to determine forms of aid to offset economic and environmental problems in the countryside.[230] In next chapter, we will examine the divergence between the early welfare state in France and Britain and in their respective colonies.

Conclusion

When comparing labor relationships and labor rules in nineteenth-century France and Britain, we discover some similar and some divergent trends. In both cases, the legal constraints on labor increased with the industrial revolution. At the same time, in Britain, unions were officially recognized, while criminal penalties were maintained in the labor market. In France, on the contrary, the Revolution eliminated criminal punishment for breach of contract but continued to forbid associations and labor unions until 1884. As we said earlier, these rules were devised in response to different economic and social configurations. In Britain, free contract and free competition were constantly invoked under the umbrella of common law, but for the most part they pertained to trade. In the labor market, competition between masters was conceived as fair, thus prohibiting attempts to lure other masters' workers. Working people, on the other hand, were not free to move from one place to another at will.

In France, masters and workers could not sue workers using criminal law, but they made wide use of monetary fees. Workers could not rely upon unions, but they found an ally in the *prud'hommes* courts. From this standpoint, the French labor market was closer to a competitive market than the British one.

However, when seen from the colonies, these analogies and differences between the French and the British labor markets assumed another shape.

Instead of a history made up of slaves, bonded people, and free wage earners—or analogously, consisting of an old regime and capitalism, with a triumphant passage from one to the other—our findings suggest something altogether different. The French Revolution suppressed lifelong domestic bondage, whereas the nineteenth century progressively abolished slavery, first in the British colonies, and then in the French colonies. Still, this process did not accompany the rise of a free labor market between legally equal actors. In Britain, France, and their colonies, workers and indentured immigrants were not disguised slaves (as much of the literature in the nineteenth century argued),[231] but they did have an inferior legal status and far fewer rights than their masters. From this perspective, colonies were territories not only of slavery but, above all, of forms of bondage inspired by status inequalities entrenched in Europe. Status inequalities in France and Britain served as the model for those in the colonies, but the *engagés*, bonded laborers, domestic servants, and wage earners were expressions of free contract. Relying on older institutions and practices, new institutions and forms of labor were introduced in the seventeenth century: indenture contracts, contractual forms of domestic service, apprenticeship, and *engagement* in the colonies. Indeed, territorial and colonial expansion, along with the growth of agriculture and trade, followed by proto-industrial and later industrial development, gave rise to a complex overall dynamic. Increasingly large population shifts took place within empires, between one empire and the other, and between city and country. It is therefore important to draw a distinction between living conditions and legal rights (as well as the possibility of their exercise). On the whole, in the areas we have studied there were status differences between domestic servants and property owners; between laborers and their employers; between *engagés*, indentured laborers, servants and apprentices and their masters. These differences in status were not only produced by the colonies; they existed in Europe as well, and were hardly an expression of the old regime. On the contrary, such status differences resisted change through supposed political and economic revolutions. The existence of certain rights granted to the *engagés* (with a notable difference between white and non-European *engagés*) is important, because it allows us to distinguish the figures of ideal cases, such as former slaves or North American chattel slavery, from free wage earners. An *engagé* was not a slave—he was subject to forms of bondage that were not formally or necessarily hereditary, even though the debts from such bondage were quite frequently passed on to descendants. Unlike traditional slave status,

however, the legal condition of *engagé* was not automatically transferred to his or her descendants, and this made all the difference in the evolution of post-slavery forms of labor in the twentieth century.

This observation means that we should revise our view of the comparative evolution of economic and legal labor systems. From an economic standpoint, forced labor has traditionally been associated with preindustrial economies and the colonies. The history we have just recounted calls these clear-cut divisions into question. It would be a mistake to associate forced labor and slavery in the colonies with the plantation economy and to conclude that emigration prior to plantations consisted in colonization by white settlers and that later on, with the advent of mechanized labor on the plantations, recourse to slavery no longer made sense. On the contrary, we have seen that the conditions accompanying the bondage of whites in the seventeenth and early eighteenth centuries were quite harsh and did not improve until the arrival of *engagés* and slaves of color (and even then, with notable exceptions such as child vagrants). Prior to this shift, the formal abolition of slavery was above all the result of a political movement and only partly related to technological changes on the plantations, which remained labor-intensive and resorted to *engagés* whose living conditions (but not their status) closely resembled those of slaves.

Local conditions played an important role. On Reunion Island, indentured immigrants met with constant challenges in availing themselves of the law. When they were successful, it was usually due to British political intervention and depended on unfair competition between employers. At the same time, the crisis in the sugar market, followed by successful competition from Mauritius, lack of capital, and competition from sugar beets in northern France, finally swept away most of the small planters and small farms. Former indentured immigrants benefited in part from this trend and gained access to marginal land. Poor whites and former indentured laborers shared their social inferiority and distrusted each other.

In Mauritius, former indentured immigrants enjoyed greater social mobility, more favorable economic trends, and political support among British and colonial elites. Paradoxically, labor protection arrived later in Britain than in France, yet the defense of immigrant rights improved sooner on Mauritius than on Reunion Island. The anti-bondage movement in the British colonies was much more closely allied with the pro-worker movement in Britain than its counterpart in the French colonies to greater worker protections in France. Yet, the relatively more favorable use of the law for workers in Mauritius than in Reunion was also explained by the

pressure the British government exerted on French planters in Mauritius. This pressure was motivated partially by humanitarian concerns, and partially by competition: The British sought to limit French sugar production by using the anti-slavery argument. A counterfactual confirmation is given by the very limited access to legal recourse the British left to Indian workers in Assam. In this case, unlike Mauritius and the Reunion Island, there was no strong political movement supporting access to law and the limitation of abuses. Indeed, it was quite the contrary.

Therefore, the evolution that we have presented here did not necessarily correspond to a passage from constraint to freedom, which is a rather Eurocentric view and should therefore be re-examined. In particular, the official abolition of slavery in the French colonies was significant, if only to eliminate any form of dominance through status or heredity. This change was accompanied by the introduction of extremely restrictive forms of contracts and status for immigrants. The forms of domestic service, criminal penalties, and rules for the colonies were reinforced at the very moment when labor law in Europe was becoming more favorable to wage earners.

Thus, abolitionism in French Reunion Island produced an even darker picture than in Mauritius. Despite official declarations, the rights of indentured immigrants and former slaves were constantly ignored. It was not enough to enjoy formal equality under the law; on the contrary, it encouraged abuses. In part, this outcome can be attributed to the violence and the poor living and working conditions of French planters, who benefited from much less fiscal and financial support than their neighbors in Mauritius. Contingency and structural dynamics converged in a world made of violence, exploitation and inequality. Violent colonialism responded not only to economic pressures and local conditions on the island, but also to the way the French managed labor and their empire. Under the Second Empire, two trends were at work. On the one hand, in commercial, trade and financial relationships, Napoleon III gradually reduced regulations and moved towards free trade and deregulated markets. On the other hand, in labor relationships, the Second Empire put severe limitations on workers' rights, sought to preserve the worker's booklet and denied the right to strike or even to unionize. In the colonies, this attitude took a distinctly repressive turn and inequalities existed both in the law (fewer statutory rights for immigrants and non-French residents) and in the way it was implemented (legal procedures unfavorable to laboring people) as well as outside the law (unpunished abuses and violence, economic exploitation).

French subjects were not French citizens, but this was also true in the British Empire. In both cases, colonial subjects were granted some but not all rights. However, this lack of universality was also found in nineteenth-century Europe, where women and the lower social classes had few political and social rights. In this respect, the colonies represented a continuation of mainland ideas and institutions more than their opposite. Labor was managed under unequal statutory and contractual conditions in France and Britain, and their respective colonies were merely a radical development of this general attitude.

However, within these common approaches, some differences emerged. The British Empire reflected on codification in general and labor in particular starting from the colonial experience. In France, it was the other way round: codification emerged in the eighteenth century; it was confirmed through the Revolution and pertained to all the aspects of life and the law. Therefore, the notion of a "civilizing mission" took on somewhat different meanings in the two countries. In Britain, there were tensions between local and national values and between Orientalism and universalism; in France, the strains were between the indivisibility of the nation (later the Republic) and imperial fragmentation. Indentured immigrants in Assam were faced with the late invention of an Indian Penal Code, after decades of discussion about Hindu and Muslim local courts and local values. Immigrants in Reunion Island lived in a very different context. The Second Republic and the Second Empire were very distant entities to them and to the planters as well.

This brings us to the relationship between imperial governance and freedom. From this standpoint, the question is not so much whether the Enlightenment was for or against freedom and equality. As in the case of utilitarianism, multiple attitudes were possible under a common philosophical umbrella. Utilitarianism and the various forms of liberalism strongly influenced the architecture and functioning of the British Empire. However, the opposite was also true: imperial constraints affected the evolution of British liberalisms as well. Bentham and Mill sought to export their ideas to India; the reverse influence was equally important. The French Enlightenment, followed by liberalism, had a more complicated relationship with empire; despite Smith, the efficiency of slavery played a greater role in France than in Britain, where the moral argument of the Quakers was crucial. In France, the economic argument prevailed, together with forms of philanthropy and Catholic charity that were more often related to Restoration ambitions than to ethics in a market society

(feeding the poor in France and the starving immigrants in Reunion Island). Thus, in France, unlike Britain, the argument of freedom and rights was linked either to libertarian and revolutionary thinking or to a religious-aristocratic perspective. In both cases, freedom was for a world to come and it appealed to immediate exclusion as a foundation for future inclusion.

To confirm this statement, we need to follow the transformation of labor and rights between 1870 and 1914; namely, at the time of the "great transformation" and the scramble for Africa. How did technical progress, the emergence of the welfare state, and the new geopolitical equilibrium affect labor, its rights and obligations?

Notes

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219. ANOM FM SG/Reu c 382 d 3321; c 319 d 3211, c 319 d 3317.
220. ANOM FM SG/Reu c 124 d 945, Cyclone du 12–13 mars 1868.
221. ANOM, FM SG/Reu, c 384 d 3348: Rapport des syndics des immigrés du 15 juin 1858, après visite de 107 établissements, situation sur le premier trimestre 1858; c382 d 3321; c 319 d 3317: protestations anglaises pour les traitements des coolies. Mai 1866.
222. ANOM FM SG/Reu c 319 d 3317.

223. ANOM FM SG/Reu c 379 d 3211 Enquête réalisée sur un domaine "ravine des figues"; c 379 d 3210 établissement du baril; c 379 d 3213 Commission d'enquête de 1877.
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C 1157–61. Enquête parlementaire 1870.
C 2222 Pétition habitants de l'ile de Saint-Martin à la Chambre des députés, 8 juillet 1846.
C 3078C-3081, Commission d'enquête sur l'organisation de l'assistance publique dans les campagnes, 1872–4.

ANOM (Archives Nationales d'Outre-Mer, Aix-en-Provence)

FM Stands for Fonds Ministeriels (Ministries Funds).
SG Stands for Geographic Series.
C: carton (box).
D: document (file).

SG Inde c 464 d 590.
SG MAD (Madagascar) c 235 d 514.
SG Martinique c 33 d 289.
SG Réunion Island:
FM C/14/59.
FM SG/Reu c 124 (sinistres), in Particular: d 931 through d 945.
SG/Reu.

Indentured Immigration

c 135 d 1035 through 1039.
c 319 d 3211.
c 319 d 3317.
c 350 d 2463, d 2465 à 2470.
c 370 d 3180.
c 376 d 3181.
c 379 d 3203, d 3206, d 3210, d 3211, d 3213, d 3217.
c 380 d 3288.
c 382 d 3310, d 3311, d 3318, d 3321, d 3323, d 3324.
c 383 d 3323.
c 384 d 3348, d 3361.
c 385 d 3367.
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CHAPTER 6

The Welfare State and the Colonial World, 1880–1914: The Case of French Equatorial Africa

Thus far, we have followed the connections between the mainland—France and Britain—and some of their colonies in terms of labor, rights and labor institutions. In particular, we have traced the links between utilitarianism, liberalism and contractualism in Britain and India as well as in Britain and Mauritius. We have also looked at French ideals of freedom and how they were implemented in France, in its abolitionist movement and on Reunion Island in particular. We must now complete this panorama by examining the two major transformations that occurred between 1870 and 1914: Africa was occupied on the pretext of abolishing slavery on the continent, at a time when labor was undergoing huge transformations in Europe itself.

Debates on African and colonial history tend to focus on the transformation of polities, labor, societies, and economies under European "imperialism." The abolition of slavery,[1] the relationship between direct and indirect rule,[2] and the economic dimension of empire[3] are among the most common themes. Discussions concern the relative strength of "local" and "colonial" actors and institutions,[4] the tensions especially between domination and local agency, and the costs and benefits of the empire.[5]

We intend to take some of these topics into consideration here, notably the importance of the labor question and of African agency. We will also add a missing connection, namely, the relationship between the evolution of labor institutions in Europe and those in Africa, and consequently between how the rights and obligations of laboring people were identified

A. Stanziani, *Labor on the Fringes of Empire*,
Palgrave Series in Indian Ocean World Studies,
https://doi.org/10.1007/978-3-319-70392-3_6

in both regions. This connection, or lack of connection, has been emphasized with regard to the interwar period and the last years of colonialism in Africa. Significant discrepancies have been asserted between the consolidation of the welfare state in Europe and the extreme limitations, if not total absence, of social protections in the European colonies in Africa during these years.[6] We will rely on the historiography pertaining to Africa, but push it backward in time to the end of the nineteenth and the early twentieth centuries. For this period, the historiography of the emergence of the welfare state in Europe is usually studied separately from the one on the abolition of slavery in Africa. Historians of unions and labor in Europe underlined the increasing power of the working class,[7] whereas specialists of Africa discussed the forms and limits of the abolition of slavery. Instead, we will seek to show how these two dynamics were connected and demonstrate that, from the outset, the political elites, trade unions and major associations in Britain as well as in France agreed that the new forms of labor and social protection under discussion in the homeland were not yet to be extended to the colonial world. Within the French Empire, we have chosen French Equatorial Africa, a minor, mostly neglected case, where violence and the apparent lack of immediate economic benefits went together. As we will see, French Equatorial Africa will help us shed light on the difficult relationships between national labor, colonial labor and the welfare state.

Slavery and Abolition in British Africa: An Overview

Abolition was not an indigenous African concept: masters could free slaves through manumission, and slaves could sometimes redeem themselves. In most cases, manumissions were extremely important, especially in Islamic areas. In some Muslim societies freed slaves became hereditary clients, while in non-Muslim societies slave origins were remembered when it came to questions of marriage, inheritance, and rituals.[8] Instead, full-scale abolition was a Western European idea, although it took different forms in Britain, France, the Netherlands, Spain and Portugal.[9] Each European power therefore exported its own idea or ideas of what abolition and freedom meant. The British began by fighting against the slave trade, as they had done in the Atlantic world almost a century earlier. They focused their efforts on the slave trade in the trans-Saharan region and the Red Sea, but gradually enlarged their scope of action to the Gold Coast and other western parts of Africa, and then down to the Cape Coast. Overall, from

1903 through 1911, 29 slave dealers were convicted every year on average in the Gold Coast Colony and the Protectorate.[10] Excesses appear to have been committed: many French, Portuguese and Omani ships without any slaves were seized.[11] The colonial powers concerned immediately interpreted these acts as proof that Britain's excessive zeal was actually aimed at monopolizing Africa's manpower and eliminating all competition. Colonial methods, competition between colonial states and the weight of humanitarian motives compared with political and economic goals were the underlying issues. British officials sought to avoid confrontation with Islamic authorities, chiefly regarding the practice of concubines, which was left intact; Islamic customary law was invoked to justify its legitimacy. A number of British colonial elites were of the opinion that control of the colonies should be achieved through agreements with local chiefs, whereas a sudden abolition of all forms of dependency described as slavery might bring about the collapse of local economies and societies and hence of imperial authority.[12] From the start, as regards slavery, and not just the slave trade, British leaders explicitly took India as a model. In Africa, as in India, sovereignty, colonial rule and slavery were interconnected. In 1866, Zanzibar was made "so far as concerns the administration of justice to British subjects, a part of Her Majesty's Indian Empire."[13] The subsequent extension of Indian law into continental Africa was a result of the expansion of British power from Zanzibar into the interior.[14] A subsequent order in council from the Foreign Office confirmed this outcome and some 20 Indian acts were introduced in different parts of British Africa. These Indian laws and procedures were not turned into British rules but coexisted with "native customs" and Islamic law. Thus, the Protectorate Court sitting in Mombasa, which could appeal to Zanzibar and its subordinate courts, exercised jurisdiction over all British and non-British protected subjects, as well as nationals of foreign countries. The Native Courts, whether presided over by tribal chiefs, headmen, or British officials, were meant to enforce "native custom." As in India, the adoption of legal codes in Africa followed the principle of indirect rule. We know that in India indirect rule emerged first in the late eighteenth and early nineteenth centuries, and then again in response to the Sepoy mutiny. The British adopted the same principle in Africa, where Henry Maine's approach found a staunch supporter in Frederick Lugard.[15] During this period, local forms of slavery were considered "mild," as they had been in India almost a century earlier, compared with "real" (chattel) slavery and were quite often described as domestic dependency.[16] Lugard himself

stressed the difference between domestic and chattel slavery (the former prevented idleness). When he arrived in Buganda in December 1890, he therefore declared it was necessary to avoid any direct interference in slaveholding and abolition (a source of chaos).[17] In his opinion, slaves should be emancipated only in places under direct protectorate rule like Zanzibar.

These views gradually changed: in the Gold Coast, an ordinance forbidding slaveholding was issued in 1874, whereas in several other areas this did not become the accepted attitude until the 1880s. Tolerance of local practices of bondage came under attack for two main reasons: First, they had been adopted for pragmatic purposes; namely, to collaborate with local chiefs in managing the colonies and recruiting labor. Neither aim was achieved inasmuch as the collaboration was limited, and the chiefs failed to provide the labor force required (by the colonial state as well as by private companies) while continuing their slave traffic. Change did take place when the British abolitionist movement escalated its campaign against African practices and British tolerance.[18] The Protestant movement in Britain and missionaries in Africa intensified their actions. As in previous cases of abolition, humanitarian aims, religion, moral values and economic interests converged in support of the radical abolition of slavery itself and not merely the slave trade. Evangelical philanthropy allied with "Burkean" colonial abolitionism to eradicate all forms of slavery in Africa. Yet it was the mistreatment and murder of people subjected to slavery rather than the desire to abolish slavery per se that finally spurred them to act. They received the backing of a third movement asserting "the elementary rights of humanity." This movement comprised workers' unions, the Aborigines' Protection Society, and groups of British merchants who defended the principle of trading directly with "natives" without the colonial state acting as middleman. From this standpoint, free trade and free labor were joined together, exactly as labor unions combined anti-colonialism and local workers' rights.

This political reorientation created a dilemma for colonial officials: How could they reconcile maintaining law and order with the political necessity of defending humanitarianism? The reactions and timing varied from one colony to another, even though a general trend was at work. With the support of the anti-slavery movements in Britain, the colonial administration and the public blamed the "barbaric and backward" attitudes of the Africans, who were accused of enslaving their fellow Africans. This argument was used to justify the "civilizing mission" of this or that

European country and furnished the basis for discussions between Great Britain, France, Germany and Belgium at the Brussels conference convened in 1889 to define the criteria for partitioning Africa. All the participants strongly advocated the introduction of free labor, order and discipline.[19] This process was supposed to take place in two stages (once the territory was occupied, of course): First, slaves would be freed and then a genuine labor market would be set up. Yet the Brussels Act of 1890 left procedures against slavery to the discretion of each imperial power. Great Britain took an extreme position with regard to both stages: it pushed much harder than the other powers for the abolition of the slave trade; it adopted a far more careful attitude towards the abolition of slavery by using "the case of India" as an example; and, at the same time, it kept its Masters and Servants Acts alive in its new African acquisitions as the foundation and expression of "free" labor much longer than the other colonial powers. It was therefore up to the colonial state to determine the measures best suited to facilitating the transition to a free labor market, while simultaneously guaranteeing that order would be maintained. The transplantation of anti-vagrancy laws and the Masters and Servants Acts to Africa were their response to this dilemma. This helps to explain the attention that European authorities devoted to labor rules after emancipation. Europeans, and the British in particular, needed manpower for their companies and firms, colonial state infrastructures and public works, as well as military recruits and household servants. Despite the denunciation of new colonial forms of slavery by missionary critics,[20] in many British and French areas (Ubangi-Shari, Coastal Guinea, Sudan, Somalia, Northern Nigeria),[21] fugitive slaves, "vagrants" (i.e. freed slaves with no official contract of employment) and "disguised slaves" freed by the colonial authorities were still captured and eventually re-enslaved.[22] Several measures were adopted to increase the supply of labor force and orient it towards colonial instead of local actors: raising the amount of taxes to be paid in labor; economic policies unfavorable to local economies such as mandatory low crop prices, specific crops required, and so on.[23] Passes limited free labor mobility, while access to higher-paid jobs was limited for Africans. In fact, the colonial officers were firmly convinced the African continent could not be developed unless Africans learned they were not free to choose where, when and how to work. A campaign was launched against vagrancy, theft, alcoholism and interpersonal violence; the goal was not only to control African labor, but also to promote labor discipline for the benefit of the black elites.[24] Within these broader approaches, which were more or less

common to the various areas in Africa, concrete policies varied from one place to another inside each empire (British policies were different in Zanzibar, Kenya, the Cap and the Gold Coast) and between empires, although trans-imperial commonalities also occurred. Kenya and Southern Rhodesia, like Portuguese Angola and French Algeria, gave priority to a cheap supply of manual labor, direct forms of taxation and preemptive rights over land granted to white settlers.

Here we find a major shift compared to earlier periods in the relationship between labor institutions in Britain and its colonies. Until the last quarter of the nineteenth century, colonial practices and institutions of free labor had been an extension of mainland institutions, in particular of the Masters and Servants Acts, apprenticeship and vagrancy rules. In the colonies, they were extreme variants of those in Britain, with even more statutory and procedural inequalities between masters and servants (or indentured immigrants). Henceforth, the creation of Masters and Servants Acts in Africa no longer meant transplanting and locally adapting British rules, but a deliberate decision to impose specific legislation considered outmoded in the home country. The new Masters and Servants Acts were adopted in Africa precisely at the moment when they were repealed in Britain (1875). In this case, the civilizing mission was based on two judgments: that Africans must be educated (and the law served this purpose), but at the same time, they were backward in their development and therefore old British rules rather than contemporary ones were more appropriate for the African context.[25] As a result, unlike the previous colonial period, following the repeal of the Masters and Servants Acts in Britain and the emergence of the welfare state, the path of labor and freedom in the colonies (especially African) diverged from the one in mainland Britain. While British workers in Britain were enjoying increasing protection and welfare, laboring people in the colonies still were under unequal labor and legal rules. From this perspective, welfare and its national orientation intensified rather than reduced inequalities within the Empire and among laboring people in particular.[26]

The same was true in France. While the abolition of slavery in Sudan, Senegal and Guinea and FWA (French West Africa)[27] in general has been widely explored,[28] the process in the French Congo and FEA (French Equatorial Africa)[29] has received less attention (apart from studies such as those by Catherine Coquery-Vidrovitch).[30] Here we will combine the scanty existing bibliography on the area with a specific point; that is, how the abolition of slavery was connected to the evolution of labor practices

and institutions in France. We will start with French penetration into Equatorial Africa, before moving to French colonialism and abolitionism, then its practices in the FEA.

French Penetration in Africa and FEA, 1870–1890

We have already stressed the major problems that *le droit de l'homme et du citoyen* had when it was confronted with colonial slavery during the revolutionary period and the first half of the nineteenth century. We have also seen how it was implemented on the ground in the case of indentured immigrants in Reunion Island. Now we need to understand the relationship between French attitudes towards colonial and mainland labor at a time when the Third Republic seemed to support workers' demands. Several works have pointed out the contradictions between France's revolutionary principles and the forms of labor in its colonies.[31] Along a similar line, some revealed the economic interests behind French colonization in Africa[32] while others denied it.[33] Authors closely related to the theory of world-system economies have also highlighted the *rentier* mentality of French colonizers and the gap between an ideology that advocated free labor and the practice of forced labor.[34]

More recently, some historians have taken a new approach, emphasizing the complexity of French policies.[35] Alice Conklin, for example, has shown that liberal ideals were not mere window-dressing for oppressive policies, but in fact set limits on the amount of coercion the colonial administration was permitted to use.[36] This view partly reflects recent trends in comparative colonial legal history: Instead of expressing the yoke of colonialism, the multiplication of labor rules paved the way to complex social dynamics in which colonized peoples could claim and exercise rights attributed to them in theory but of little avail in practice.[37] Yet, this approach has been mostly developed for French West Africa,[38] while it is almost non-existent with regard to French Equatorial Africa. In the following pages we will focus on FEA, taking into consideration the coexistence of violence and negotiation between multiple actors, who were often divided among themselves (and not just between colonizers and colonized), and then integrate this history into that of the mainland.

In France, the Third Republic and its gradual evolution towards universal suffrage did not see any contradiction between extending democracy in the *metropole* and colonialism. This discrepancy took different forms and had different meanings according to the actors. In the early 1870s, there

was still only a small group of French *députés* who supported colonial expansion, which they presented as a way of making up for the loss of Alsace and Lorraine. It was not until the end of the decade that republican leaders (Léon Gambetta, Charles de Freycinet and Jules Ferry) cautiously accepted this argument. In 1885, Jules Ferry declared: "The superior races have a right vis-à-vis the inferior races."[39] Immediately, Georges Clemenceau expressed his contempt for this position, which had already informed the German attitude towards France itself.[40] No doubt the economic recession and increasing stagnation influenced such attitudes.[41] However, non-economic rationale for colonialism seemed to prevail, and a genuine movement uniting all those who advocated colonial expansion—though not for the same reasons—came into being only in the late 1890s. A *Comité de l'Afrique française* was set up in 1890, followed by the *Union Coloniale* five years later. In the meantime, a "colonial group" was formed in the French parliament in 1892; two-thirds of its members were centrist republicans. A year later, a colonial army was finally organized. Colonial policies were backed by various groups: business lobbies interested in African raw materials; the military elites; certain Catholic circles hoping to expand their missionary activity in Africa. The *Société antiesclavagiste* (Antislavery Society), founded in 1888 by Cardinal Lavigerie, endorsed the colonial movement in the name of combating slavery.[42] Over the next few years, the radicals promoted colonialism even more avidly than the republicans. A large percentage of the new political elites surrounding Pierre Waldeck-Rousseau were directly involved in colonial economic and political affairs.[43] They were enthusiastic proponents of colonization, emphasizing the importance of Africa for large French enterprises, which in turn were needed to compete in a dynamic economy against large British, German and American companies.[44] However, they had to moderate their enthusiasm in view of the skepticism of many other political representatives and, as we will see, the limited revenue of the French State.[45]

The anti-colonial movement, on the other hand, appears to have been highly uncertain about its objectives. A *Société française de protection des indigenes* (French Society for the Protection of Indigenous People) had been founded in 1881.[46] Among its members, Paul Leroy Beaulieu and Victor Schoelcher were quick to associate the protection of "indigenous people" with colonialism, the struggle against slavery and France's *mission civilisatrice*.

Anti-colonialism was of relatively secondary concern among the socialists until 1895, and the movement only began to expand rapidly after 1905.[47] Some socialists, including Jaurès, were not critical of colonialism per se but only of its harsh form, whereas they believed in France's civilizing mission. They thought Africa needed a period of transition between slavery and freedom during which the colonizers would help to disseminate the ideas and practices of freedom.[48] Over the years, Jaurès' position evolved, and came closer to radical anti-colonialism on the eve of World War I.[49]

Other groups, such as the French Workers' Party and the Guesdists, were convinced that the exploitation of underpaid labor in the colonies would exacerbate the crisis of capitalism and the conditions of European workers.[50] As we will see in next sections, this thinking influenced the attitude adopted by different socialist groups towards labor and welfare regulation in the colonies.

In Senegal, Louis Faidherbe had initially championed the assimilationist principle according to which French citizenship could be granted to all those who embraced the French political and "civilization" principles. Support for this approach gradually crumbled in the 1880s and the 1890s, when Pierre Savorgnan de Brazza, among the others, advocated the principle of association based on his experience in Equatorial Africa. According to this position, the main objective was to establish broad sovereignty and develop trade relations. Finally, by imitating its neighbor, the Belgian Congo, at the turn of the century the principle of incorporation founded on concession companies prevailed in the French Congo as well. In this case, French companies took control of the soil and had rights over labor as well.

Many believed that Africans still were too backward to be assimilated; thus policies had to take into consideration local attitudes and customs and seek alliances with local chiefs. By the end of the nineteenth century, the possibility of assimilating Africans had been rejected both in mainland colonial circles influenced by racist trends in the social sciences and by the governor of FWA, Ernest Roume, who considered it politically dangerous.[51] Thus, even if the Third Republic overcame previous attitudes towards African as "barbarians," it simply wanted to legitimate the presence of its subject within the Republic, not to grant them full rights. Indeed, the rejection of assimilation was tantamount to saying that Africans were not yet capable of comprehending the meaning of freedom.[52]

Thus French colonial policy remained in place, although major budgetary constraints were imposed upon it. At the turn of the century, balancing the budget and cutting expenses were both priorities on the political agenda. Such a balance seemed difficult to achieve, as the state was increasing its social intervention during the same period. Initial forms of social protection, along with the centralization of measures formerly handled by municipal authorities (control over markets, roads, etc.), put increasing pressure on the national government budget. In view of the limited political support for the occupation of Africa, the resources allocated for colonial policy implementation became the subject of intense negotiations. The need to balance the budget was underscored not only by those opposed to colonial expansion but also by liberals who were afraid of deviating from financial orthodoxy.

Scandals and Violence: The Brazza Mission

In this context, a sort of consensus was reached to support territorial "enhancement"; namely, targeted spending. The colonial government would intervene in FWA mainly to build infrastructures, whereas the colonial administration had to come up with funding for all other operations.[53] The situation was different in FEA, where the colonial elites were mostly skeptical about the feasibility of such a plan. Consequently, instead of granting monetary support to colonial enterprises or contributing to infrastructure development, the French government initially decided to give the military a free hand in administering the region. Later on, the companies received indirect subsidies in the form of monopoly concessions and the authorization to engage in particularly coercive forms of exploitation of local manpower. Yet territorial penetration was difficult due to lack of financial resources and weapons. Along the Ogooué River, several waterfalls stopped boats and required multiple landings and porterage. The latter was particularly long and hard when crossing the Batéké Plateau dividing the upper Ogooué from the Alima River. Brazza complained of several porters' deaths, cannibalism, and unrest.[54] In 1875, French control of Gabon was limited to Libreville and its outskirts. After Brazza's exploration of the Ogooué and the foundation of Brazzaville, in 1882 the Chambers and the President ratified the occupation and supported its further development.[55] Brazza accomplished a second mission between Gabon and Congo in 1883–1885. There were further missions to explore the north (Upper Ubangui) and east. Meanwhile, the Brussels

conference in 1889–1890 ratified these advances and Victor Liotard continued pushed further exploration and occupation towards the east (Ubangui), while Émile Gentile moved north to Shari and Chad.[56] At that point, the Congo, Chad and Gabon were at first placed under military rule. The French military had trouble penetrating the region, however. They suffered several defeats and retaliated with extreme violence, which was seldom brought to the attention of the public in France.

Missionaries had been denouncing the atrocities committed by the French in the Congo since 1888. Later, Roger Casement, the British Consul in Boma, wrote a report for the Foreign Office. His devastating revelations came into the possession of Edmund Morel, a British journalist of French extraction, who not only condemned the French crimes in the press, but also founded the Congo Reform Association to demand British diplomatic action. British public opinion was mobilized and the British government lodged an official protest against France. The French government decided to set up a commission to investigate the matter headed by Pierre de Brazza, formerly the commander-in-chief in the Congo, who organized expeditions to the regions concerned to verify the abuses alleged in the British report.

In 1900, Albert Grodet was named general-governor of the FEA. In his FWA post, Grodet had called for more justice and fewer abuses[57]; he had the same attitude in Equatorial Africa. Two scandals were denounced, one in 1903 and the other in 1905. In 1903, an administrative manager, Georges Toqué, allowed a black native accused of stealing cartridges to be punished by drowning. Shortly afterwards, Fernand Gaud, an agent for indigenous affairs, celebrated Bastille Day by setting off dynamite in the anus of a native prisoner. The incident was not revealed until two years later, first in *Le Petit Parisien* on February 15, 1905, and the following day in *Le Matin* and *Le Temps*.

In the meantime, in May–June 1904, in the region of Bangui, a French officer named Culard, also an agent for indigenous affairs, took 58 women and 10 children hostage to force local laborers to meet rubber supply requirements. It was not until the end of May that a doctor discovered the survivors, 13 women and 8 children: “At the time of the visit, I found three bodies in their death throes in the infirmary, on different days, that presented the following physical characteristics: extraordinary weight loss exceeding that of any chronic illness, drawn, dry, ashen skin, cell tissue devoid of fat, wasted muscles, flat stomachs. No longer able to understand, move or speak. The state of listlessness and consumption suggested

the individuals had been sequestered in an unhealthy place and that they died of starvation after surviving for a relatively long time by consuming some nourishment from time to time. The corpses were silently tossed into the river."[58]

The administrator of Ubangui-Shari, a man named Yaeck, arrived at the site on June 17th. He immediately granted the survivors rations of rice and salted beef "as an exception," but only in exchange for "light work consisting in bringing back two small sheaves of straw every day."[59] Yaeck sent his report to the Commissioner-General on June 30th. Culard defended himself by denying he had taken the women and children hostage; he claimed, on the contrary, they had been found in that state in the forest and he had them sent to Bangui out of sheer humanity.[60] Gentil arrived in Bangui on August 29th but he did not take any action. He transferred the case to the head of the legal department in Brazzaville, who concluded there was no evidence that might incriminate the agents of the administration. "No crime or offense or criminal intent."[61]

The following year, in May–June, 119 women and girls were taken hostage in Krébedjé, in the immediate vicinity of Fort-Sibut.[62] In reality, they had been kidnapped in retaliation for the murder of 21 concession company agents in Ouhamé-Nana. Brazza immediately reported the facts.[63] The women were released and the affair was hushed up.

In general, the concession companies were prepared to kill in order to maintain order and force local populations to work. For example, the M'poko Company, on the borders of the Congo and Ubangui-Shari,[64] had no scruples about putting armed men (around 400 European mercenaries in 1906) in every village, where they sequestered hostages and flogged and executed individuals. As a result of the investigation, 236 people were convicted, only 17 of whom were Europeans. The company was found guilty of 750 proven and 1500 probable murders.[65] The charges against the company were dismissed in court, however, and only the African militias were sentenced to prison terms of 5–20 years of forced labor.[66]

The worst part, confirmed by the archives, was that the senior colonial authorities, all the way to the Minister of the Colonies, were fully cognizant of the facts. Later on, they all denied any knowledge of the events and the commission of inquiry set up after the Brazza Report accepted their arguments. Following Morel's revelations in Britain, which were repeated in the French press in 1905, the Minister of the Colonies decided to organize an investigation of the scandals in the Congo. At the time, international

public opinion was shaken by the atrocities committed in the Belgian Congo. France's top authorities were determined to show the French Congo was different, among other reasons, so they could take advantage of the accusations against Belgium and possibly seize part of the Belgian Congo. The accusations therefore needed to be investigated and refuted. The inquiry was entrusted to Brazza, whose international reputation was irreproachable. The Brazza archives contained a wealth of documents, revealing the in-depth reports confirming the scandals mentioned above along with many others.[67]

Brazza fell ill and died in Dakar on September 14, 1905. The inquiry documents were entrusted to the government, which appointed Jean-Marie de Lanessan, a former governor of Indochina, to head the commission. The commission was conscientious and held numerous, detailed hearings. Nevertheless the government's intent was clear from the start: The commission had no judicial authority; its task was merely to conduct an inquiry. The goal, at once desired and achieved, was to ensure that justice was done by holding the concession companies, above all their mercenaries and African overseers, responsible for the atrocities. The French colonial administration, on the other hand, was exonerated for lack of proof and its senior officers cleared of any responsibility. In one case, in particular, Commissioner-General Gentil, was accused in the report of being aware of the violence described above and of having personally engaged in violence against local populations as early as 1899. In every instance, the testimony of the local population was deemed not credible; if a French agent repeated the accusation, he was said to have been deceived. In short, one of Gentil's African guards was directly accused of having engaged in violence on his own initiative and punished for it by Gentil. There were considerable discrepancies between the documents sent by Brazza and the commission's final report.[68] All the testimony of the French civil servants was accepted without question, whereas the testimony of members of the native population was judged to be contradictory and unreliable—despite the opinion of some French officials on site who had insisted on the veracity of the declarations they collected. Those civil servants were immediately transferred and later on subjected to threats and injunctions. The Ministry of Foreign Affairs, even more than the Ministry of the Colonies, intervened directly to modify the final report and ultimately to discourage its publication.[69]

Brazza's personal secretary, Félicien Challaye, who had the original document, managed to testify before the French National Assembly and

confirm the atrocities. In the years that followed, Challaye, together with Anatole France and Marcel Mauss, founded the *Ligue française pour la defense des indigènes dans le Bassin conventionnel du Congo* (French League for the Defense of Natives in the Conventional Basin of the Congo).[70]

These atrocities and above all the government's attitude raise a number of questions, beginning with the silence on the part of the public. Eighteenth- and early-nineteenth-century France never had an abolitionist movement comparable to the one in Britain, which has already generated a significant amount of scholarship to account for the phenomenon.[71] The fact that the issue was passed over again during the partition of Africa is even more embarrassing. In the midst of the Dreyfus scandal, with a socialist movement on the rise, one would have expected a wide show of public support for the denunciatory reports of France's rare anti-slavery activists. Instead, there was no reaction. Aside from three newspaper headlines—*l'Humanité* was the most persistent—there was no significant mobilization of public opinion or of the French press. The ministerial report following the Brazza expedition was serious, yet it cleared the French officers and official representatives of any responsibility and placed it squarely on the shoulders of the concession companies, their militias and possibly subaltern African employees in the French administration. Even though the government had proof of the responsibility not just of French civil servants, but also of senior officials, they were acquitted.

These elements invite us to wonder about the silence of historiography. The documents concerning these scandals never disappeared from the archives nor were they censored; yet Brazza's final report did not come to light until a small publishing house decided to publish the work of Coquery-Vidrovitch and a few others, which did not happen until 2014. One historiographical current has questioned the conventional paradigms of colonial history, particularly with regard to the notion that colonized peoples had no agency. The criticisms seems justified,[72] but they should not be exaggerated in the opposite direction. To be sure, the local actors were not passive, nor was the colonial administration all-powerful or monolithic in its attitudes. Nevertheless, the archives show that information regarding everyday violence and scandals did indeed circulate and it was either ignored or covered up. Local populations tried in vain to make their voice heard, but their testimony was regularly censored and distorted. What took place in the Congo was an extreme case of abuse and violence against the local population. Even when the scandals broke, the commissions of inquiry tended to bury the findings, especially those that

were most damning for the French colonial administration. It is in this context that the abolition of slavery took place.

Labor in French Equatorial Africa: From Local Slavery to Colonial Bondage

Before the arrival of the French, slavery was practiced in the future territories of the FEA, as in other areas of Africa.[73] For example, eastern Ubangi-Shari had been integrated into the Muslim economy of the Sahel and the Nile Basin mainly by Arab and Muslim merchants that penetrated the region between 1820 and 1850 in search of ivory and slaves.[74] After that date, the demand for slaves was even greater in the Islamic world in general, especially in the Nile Valley. The arrival of the Khartoumers in Sudan launched the slave trade. A genuine slave-based mode of production existed in the region. The land was desert, agriculture was abandoned, ivory was intended for export and the population formed a reservoir of slaves for the Islamic world. Towards the 1890s, when the French first penetrated the area, several decades of slavery and slave trade had already depopulated most of the villages and altered the activities and settlements of the remaining population.

Domestic and other forms of slavery were widespread in Gabon before the arrival of the Europeans, but they further expanded when the colonists came around the middle of the nineteenth century. At the time, slaves were used as porters, farm laborers and servants.[75] Animist tribes such as the NGao and the Babu were systematically raided by the sultans of north and north-east Upper Ubangi. The sultanate of Bangassu drew much of its strength from capturing slaves who were then sold to the sultans in Sudan. Rafaï and Semio, the other two sultanates of Upper Ubangi, were created during the last quarter of the nineteenth century. In theory, the sultans wielded absolute power in these entities; in reality, they shared it with clan chiefs. Bonded laborers, particularly the Nzakara and Zande peoples, were at the bottom of the social hierarchy, along with slaves from various other ethnic groups. When the Europeans appeared, the sultanates became their main collaborators and slave suppliers. Chad fell under the influence of the Sudanese caliphate of Sokoto, which possessed a huge contingent of slaves living on plantations, in villages or even in trade centers.[76] Along the southern edge of the desert, nomadic merchants and herders owned numerous slaves acquired through desert raids or trading in the savanna. These slaves were used for heavy labor such as building dams, drenching animals, and so on.

In the Congo Equatorial Basin, large numbers of slaves were engaged in agriculture (tobacco, vegetable salt and sugarcane). In inland areas, slaves were usually associated with clan organization: they could be seized and had an exchange value precisely because they were not members of a clan. They could also be incorporated afterwards into one of the local clans. In this sense, slavery allowed clans to widen their line of descendants.[77]

In all these regions, the characteristics of slavery were modified by the arrival of the Europeans. In the Lower Congo, the Mpongwe lost their role as middlemen between neighboring African populations and the Europeans and became servants or low-level employees in colonial stores.[78] Similarly, the Loango and Bakongo clans further south could no longer act as brokers but instead became porters or even bonded laborers on coffee and cacao plantations. The inland population put up a longer resistance to European penetration, but in the north, the sultanates signed agreements with the Belgians and the French allowing them to engage in the slave trade until World War II.[79]

France adopted strategies similar to those of Britain.[80] At a conference held in 1892, the French authorities declared there were more servants in their colonial territories than slaves. As servants, the Africans could not be liberated because their status in no way violated French law. When the French first began penetrating into the area, they encountered enormous difficulties in establishing posts and an organized administration. In this context, they were careful not to adopt aggressive politics against slavery, which would complicate an already fragile situation. The elimination of slavery was not central to coping with economic development or depopulation.[81] The lack of military forces encouraged military elites to use local slaves for their operations and many civilian colonial officers had no problem with slavery.[82] The openness of the region made it hard to force abolition without causing the flight of an already limited population. Indeed, slavery and the slave trade were a threat to the colonial project by removing the people who collected rubber, ivory, and other products. However, many families who populated the area, notably the Fang, preferred to mix the market and autonomy, combining farming with hunting, gathering and fishing. They had no dead season, and when they sold to the market they did not intend to do it according to French requests in terms of products and prices.

Thus, the French collected taxes and tended to break up lineages in order to enhance control. Chiefs were supposed to collect taxes, but the

young were often aggrieved that the chiefs would not pay taxes on their behalf, and broke away to form their own small lineages.[83] At the same time, the French collected taxes related to the export of these products. In reality, this vague definition of "genuine slavery" was used to negotiate workforce availability with the local chiefs. During periods when preserving the alliance with clan chiefs was the top priority, African laborers were called "servants." When, on the contrary, the manpower requirements of the colonial companies became critical or the colonial authorities wanted to flex their muscles in the direction of the local chiefs, the same laborers were referred to as "slaves" and thereby "freed" so they could be more or less reclaimed by the companies and the French authorities.[84] Thus, in the 1890s, the French established posts where they hoped to gather fugitive slaves, and at the same time they signed treaties with local chiefs.[85] At first, missionaries accepted fugitive slaves and tried to established *villages de liberté* similar to those that had been set up in Sudan in 1894–1895.[86] In those years, the French still lacked the strength to solve their dilemma: They needed good relations with the local chiefs and a labor force; if they pushed their demands too far, they risked losing both the chiefs' support and the labor force; if they did not, they could not consolidate their position. Like the British in other areas, the French sold weapons to some chiefs, thus supporting warfare and enslavement and weakened their own position.[87] Yet they continued to sell weapons to local chiefs without even mentioning slavery in their treaties until 1904.[88] Officially, French policies aimed to achieve three objectives: abolish slavery, gradually introduce new labor rules, and create a genuine labor market. It never occurred to anyone that the new rules could be the same as those in force in France. Forced labor was included to meet the demands of both the colonial authorities and private companies[89]; it was seen as necessary to help improve the "barbarian Africans"[90] and cope with the lack of manpower.[91] At the same time, France continued its "redemption"[92] practices and the colonial authorities tried to persuade the chiefs to enforce the labor rules rather than impose them themselves. French policies did change, however, with the rise of the anti-colonial movement in France and the 1899 conference in Brussels (where the British tried to force the other colonial powers to adopt their anti-slavery policies). Between 1903 and 1905, slavery was declared illegal, first in FWA and then in FEA. In 1905, official French statistics, based on an unidentified calculation method, reported 2 million slaves in FWA out of a population of 8 million.[93] According to the new strategy, it was necessary to eradicate slavery in order to break the

resistance of the local chiefs and put an end to their "disloyalty."[94] Colonialist discourse and the "civilizing mission" gained renewed momentum, along with the rhetoric about "vestiges of feudalism." Such vestiges were said to prevail in Africa; the civilizing and colonizing mission was thus viewed as a new chapter of the revolution in France.[95] Civilization was associated with private property, a free labor market and social stability. This was not pure rhetoric, however; a number of colonial officers sincerely believed it. Nevertheless, they all expressed disappointment at the attitude of the Africans who, despite the "revolution" and the contribution of civilization, continued to "cheat"; namely, they did not behave as the colonial authorities had hoped. Instead of "independent peasants" and urban workers, the French found themselves confronted with populations that migrated from one empire to another, often with the changing seasons.[96] In 1905, slaves began a massive exodus throughout French Sudan, in spite of attempts on the part of the French to reconcile masters and slaves.[97] The refugee communities in the Sudan posed a threat to the demographic stability of eastern Ubangi-Shari.[98] Refugees and slave raiding were difficult to distinguish,[99] while incidents between the French and local population increased.[100] The regular army and concession militias intervened in joint acts of violence.[101]

To counter these tendencies, the French authorities, again like the British, introduced a highly repressive work discipline. The former slaves were not supposed to work wherever and whenever they thought best; if they did not have a proper labor contract, they could be found guilty of vagabondage; if they left before their task was completed, they would be sentenced for desertion.[102] Such measures proved ineffective, however, due to the unwillingness of the various colonial authorities to cooperate with each other—the French, British, Belgian German and Portuguese were all competing for manpower and always ready to recover fugitives.[103] The coercive measures were also weakened by competition within the French empire itself, between different regions or even between companies and public authorities.

In 1904–1905, the Congo was definitively placed under French administrative control; its territory was divided into four main areas: Gabon, Middle-Congo, Ubangi-Shari, and Chad. A general commissar directly oversaw the Middle-Congo, while a lieutenant governor ruled Gabon.

In 1902, the value of FEA's exports in current dollars was 1.6 million, compared with 13.1 million for FWA. By 1913, the latter had reached 29.2 million dollars in exports, while FEA exports stagnated.[104] The

colonial powers, particularly France and Belgium, developed an interest in the Congo and Gabon only with the rise of steamboat navigation, when it became possible to use the Congo River to transport products and link up with the various European empires in Africa. It should also be emphasized that the French government was generally reluctant to finance its colonies and preferred to concentrate its limited allocations in FWA.[105] During this period (1900–1920), France adopted the concession system; that is, it granted operating monopolies to private enterprises. From this standpoint, the colonial policies in FEA differed significantly from those in neighboring FWA, where concessions were seldom awarded and private companies dominated. Despite these advantages, few companies invested in FEA prior to World War I and almost none before 1900. French capitalists preferred Turkey, Russia and Indochina to Africa, particularly Equatorial Africa, which was considered too difficult to exploit profitably. By 1903, only a third of the companies set up in the previous 10 years were still in operation; they merged over next few years to the point where, in 1909, only six companies controlled all French activities in FEA.[106] Until the 1920s, these companies ran a predatory economy, trying to obtain a maximum amount of resources with minimum investment and maximum coercion. Their operations were not very profitable.

Despite their monopolies, the companies in FEA had to deal with technical as well as natural constraints (the forest), specified tasks (portage, building infrastructures) and competition from the colonial state, which also required laborers to construct needed infrastructures. Both the companies and the colonial government sought to eliminate any sort of profit from indigenous agriculture so as to create a larger available workforce for their own activities. These maneuvers impoverished the regions involved, but failed to help develop the colonial enterprise.[107] The abolition of slavery in this area took place at the intersection of various methods of French territorial penetration, specific forms of capital investment and the concession system.

Brazza, along with Pierre Paul Leroy-Beaulieu and many others, thought that the colonial enterprise should be a private, rather than a state-sponsored, initiative. At the same time, once they were confronted with the reality of Equatorial Africa, their liberal position immediately turned into a monopolist project: in order to invest, private companies requested and obtained monopolies in the form of concessions. Starting in 1897, the French aimed to develop a legitimate trade of cloth, salt, tea, sugar in exchange for ivory, rubber and wax.[108] It was in this context that

French concession companies penetrated FEA territory and sought to mobilize local labor force. The history of the concession companies is the subject of the path-breaking book by Catherine Coquery-Vidrovitch, which still is the reference in the field. We will not go back over it here; instead, we plan to show in detail an aspect that was less developed in this and other reference works, namely, how labor was used. Concession companies tried to rely on the networks already in place for recruitment purposes. At the moment of their creation, at the turn of the century, the companies and their promoters ignored almost everything pertaining to the concerned areas except descriptions by travelers and some military missions. The only certitude was that population was scarce. Thus, the commercial traffic between Stanley-Pool and the Upper Congo, linking Boubangui, Batéké and Bakongo, included slaves, manioc, ivory and European goods. This trade was carried out by the Fang people from the Gabonese coast to the Moyen-Ogooué province.[109] Outside this circuit, the French Army, the concession companies and the colonial state had to resort to porters, whom they constantly criticized for their native indolence and laziness.[110] This argument was to prove useful to the concession companies in suggesting the need for coercion.[111] In the absence of any explicit governmental authorization on this point—but with all the ambiguities mentioned earlier—the concession companies were able to recruit laborers either directly or through tribal chiefs. Most often, the companies and the government chose to work with the chiefs. However, the authority of the local chiefs was often limited to their own villages, and in any case they seldom supplied all the manpower requested.[112] The companies usually paid in kind, arguing that local workers did not understand the meaning of money. Some chose the approach used by planters in Assam and the Mascarenes: They kept wages to help Africans save, but also to protect themselves against possible misconduct.[113]

Tensions mounted, especially over portage. The French authorities and the concession companies had an enormous need for porters.[114] Nevertheless, the companies abused the porters: They not only did not pay them, but they extended their *engagement* longer than stipulated in the initial agreement.[115] This type of forced labor generated a considerable amount of resistance and desertion.[116] The French military authorities then turned to various forms of forced requisition: women were taken hostage until the men presented themselves.[117] Later on, some concessions adopted the same principle, which was the source of the main scandals in the French Congo at the time.[118] Wages were very low or even

non-existent in view of the extremely hard labor involved; recruiters carried out manhunts around deserted villages, notably in the Cercle de Gribingui area.[119] The French League of Human Rights denounced the abuses,[120] but little was done concretely to stop these practices.

Violence was not the only problem; due to the requisition of manpower by the colonial powers, there were not enough laborers for the local farms. Collaboration between the colonial authorities, concession companies and local chiefs was more harmonious in the Upper Ubangui, particularly in the territory of the Sultanates.[121] The three small potentates of Bangassou, Rafaï and Semio also relied on slaves they acquired through raids or trade.[122] Encouraged by the French authorities, the *Compagnie* (later: *Société*) *des Sultanats* decided to seek the support of these potentates and their workforce.[123] The idea was to exchange European products, already widely used by the elites of the sultanates, for rubber produced by the sultans' slaves.[124] However, the local chiefs either did not supply the manpower they had promised or they failed to provide sufficient numbers to satisfy the French companies.[125] The often violent clashes with the local population increased,[126] notably in response to the actions of militias employed by the concession companies.[127]

The N'Goko-Sangha Company was founded on May 4, 1904 from the merger of the Ngoko-Ouesso and Sangha-Lippa-Ouesso companies on the border of Cameroon.[128] Clashes intensified between the French and Germans,[129] partly due to the ill-defined territorial boundary.[130] As a result of these conflicts, the N'Goko-Sangha company demanded compensation in Paris[131] and kept inflating the damages incurred until a scandal finally erupted in 1911.[132] As a parliamentary commission was preparing to approve the company's demands, a group of parliamentarians including Jean Jaurès denounced its irregularities and abuses. The company was denied compensation and its losses increased, even though its main commodity, rubber, was selling at a high price in the markets.[133] Rubber was brought to factories in the form of balls weighing about 650 grams; they were paid for in goods (machetes, gunpowder) at an average price of 75 centimes per kilo. In reality, the company primarily sold weapons.[134]

The *Compagnie Française du Haut Congo*, founded by the Trechot brothers in 1897, made widespread use of a head tax[135] to purchase cheap goods and sell them at high prices, while underpaying its workforce. These practices led to incidents—they were riots in fact—especially in 1911, when the colonial militia had to intervene, perhaps with army support, to put down the uprisings.[136] The company also controlled the rivers and

local transport. It exported mainly ivory and rubber. Despite this predatory economy, it declared only slender profits until 1914.[137] Moreover, the company came under harsh attack by missionaries who accused it of tax evasion, arms trafficking and exploiting local populations.[138]

In the future Gabon region, the *Société du Haut-Ogooué* (SHO) lasted from 1863 to 1963.[139] It made systematic use of violence, raping women, killing porters and the local population, and mutilation.[140]

In short, the concession system stirred up questions about its profitability and legality. Huge debates took place in France at the turn of the century concerning their political, legal and economic legitimacy.[141] All these aspects were linked to the role of the colonial state: on the one hand, it delegated much of its authority to the concessions on the pretext that it lacked the necessary financing to become directly involved in African colonization. On the other hand, that same colonial state thought the concession system lent itself to fraud and abuse.[142] This twofold connection between the colonial state and the concessions, already of considerable importance with regard to profits and taxation, became even more problematic when it came to labor and violence against local populations. The fact that taxes could be paid in kind and in labor and not necessarily in cash made it difficult to separate taxation and labor; the payment of taxes through concession companies thus paved the way to the worst abuses; local workers were compelled to work for the companies to redeem their "debts" to the colonial state.[143] Violence was widely used to enforce this rule.[144] It was in this context that the relationships between the new labor contract in France and labor in the African colonies arose.

The New Labor Contract in France

Between the 1890s and the 1920s, there emerged what today we call the labor contract (*contrat de travail* in French, *contract of employment* in Britain). These new legal institutions marked a departure from the labor institutions that had sustained the economic growth and the social transformations of Europe between the seventeenth and mid-nineteenth centuries. The notions of "labor contract" and "wage earner" as we understand them today were invented in France in the late nineteenth century.[145] Although the Revolution abolished lifelong domestic service, it retained both forms of contracts from earlier periods: hiring for labor (*louage d'ouvrage*) and hiring for services (*louage de service*).

The law of March 21, 1884 legalized unions, thus raising the question as to the lawfulness of a union pressuring an employer to dismiss a worker who was employed at will. In general, tribunals and courts still opposed any acknowledgment of collective contracts. Unions were not authorized to defend the general interests of an occupation until 1913. The notion of the labor contract (*contrat de travail*) appeared in this context. 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 read into 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),[146] which introduced the employer's objective responsibility in case of injuries. This in turn opened the way to social insurance, which was being developed precisely during this period. Until then, it had been extremely hard to demonstrate an employer's liability; on the other hand, it was easy enough for an employer to prove the worker's "lack of precaution," even when harm was the result of pressure the employer had put on him. Henceforth, the employer had to show that he had taken every measure to guarantee the safety and protection of workers. At the core of the new concept was an adaptation of the notion of "subordination." Subordination was an open-ended duty to obey, accepted and indeed extended to all wage-dependent and salaried workers, but now it became the trade-off for the company and the state shouldering the burdens of social risks ranging from health and safety to income and job security.[147]

The overall economic evolution of the period strongly supported this trend. Until that point, seasonal workers had been perfect fits for task work, which allowed them to return to the countryside during the summer and other periods of intensive rural activity. In the countryside as well, harvesting and other major work was remunerated by the task; the earlier practice of combining agricultural and industrial employment did not largely vanish until between 1860 and 1890. During the summer of 1860, at least 500,000, and most probably 800,000, workers quit their jobs. By 1890, the number had fallen to 100,000.[148] Despite important regional and sectoral differences, overall, the agrarian crisis and the second industrial revolution attracted more stable workers, who were mostly unskilled, into the towns and the manufacturers.

Public order and competition also encouraged a new labor regime. In 1890, the worker's booklet was eliminated, and in 1900 the judiciary was

asked to impose a private law solution in circumstances where public law had become anachronistic. At the same time, the peasant-worker was unacceptable for the new industrial order: Presumed "vagabonds" were increasingly arrested in the 1890s and the 1900s. A fixed residence and a stable labor contract were two sides of the same coin; they concerned both the social and economic order.

Thus public aid gradually shifted from philanthropy to the welfare state.[149] As in Britain, this movement found support in the evolution of economic theory and the passage from classical liberalism (Jean-Baptiste Say's approach) to social theories promoted by Frédéric Le Play's followers as well as by new social scientists and engineers such as Émile Cheysson. Charity associations, new socialist and Christian cooperatives, and public institutions developed in connection with them through a common network of activists. Labor inspection also developed, along with special institutions such as the *Office du Travail*, established to provide information on the labor market and orient future regulation.[150]

However, the new labor law increased rather than reduced legal, social, and economic inequalities among working people. It excluded enormous categories such as small enterprises, craftsmen, and peasants.[151] All these groups were marginalized as "independent" workers.[152] They were not obliged to fulfill many of the obligations that other workers had toward their employers, but they could not benefit from the same social security advantages enjoyed by other workers.[153]

In France as well as in Britain, the new labor contract responded to increasing domestic and foreign immigration during the second industrial revolution. It contributed to the proletarization of the labor force, but by relating social protection to union activity and new forms of residence and citizenship, it immediately gave rise to the problem of immigrants, on the one hand, and of colonial workers on the other. The former group was only partially included from the new world of welfare[154] insofar as French unions feared excessive immigration would make the labor market more favorable to employers. Colonial workers, however, had to be protected for colonial purposes, but not by extending to them the rights French workers were just gaining. In 1884, a Parliamentary Commission explained the "crisis" involving international competition and immigration.[155] That same year, a new newspaper, *Le travail national*, came into being, devoted exclusively to protecting national labor. As in Britain, seamen and their unions in France were particularly aggressive towards colonial seamen accused of bringing down wages.[156]

Towards the end of the nineteenth century, xenophobic sentiment was growing in France, even though the number of immigrants had been steadily rising during the previous decades. This climate was pervasive in 1893 in the Gard department, a winegrowing region hard hit by the phylloxera blight, where hostility to immigrant labor had been mounting since the 1880s. Italian workers mainly bore the brunt of increasingly widespread racist attitudes.[157]

Nationalism and protectionism were invoked by different political groups. Conservatives like Maurice Barrès considered protectionism an alternative to socialism; left republicans also supported this idea as well as some socialists groups.[158] These complex sentiments took hold first among French workers[159] and then within the socialist movement, whose ambiguous attitude towards colonialism and its civilizing mission we mentioned earlier. Jules Guesde made himself the spokesman for the protectionist and xenophobic attitudes within the labor movement.[160] Jean Jaurès adopted a more nuanced approach: along with the majority of Socialist Party members, he declared his opposition to any prohibition of immigration to France.[161]

In the area of social protection, although immigrant workers were covered by the 1898 law in the event of work-related accidents, they were nevertheless excluded from free medical care under the law of 1893. The right to naturalization was modified in this context: Article 8 of the law of June 26, 1889 attributed French nationality to "any individual born in France to a foreigner who was himself born there." The right of blood was thus added to the "double right of birth" (over two generations). These two justifications were joined together in the support given to the new welfare state by state officials, republicans and socialists.[162] Indeed, multiple and eventually conflicting trends were at work: on the one hand, increasing immigration, related to the second industrial revolution and contemporary transformations of societies and economies in southern Europe[163]; on the other hand, the evolution of the French society itself, with increasing immigration of peasants into town and the crisis of small enterprises—peasants, tradesmen, artisans. To this we must add contemporary democratization under the Third Republic, which gave political and civil rights to the French, as defined by new law on citizenship in 1889.[164] From this standpoint, the right of soil (*droit du sol*) was faced with increasing immigration (should new immigrants be granted citizenship?) and enlarging the empire on the other hand (should colonial subject be treated as citizens?). Opinions diverged on this point; although

different political groups took different positions regarding the status of immigrants in France, everyone agreed that colonial subjects were *not* citizens. This is also where the colonies were clearly distinguished from the home country: whereas the mainland was experiencing the extension of the welfare state, the colonial world was excluded from it. This view found support among nationalist and racist groups as well as unions and a number of socialists who feared that increasing immigration would put an end to social reform and labor protection. Due to the convergence of these attitudes, the new welfare state was protectionist from the outset and sought to safeguard workers based on their membership (in unions), residence and citizenship. Colonial subjects were not concerned. Here, where colonialism and the transmutation of labor in Africa intersects with the new industrial society in Europe we find the origin of exclusive, protectionist welfare that was denied to the colonial world.

In 1903, during parliamentary debate over the finance act, Mr. Debief, who was in charge of the budget for the colonies, suggested extending the new labor and welfare provisions to colonial territories.[165] His proposal drew little support, especially as the Law of 1900 had proclaimed the principle of financial autonomy in the colonies. In this case, who would have paid for workers' injuries and healthcare? In France, individual insurance was still required to treat injuries, while medical assistance excluded aliens. In the colonies, before even mentioning these concerns, the broader problem of financing public works and the relationship between the fiscal obligations and labor of the local population was settled. Financial autonomy and budgetary constraints meant that labor costs had to be reduced and at the same time the local population had to contribute one way or another to the state effort. But how could that be done? What type of duty and obligation was recommended for the African colonies? And how did labor for the colonial state relate to labor for private concessions?

In principle, they were separated. At the same time, once it was admitted that taxes could be paid in labor, then local populations could not move freely and their labor relationships with the concession companies had to be determined under a special rule. Which one?

In FEA, a head tax was introduced in Sangha in 1894 and then applied to the whole Congo in 1900.[166] Two justifications were given for the tax. First, "indigenous Africans" needed to develop "a taste for and a sense of work"; second, they had to compensate for the expense and effort of the civilizing mission as well as for the protection provided by the colonial state against the raids of slave traders. The Africans were to pay in kind or

in money; the colonial administration sponsored the latter and the concession companies the former system, particularly in rubber production areas. Firms sought to collect the tax themselves and transfer the monetary equivalent to the colonial government after deducting costs. Companies also considered they had to pay for indigenous products at the market price they fixed and not at the official price set by the government. The colonial authorities tried to resist and impose their option.[167] The tax did not remedy the problem, however, as most of the population refused to pay it. The colonial army, aided by local militias in the hands of the companies, engaged in the worst kinds of abuse we mentioned earlier. Village chiefs and women were taken hostage until the tax was paid; whole villages were sacked and burnt. Protests multiplied and degenerated into violence, sparking bloody reprisals and resulting in summary executions of chiefs and men.[168] As the price paid by colonial authorities was higher than those of the companies, local population escaped and moved out of the territories under concession. This provoked further aggressions and violence. Thus state authorities complained not only about violence but also about the fact that, due to the companies' actions, the head tax in Congo was definitively lower than in Senegal and FWA in general. However, other members of the investigative committee and elected deputies suggested that the problem was lack of control over large parts of the territory, and hence many members of the local population could escape the tax.[169]

Debts to the colonial state were not payable only in kind; labor services could also be demanded. Workers were requisitioned mainly as porters and for road and railway construction. Forced recruitment with abuse and violence were extremely common. Contrary to official declarations, the caravans of porters received almost nothing to eat; the porters either fled or supplied themselves en route by pillaging villages. The abandonment of areas close to roads was one of the most striking consequences of these policies.[170]

Law and Justice

The *Code de l'Indigénat*, initially adopted in Algeria in the early 1880s, was gradually extended to other colonies.[171] The Code meant that local populations were French subjects but not French citizens. The distinction between indigenous subjects and citizens in the colonies corresponded to that between nationals and foreigners in France.[172] Both the subject in the colonies and the foreigner in France had limited rights; these two

oppositions supported each other in public perceptions as well as policies. Yet immigrants in France could obtain naturalization for their children: the prerogatives of blood and soil became mixed and could gradually erode statutory inequalities. This opportunity was much weaker, if not non-existent, in the colonies, and it was the major difference between foreigners in France and indigenous people in the colonies.

This distinction was the basis for the legal interpretations of the period referring to gradual native assimilation: French subjects could acquire republican rights only after a long civilizing process. It is important to recall that this attitude first developed specifically in relation to Algeria and later during French colonization in Africa at the end of the century. Previously, at the time of the Revolution of 1789 and even in 1848, the link between nationality and citizenship was not the same in mainland France, the French nation and the French Empire. For example, the Four Communes of Senegal acquired most of the rights of French citizens in 1848 without relinquishing Islamic law. Differences in status were first established between the native population and the French in Algeria and reintroduced into most of Africa through the *Code de l'Indigénat*. This means that French policymakers had not yet decided whether their new French African subjects could become French citizens.[173]

In 1887, the code was adopted in French colonies in West Africa. The same law was applied in Algeria, but only to foreigners residing there. In 1897, the law was extended to colonies other than Martinique, Reunion Island and Guadeloupe. Then in 1901, it came into force in the areas of the forthcoming FEA.[174] Administrators could summarily punish Africans for their failure to pay taxes or show respect to officials. Abuses multiplied, although at different intensities depending on the colony. In FWA, more often in Senegal, and to some extent in Sudan as well, local officials repeatedly condemned abuses. They did not limit their intervention to official statements, but actually took part in the repression directed against colonial companies and their subordinates. Of course their approach did not put an end to the abuses, partly because the colonial administration lacked resources and was poorly organized and partly because not all colonial officers shared the views of their superiors.[175] French colonial official elites debated these questions, particularly after the Ministry of the Colonies and the Ministry of Justice encouraged the governors to set up a commission in 1902. The major points under discussion were related to criminal justice and whether or not it should be reserved for French courts.

Those who, like Martial Henri Merlin, opposed assimilation, were also in favor of customary laws, arguing that Africans did not understand French justice. Others replied that local native courts were barbaric.[176] The former finally accepted the application of French law in the cities but refused it in the countryside. Taking a somewhat different path, in 1903, Ernest Roume, the governor-general of FWA, drafted a decree permitting the assimilation of native elites who could demonstrate they had acquired French values. This meant that the passage from subject to citizen could be achieved not by the automatic application of universal rules but only through individual trajectories and their assessment by French officials.[177] Thus, the decision about which institutional framework to adopt for colonial labor arose in the context of tense relations between France and its colonies. Which law and which rights were to apply to natives?

In FWA, the previous approach to the dual law as developed in Algeria was adopted. As we have seen, it had been introduced in Senegal by Faidherbe in the 1870s. A code of Muslim law was produced in 1854, then again in 1878. It sought to translate Muslim decisions and principles into an organized code with jurisprudential commentaries in the French legal tradition. Presumed family, property and inheritance rules and bodies of law were identified. French legal Orientalism in Africa also believed that *Islam noir* (Black Islam) had certain specificities when compared to Islam in Algeria and in the Near East. According to the French interpreters of the time, *Islam noir* was under the influence of the local population and culture. Thus, the task of the colonial authorities was to identify these specific features and incorporate them into their civilizationist principles.[178]

These orientations informed the judicial reform of 1903. In principle, three court levels were established: the village, the province and the district. Village courts came under the authority of the tribal chief, while African judges managed the provincial court and French judges the district court. Debates over colonial justice have usually focused on how the law was enforced and rights were distributed between indigenous and French actors[179]; native and lower level courts essentially regulated conflicts between Africans. Conventional historiography stressed the injustice and inequalities in the colonial justice system and the lack of interest on the part of the local population. Recent research has reversed this analysis and shown that the local population actually took great interest in justice.[180] This does not mean that justice was fair, particularly in litigations between "indigenous" and colonial actors.[181] The French

undoubtedly misunderstood many Muslim (and non-Muslim) attitudes in the region; they also attached too much importance to Muslim law, which was more developed in FWA than in FEA.[182] Detailed analyses of the use of law in FWA show the abuses in the name of the law as well as the efforts of former masters to increase the dependence and bondage of their former slaves and concubines through the French-Muslim rules on credit, marriage and inheritance.[183] Yet, at the same time, former slaves and women also made use of these rules and in many instances won the possibility of emancipation from their masters.[184]

There was no one single, straightforward relationship between law and colonialism in Africa: Differences were important not only between empires, but also within each empire. As in the British Empire, there were enormous differences between the regions that made up the French empire as well. However limited, the efforts to reduce abuses and establish "real French law" in FWA were incomparably greater than those in FEA, where military order, abuses and lawlessness were extreme. The African population in French Equatorial Africa (FEA) was placed under the yoke of administrative or even military rules and hence their labor activity was subject to criminal penalties.[185] A new decree in 1903 supplemented these rules but, unlike the FWA, the FEA legal system had few resources and personnel before 1910.[186] Unlike the local courts in FWA, those in FEA were not really developed until after World War I.[187] This means that, until that time, FEA was totally irrelevant to any discussion about whether local populations made use of the law and the French judicial system.[188] Whereas in other places we have studied, especially the Mascarenes, and in FWA as well, laboring people could make use of the (unequal law), this was not the case in FEA.[189] The lack of courts and magistrates had two major consequences: on the one hand, it almost erased voice for laboring people, and left them no other choice but exit; on the other hand, it left the way open to abuse and violence.[190] In particular, litigation with colonial officials took place in the highest court under the authority of French judges and rules. Starting in 1901–1902, some trials were held regarding cases of extreme abuse and violence against the local population. They were exceptional, however, and the sentences were mild: even in the case of murder, French defendants were sentenced to four years in prison, but they were exempted owing to a special rule under the Béranger law, which excluded criminal sentences for Europeans.[191] In 1905, Gilbert Desvallon, Vice-President of the FWA Court of Appeals, noted in a memorandum that what would certainly be penalized in Europe went unpunished in

Africa, where murdering indigenous people was described as "vivacity." He complained about the lack of justice in the Congo.[192] All the above-mentioned cases were discussed in courts and all of them ended in dismissal or with prison sentences for African middlemen and low-level employees. Despite inspection missions and some parliamentary discussions, abuses and violence continued up through World War I and beyond.[193] Women were raped and shackled, men beaten and often murdered.[194] This lawless situation and the persistence of abuse went hand in hand with that of forced labor and the disguised forms of slavery practiced by local actors as well as by concession companies and the colonial state itself.

Labor and the Rule of Law

In 1901, the Minister of the Colonies sent a questionnaire on labor relationships and contracts to the governors, who were instructed to pass it on to their deputies and through them to all managers and French companies. The replies were detailed, specifying the type of labor relationship existing in the companies, concessions and plantations. We have examined the ones in FEA closely. The context was unusual: The state had granted concessions but the profits they yielded were low. The concession operators invested little capital and instead engaged in fierce competition. Their aim was precisely to establish large-scale, highly profitable monopolies in spite of their small initial investment. The economy of plunder was linked to monopoly economics. This dynamic explains the variations in the replies from the administrative elites and economic actors, according to the region, the product and, of course, their relative power. Their answers diverged noticeably with regard to coercion (necessary or only temporary), tolerance towards local chiefs (indispensable or to be avoided), and the attitude of the colonial administration (some thought labor should be encouraged, others thought it should be compulsory). These differing views were no doubt influenced by a number of factors such as the origin and social position of each interviewee, his job (colonial administration or private sector) and rank, field of expertise and the geographical region, as well as the career paths and personal experiences of colonial administrators and private company employers. Road construction, the cultivation of millet or indigo, and the production of cacao or rubber did not require the same workforce size and continuity; hence the replies to the questionnaire varied depending on whether the administrator or concession company

was involved with one or another of these crops or activities.[195] For example, sufficient manpower was indispensable at certain times for millet and cacao cultivation, but less important for rubber production, and still less for road construction.

From these elements, we can clarify the different attitudes of the colonizers. Several of them justified the use of coercion and criticized the "modern trends" fashionable in Paris at the time and supported by certain "sociologists" in favor of giving workers too much protection. In the opinion of these concession companies and administrators, such policies could not be implemented in Africa for two main reasons. First, "planters and employers already had only limited power in relation to the indigenous population and it would be absurd to give the latter more." Second, French entrepreneurs faced considerable risks from an economic and climatic standpoint and had to cope with the indolence of the Africans. In fact, more constraints were needed to teach them to work.[196] Among the leading advocates of this position, Mr. Aubert, the commander in Ogooué, thought it was important to observe local customs, especially as the demands made on servants were less rigorous in Africa than in Europe. He therefore wanted to see the right amount of coercion applied to help Africans abandon their lazy habits. He suggested the compulsory labor system adopted in the Belgian Congo and Dutch Malaysia[197]; that is, one of the most brutal forms of colonial labor, as good examples to follow.

Although this attitude was widespread, it was not universal. Some colonial officers and employers thought the transition to free labor and real contracts would motivate the Africans to work and thereby help to expand the French empire. The problem lay in the fact that not everyone who advocated this position defined "free labor" and "labor contract" the same way. In the documents, we found three different interpretations of these notions: Some referred to *engagisme* as an example of "free" labor, others thought "free labor" meant hiring for services, and still others defined it as the new labor contract. Most of the actors equated free labor with *engagisme*, especially in relationships between Africans and colonizers. This view can be partly explained by the fact that most contract laborers were immigrants. Faced with the local chiefs' reluctance to supply enough manpower for a sufficient amount of time, colonial officers and companies encouraged the immigration of people from other regions of FEA and FWA, who were reputed to be more "docile" and "inclined to work."[198] Recruitment was sometimes carried out by the employers themselves, with or without the help of middlemen, and sometimes by the colonial

authorities, who then divided up the workforce between public and private companies. In practice, the contracts provided for advances on wages (to increase workers' debts to their employers), food and housing. Laborers' rights were severely restricted, insubordination was a punishable offense, and laborers were subject to criminal prosecution. Half or sometimes even two-thirds of the laborer's wages were "kept" by employers to be paid (at least in theory) at the end of the contract, after all his expenses and debts had been deducted.[199] The most common contractual disputes brought before the French courts concerned insubordination or failure to perform assigned tasks.[200] Charges could also be brought against workers for laziness, illness or breach of contract.[201] Absenteeism and desertion were severely punished. On the other hand, unlike their counterparts in Mauritius or Reunion Island, for example, laborers in FEA seldom claimed withheld wages.

Other documents used different expressions. For example, one planter called his laborers "farmers" because, as he explained, "I work, too" and it would be unfair to think the Africans were the only ones who did. Several others (e.g. the commander of the Libreville region) preferred the old notion of "hiring for services." This meant the worker was entitled to housing, food and wages, and in exchange, he was required to give all his service time to his employer. Unlike the proponents of *engagisme*, who emphasized the threat of criminal prosecution, those in favor of "hiring for services" considered total available work time the most important aspect of the labor relationship.

Finally, a third group of documents and actors opted for the latest terminology used in France, and therefore spoke of "labor contracts". In reality, the use of this vocabulary was not intended to make the new forms of labor protection adopted in France applicable in Africa, but rather to transform its meaning while simultaneously keeping certain political and administrative elites happy. The differences were nevertheless striking. For example, the new contract in France aimed to reduce the legal and economic inequalities between employer and wage earner, whereas in FEA, we found significant inequalities between employers and laborers in every contract model we were able to examine. To be sure, labor contracts in both France and FEA allowed workers to sue their employers. In Africa, however, unlike France, if the laborer failed to prove his complaint was valid, his employer could deduct what he considered an appropriate amount of wages as damages. Similarly, in the area of occupational accidents, contrary to the French Law of 1898, employers and colonial

authorities in FEA could dismiss a laborer without severance pay or wages in the case of absence or inability to perform his tasks due to illness or accident.[202] Moreover, many contracts stipulated that a laborer could seek damages for a work-related accident only if he could prove he had followed the planter's instructions properly. In other words, contrary to the new legislation in force in France, in FEA, a fault by the employer, which the laborer had to demonstrate, remained the key component in occupational accident provisions, whereas there was no mention of the employer's objective liability. In view of all these contractual conditions, the African laborer's chances of winning a case against his French employer were very slight.

The difference between the labor rules in France and those in Africa was confirmed by the use of workers' booklets in the colonies, even though the practice had been definitively abolished in France in the early 1890s. This exception was justified by a combination of private interests and public order. The booklet was supposed to guarantee contract compliance and serve as a record of the laborer's movements, debt repayment and any failure to perform his tasks. Similar reasons had been invoked to justify the introduction of the worker's booklet in France and in Reunion Island in the nineteenth century. In FEA, a new item was added: income tax. The payment of income tax was mentioned in the booklet along with other debts the laborer was said to owe to his master. In the booklet, the private order overlapped with the public order as well as the broader legal order. From this point of view, income tax became a new instrument to obtain labor.[203] The Africans could decide either to pay the tax (usually in kind) or compensate for their failure to pay through labor. To make sure the system worked satisfactorily, some employers and officers suggested that village chiefs be put in charge of collecting income tax: If it was paid properly, the chief would receive a bonus; if not, sanctions would be applied to the chief and the whole village.[204] Although not officially legalized until 1912, labor services (*corvées*) were already widely imposed starting in the last decades of the nineteenth century. Inhabitants were supposed to provide labor services on public works projects if they failed to pay their income tax or as an alternative to military service. This led some lieutenant governors to view the production of mandatory crops as a way of paying the tax or compensating for other obligations. The concession companies divided up the labor services among themselves. Sometimes the opposite approach was adopted: the amount of labor service was determined by the labor requirements of the companies and the colonial state.

We should bear in mind that the system of labor service was severely criticized by several colonial officers and a portion of public opinion in France. In the early twentieth century, the practice was abolished in Madagascar and considerably limited in FWA,[205] whereas it continued in FEA. In this region, particularly in the Congo, the concession companies claimed to share the public's aversion to the idea of *la corvée*. In their view, however, labor service could not be assimilated to *la corvée* under the *ancient régime* and a fortiori to slavery, because it was merely a form of income tax payment for people who had little monetary income but received generous aid from France. "This excessive sentimentalism has to be stopped," concluded a report by the Union of Congo Concession Companies.[206]

Labor relationships and laborers' rights slowly evolved over time. A movement to expand the rights of indigenous laborers spread in FEA between 1903 and 1909. The trend was partly due to pressure from Britain and the anti-colonial movement in France and partly the result of actions taken by the new governor of FEA, Émile Gentile. In the context of the scandals mentioned above, under strong pressure from Great Britain and French public opinion, the Minister of the Colonies signed the Decree of May 28, 1907. The document stipulated that written contracts be drawn up for all commitments for more than one month and prohibited labor contracts for periods exceeding two years. Recruitment was handled exclusively by colonial government agencies, which were to set aside a portion of wages for a fund to pay immigrants' travel expenses when they returned home. The colonial authorities expected these measures to reduce abuses and foster recruitment. Of course the *engagé* (the word was still used!) could always be forced to sign a contract, but even in such a case and even if the abuse went undiscovered, the new provisions were at least supposed to preserve wages and above all pay for any treatment required in the event of an accident and/or illness. A compensation fund financed by the laborers and their employers was intended to cover such expenses.

In the decree, however, the provisions borrowed from new French legislation were already attenuated by the presence of old labor rules. Any absence of up to 15 days was punishable by a fine, whereas "desertion" (an absence of more than 15 days) meant the loss of the right to repatriation. The decree also distinguished permanent laborers from journeymen. The former benefited from the aforementioned social protections, but in exchange owed all their "service" time to their employer; the latter enjoyed

no legal or social protection whatsoever. Given these limits and contradictions, it is not hard to guess the methods and rate of implementation of the 1907 decree. According to a number of reports, the decree had practically no effect, first because most laborers were designated as "journeymen" and were therefore deprived of any social protection,[207] and second, because no fund was set up to cover wages, repatriation or accidents, even for the minority with regular contracts. As a result, the abuses continued to multiply and laborers had no protection in the (frequent) event of a work-related accident.[208] As in the past, few of them dared to denounce abuses to the justice of the peace and, among those who did, even fewer succeeded in winning their suits. Employers, on the other hand, increased their legal proceedings against laborers; they often won their cases and were thus allowed to withhold wages, obtain contract extensions without wages, and so forth.[209]

Despite these obvious inequalities, numerous planters and companies continued to complain about the high number of "fugitives" and "deserters" who were unjustifiably protected under the 1907 decree.[210] Here a distinction should be made. The small planters in the Congo and Gabon, who were the most hostile to an open labor market, accused indigenous laborers of being difficult to control and supervise. They agreed that immigrant laborers from other regions of Africa might perform better, but in that case, they were immediately monopolized by the large companies, with the help of the colonial state. Backed by the Ministry of Agriculture, the small planters therefore demanded serious measures in the area of recruitment. Like their counterparts in Reunion Island and Mauritius, these planters stressed the need to be assured that the contracts of *engagés* would be renewed. Otherwise, the cost of "teaching" them and enhancing their value would be prohibitive and the planters' profits too low. They sent a proposal to the governor of FEA and the Minister of the Colonies to set up government-run recruitment agencies financed by the benefiting companies according to their size and the number of immigrants they received. The planters would agree to pay the immigrants their full wages and allow them to renew their contracts or return home. The authors of this project stated they were sure the top-performing immigrants would choose the first option because "the best workers receive the highest wages."[211]

This suggestion was opposed by the large concession companies and some colonial authorities that insisted on the importance of a "free labor market" and the high cost of state agencies that would be borne by the

whole colony. The Minister of the Colonies sought a compromise solution: the idea of state recruitment agencies was abandoned, but support measures were implemented in favor of small planters. In 1909, the governor of FEA adopted a stricter attitude towards the local chiefs regarding slavery in order to obtain more "free" laborers for colonial enterprises. This approach was supported by rules designed to facilitate the resolution of immigrant wage and contract disputes in favor of employers. A decree dated December 29, 1909 transferred jurisdiction in these matters from the place where the contract was signed (usually the immigrant's place of origin) to the justice of the peace in the place where the dispute arose. This decision merely served to heighten rather than reduce the tensions between private concession companies and colonial authorities, on the one hand, and between small and large companies on the other. The tensions stemmed from a significant rise in labor mobility in 1908–1909 in response to repeated droughts and increased workforce demands on the part of both concession companies and colonial authorities. The strained situation in the labor market swept away the feeble improvements in the rights and working conditions of African laborers achieved during the previous years. In October 1910, the governor of FEA suggested that the difference in status between journeymen and permanent laborers be maintained to further reduce welfare costs. In his proposal, only permanent laborers would henceforth enjoy (theoretical) rights to repatriation, healthcare in case of illness and social assistance in the event of an accident, whereas journeymen would be subject to customary law; in other words, they would not be entitled to any of those protections. Permanent laborers would be at the full-time service of their employers, according to the hiring for service contract. Pension and accident coverage funds were to be eliminated because, as the colonial governor explained, several employers had failed to set them up and furthermore the workers themselves opposed them. In the event of a work-related accident, the laborer would lose the right to even a third of his monthly wages and receive only medical care; on the other hand, the employer acquired the right to deduct wages for every day of absence in cases of illness or accident. Absenteeism (up to 15 days) and delays would be punished by retaining twice the amount of wages corresponding to the period of absence, whereas desertion meant the loss of all wages and of the right to repatriation.[212]

The governor general's proposal drew varied reactions from his deputies. The lieutenant governor of Gabon agreed wholeheartedly with the governor-general, whereas the lieutenant governor of Ubangi-Shari-Chad

considered him too indulgent and suggested laborers be charged for their medical care. The lieutenant-governor of the Middle-Congo thought such provisions would cause further absenteeism and end up increasing the total cost of the colonial operation. The lieutenant-governor of Gabon then admitted that he too feared the governor-general's proposal might lead to more abuses on the part of employers: It would be entirely in their interest to dismiss laborers just before the term of their contracts and then call them deserters in order to keep all their wages. He concluded that to maintain order, the colonial government would be forced to repatriate the laborers at its own expense. Instead of resorting to penalties and withholding wages, he suggested that labor contract violations be punished by extending the period of labor owed to the employer.[213]

Divergences also appeared within the colonial government regarding other aspects of the project, starting with the length of the contract enabling an *engagé* to qualify as a "permanent laborer": The governor-general proposed three months, the majority of his government favored six months and the lieutenant-governors advocated one year. The latter initially sided with the governor-general, but in the weeks that followed, they succeeded in reversing the situation to their advantage when they noted that reducing the length of permanent contracts to a few weeks would make them indistinguishable from journeyman contracts. They then suggested that any difference between the two be eliminated altogether—which is exactly what happened.

Opinions were also divided on the subject of the worker's booklet. The representatives of the governing council suggested that the laborers keep their booklets to avoid abuse by their employers. They added that the booklet should indicate contract length, wages, advances, assigned tasks and place of work. From their perspective, the booklet was above all an instrument of supervision. The three lieutenant-governors, on the other hand, saw the booklet as a means of monitoring laborers and therefore thought it should be limited to indicating their assigned tasks and when they were completed. As one of the lieutenant-governors explained, work time could not be regulated in Africa the way it was in France, due to the climate as well as the labor itself. The length of the workday varied with the seasons as well as local social and "cultural" conditions. In his view, work time regulation was possible only in the special case in which the laborer agreed to give all his time to his employer.[214]

No single point of view prevailed and the negotiations continued throughout the year 1911. As time went by, however, the balance began

to shift away from the companies and officers who been advocating extremely unequal rights and a harsh attitude towards African laborers since 1909. In February 1911, due to the change of government in France and the rise of the anti-slavery movement, the colonial government succeeded in passing a measure reducing the penalties in cases of desertion and absenteeism from twice to half the amount of wages for the period concerned.[215] Then a presidential decree issued on April 7, 1911 reinstated a 1908 rule prohibiting employers from withholding a portion of laborers' wages until their departure. The new decree added that any wages or fraction of wages that was not immediately given to the laborer must be put into a special fund managed by the public administration, which was supposed to operate like a contingency fund. Finally, a circular dated June 1911 supplemented these provisions by specifying that the workers' booklets were to be kept by the laborers and were intended to protect them against employer abuses.

This radical shift on the part of the administrative elites promptly drew a hostile reaction from the colonial companies. The governor-general of FEA and the Ministry of the Colonies were flooded with letters of protest. For the most part, the letters criticized the administration for interfering in relationships between individuals—employers and local laborers—and for its inability to understand the specificity of local conditions. Some went so far as to assert the colonial administration was now working under the influence of the socialists. One of these days, noted a concession company head, we are going to be faced with the dire consequences of such views and see the 1898 French law on occupational accidents and all the subsequent labor legislation adopted in FEA. And that, the author concluded, will be the end of the French empire and of all the efforts and sacrifices made by French workers at their own risk in those "uncivilized countries."[216]

The entrepreneurs and concession companies were not alone in attacking the colonial government. The justice of the peace of Libreville also wrote to the governor of FEA stating that under the new rules it was becoming increasingly difficult for the courts to protect the legitimate interests of the settlers and planters, particularly due to the desertions and absences of *engagés* and the unscrupulous attitudes of other employers.[217] A host of letters adopted a similar tone to address the lieutenant-governors and the Minister of the Colonies. The concession companies complained that the *engagés* (indentured immigrants) had meager wages or savings, and as employers had no way of defending themselves against their actions,

they would ultimately be unable to honor their contracts. If the law ruled out even the possibility of withholding wages until the end of the contract, some of the letters concluded, then no guarantees were possible.[218]

Faced with such vigorous resistance, the timid efforts of the colonial administration to alleviate the harsh conditions of African workers came to a halt. A new decree voided the improvements introduced by the previous measures and the labor rules preserved the obvious inequality between the rights of employers and those of laborers; for example by limiting any form of social protection in the event of illness or workplace accidents.

Conclusion: The Social State and the Heart of Darkness

At the turn of the nineteenth century, a new wave of policies in Europe and the United States granted better working conditions to many wage earners, notably workers employed in the most heavily unionized branches of major industries. The gap grew wider between such wage earners and the employees of small companies, tradesmen and peasants. That gap became an abyss when compared with the working conditions in most colonies, especially in Africa. How can we explain such an outcome?

These dynamics grew out of a combination of interconnected phenomena: the rise of the social state and of state apparatus; the dissemination of political rights in Europe; the new colonial wave in Africa and the orientation of imperial policies; the economic situation (a long depression and the development of international ties); the technical innovations of the second industrial revolution; the new rules of the capitalist game, particularly the decline of contractual freedom. The social state was formed in reaction to the socialist trade union movement. It sought above all to defuse these tensions by granting greater social rights to certain groups of workers. In return, certain sectors in Europe (agriculture, small industry) and all colonies were to remain outside the process. For employers, this distinction was intended to compensate for the concessions made in Europe; for trade unions, it avoided mixing the proletarian "avant-garde" with peasants and *petit-bourgeois* tradesmen, or with Africans, who still needed to be civilized. Another factor contributing to this outcome was the evolution of competition in the West: free competition declined in the nineteenth century and ever-tighter restrictions were imposed on the competitive game. State and municipal control in Europe was to be offset by the freedom granted in the colonies. Finally, from a strictly financial

standpoint, the second industrial revolution brought with it more concentrated, capital-intensive production. Many small producers, forced out of the European market, went to seek their fortunes in Africa and the Indian Ocean. They were the "poor whites" that never quite adjusted to local conditions and ceaselessly cursed the colonial government and the "natives." Once in Africa, they found themselves competing with some of the large companies that had helped to drive them out of France, which were seeking to globalize their businesses. The colonial state, with its meager resources, was caught in a tug-of-war between these two groups, unable to present clear policy directions.

The outcomes of this process were at once institutional, economic and political. The rules and relationships governing labor in FEA evolved under the pressure of multiple influences, beginning with the struggle against African slavery and the power of the local chiefs. At the same time, these conflicts arose in response to France's "civilizing mission" and its economic interests. The settlers, the large and small companies and the colonial state fought over labor resources. The colonial authorities in the FEA and in Paris tried to establish rules for sharing the workforce, which consisted in attributing extremely limited rights to African laborers without descending into "feudalism" (in the French jargon of the time) or slavery (according to British rhetoric). From this perspective, the labor rules were a mishmash of coercion, old forms of hiring for services and domestic service, with a sprinkling of the welfare state (medical assistance, payment of low wages) that was often scoffed at in practice. The real conditions of African laborers varied of course, depending on the colony, the region and even the company. For example, in the late nineteenth century, the conditions of workers were much worse in FEA than in Reunion Island, and to some extent, than those in FWA. In FEA, French colonialism showed its worst features, combining weak government with technical and logistical difficulties and violence perpetrated by companies. If the worst excesses and crimes were avoided, it was only because the colonial authorities were inconsistent and often in conflict with each other. Forms of labor inspection were not introduced in the colonies until 1932 and especially 1936, but it took another 20 years before a colonial labor code was adopted in 1952, when the empire was in the midst of being dismantled.

The French experience in FEA in relation to the emergence of the welfare state completes our discussion on the forms of abolitionism and how they were related to rights and economic and social conditions in several

areas such as the Indian Ocean and Africa. We have identified the connections between the evolution of labor institutions and practices in Europe, on the one hand, and in India, the Indian Ocean and Africa on the other, starting with the Masters and Servants Acts, hiring for service and ending with the new labor contract. French reformers in Africa sought to protect local populations from abuses by resorting to natural rights and to the French approach consisting in codifying customs.[219] It did not work, not only because military elites still played an important role and the administration remained weak, but also because the notion of natural rights in the field of labor was difficult to implement in France itself before, during and after the Revolution of 1789. It did not prevent the persistence of slavery in the colonies or unequal statutory rights in France (between genders, masters and servants, traders and other businessmen, etc.); it did not avert abuses in the colonies. Most interestingly, in French Africa, natural rights were invoked at the very moment they were being dismissed in France as a tool to protect labor and the poor, which moved, precisely in this period, away from charity to the welfare state.

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CHAPTER 7

Conclusion: Voice, Exit and the Law in Historical Perspective

The aim of history is not to judge, and still less to call attention to the fact that a given phenomenon "already existed in the past" (the usual refrain of historians who limit themselves to describing a scenario rather than trying to explain it). The aim of history, of *our* history, is to decompartmentalize the world and reveal the opportunities it offers us to reshape labor relationships; as this book has shown, much violence and human bondage was perpetrated precisely in the name of progress. Yet to forget the past is even worse than to paint a false picture of it. The proponents of ultra-liberalism today systematically forget that wild capitalism has never been a source of growth and well being. This has been confirmed not only by the recent economic crisis, the fruit of 30 years of deregulation and speculation, but also by capitalist dynamics in the past. The social feats of the nineteenth century we have studied here would not have been possible without major legal, political and economic inequalities.

All the same, the socialists and leftists who now oppose immigration and welfare protection also suffer from historical amnesia. Their views are the result of long-forgotten historical choices and dynamics, particularly in the late nineteenth and early twentieth centuries, and later on during the decolonization period when national welfare was opposed to global welfare extended to immigrants, colonies, and then, former colonies. This opposition was a historical outcome, not a necessity.

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Palgrave Series in Indian Ocean World Studies,
https://doi.org/10.1007/978-3-319-70392-3_7

The historiographical debate regarding abolition, and by extension the tension between freedom and coercion, misses this point insofar as it focuses on one main question: Was the abolition of slavery a real factor of change or merely a formal component?

When framed in these terms, the question is skewed because it opposes an abstract definition of freedom to an equally abstract definition of coercion. This opposition obscures what is essential, namely that in historical reality the notions and practices of freedom and coercion were constantly changing and interacting. They were far from universal, and in fact interrelated.

Our approach, on the other hand, starts from the shifting, historically situated boundaries between freedom and coercion. Contrary to Weberian, Marxist and liberal approaches to labor history, we have shown that coerced labor was by no means incompatible with capitalism; this was true in Europe, where forms of legal coercion were kept alive during the long nineteenth century and even more in its colonies. These dynamics were intertwined; labor relationships in the areas studied here entered into the global evolution of labor. Not only were the definition and practice of bonded labor in the colonies linked to the definition and practice of wage labor in Europe, but also the development of labor in the two realms was interconnected.

The blurred boundaries between freedom and unfreedom, ownership of persons and/or their labor were actually redefined and came more closely in line with our contemporary views through reciprocal influences between France, Britain, the Indian Ocean World, India and Africa. This leads us to the problematic connection between Empire and Western political philosophies and policies. When the main Western policies of emancipation were concretely implemented, the limits of the political and philosophical vision underlying these attitudes were reflected in the trade-off between rights and labor in the mainland and its colonies.

Thus, the French Enlightenment attacked many old regime privileges (not all!), yet adopted ambiguous attitudes towards slavery and coercion at least until the 1780s. Then, after 1789, the universality of human rights was initially limited to white people in France, while political rights and social rights were reserved to a small minority. In the following years, the revolutionary state was forced to take into account the rights of slaves only when confronted by the Spanish and British offensive, after which Napoleon quickly moved back to slavery. The nation and citizenship have formed the bedrock upon which French allocation of rights has been

conceived and practiced ever since. Following the abolition of slavery in 1848, real rights were not awarded to former slaves or new indentured immigrants. In the imperial colonial context, the civilizing mission appended to these principles persistently strove to limit the feedback from the colonial worlds as regards French values. As a result, when labor won rights in France, it was primarily a nationalistic and protectionist achievement. The gradual extension of legal, political, and then social rights to the population of France took time (women won political rights only after World War II), while the colonies were systematically excluded from this process. In modern France, the main options were voice for the French but only exit for the colonies. Given the distance separating French citizens and immigrants today in terms of rights and opportunities, this problem is still unresolved.

British utilitarianism did not fare any better. In India, the well-known debate over universal versus multiple values (Orientalism and its opponents) intersected with ongoing quarrel concerning the form of colonial rule (direct or indirect). Tensions between the EIC and the British government mirrored the arguments both bodies had with the various policies of the Indian subcontinent. Forms of inequality and labor relationships developed within these multiple dimensions of the colonial rule. Neither so-called native courts nor British courts offered laborers real possibilities to defend themselves; legal pluralism in the colonial context was first and foremost a way of negotiating and eventually reaching an agreement between colonial and local elites. Local and colonial forms of bondage influenced each other and the multiple legal systems established by the British significantly contributed to this mutual influence. As a result, laboring people seldom used the law; exit was not always accessible inasmuch as many bonded people had no alternatives, and the law was enforced precisely with a view to regulating and limiting mobility. In this context, migration could hardly be called a "choice" in that it was not only driven by local conditions of deprivation, but achieved through incomprehensible contracts. Absconding was one of the few options laboring people had at their disposal.

Utilitarianism in India supported a political, legal and economic system in which depriving laboring people of rights was justified by the overall utilitarian balance: Britain took advantage of Indian laborers, while the Indian population was saved from starvation and local forms of slavery. Nevertheless, wide-scale mobility from one region to another, which was a problem for the British mainly before the official abolition of slavery,

should dispel any idyllic illusion about local forms of slavery as an employment method offering protection against poverty and food shortages—an image often evoked by the British themselves to justify such forms of slavery.

In turn, contractualism, a specific variant of utilitarianism and liberalism that took hold in the nineteenth century, also failed to provide equal rights and voice. After the abolition of slavery, immigration to Mauritius and Reunion Island responded at first to the lack of manpower needed to continue sugar production. The authorities chose to develop labor relationships that were officially free but revealed strong continuities with the policies of the previous period. The colonial extensions of the Masters and Servants Acts in Mauritius, and the lease of labor as service in Reunion Island furnished the legal umbrella for this pursuit. Thus, the transition to free labor took place in a framework that ruled out virtually any real rights or possibility of "voice" for former slaves and new immigrants[1]: trade unions were prohibited and the law was unequal and difficult to use. Desertion was practically the only alternative, as the large numbers of runaways show. However, the voice of laborers improved during the second half of the century, concomitantly with two distinct phenomena: first, the application of standards ensuring greater protection of laborers, under pressure from the British abolitionist movement in particular; second, the crisis of small sugar plantations and the concentration of properties that accompanied the purchase of certain estates by Indian merchants. In short, competition between colonial powers enhanced laborers' voice and rights. In this configuration, multiple exits were available to immigrants, not only to abscond, but also to make a real choice between plantations and jobs. But this process should not be idealized either: the legal protections granted to laborers quickly faded after two decades, and the new Indian landowners were not necessarily more indulgent than their French predecessors. The only difference was that laborers' protests virtually vanished from the world of the courts; subsequently, indentured immigration itself came to an end. The change stemmed in part from the increasing strength of Indian nationalism and in part from the transformation of sugar production techniques.

This means that nineteenth century liberal societies had no trouble coexisting perfectly well with slavery in India and the conditions of servitude of indentured immigrants. Therein lies the ambiguity of the contractarian approach, which hopes to solve the problems of justice by safeguarding contractual choices. Historically, such attitudes did not

reduce violence, coercion or inequalities; on the contrary, they exacerbated them. The labor market did not operate like an auction and labor was systematically accompanied by brutality and coercion. Despite formal rights, laboring people had an extremely limited voice and therefore continued to resort widely to exit and desertion. More generally, and contrary to the rational choice approach, our history shows that the individual need not be rational to have a right to effective legal and social protection. The fact that such protection is associated with rational behavior encouraged bondage in the past and serves to justify the dismantling of welfare today. In the late nineteenth and early twentieth centuries, the same position was used to support the arguments of all those—colonial elites, liberals and the socialist movement—who thought indigenous peoples did not have the proper attitude towards work, and therefore to make them more productive, resources should therefore not be allocated to them. The main problem with utilitarianism and contractualism was that they expressed no clear link between the exercise of rights and economic inequalities. Rights were attributed in the beginning but later supplanted by the equal right to contract. Under such conditions, no social or political corrective was possible.

Last but not least, the encounter with the colonial world was problematic for the welfare state and socialism, which developed significantly not under the first but the second industrial revolution. In the late nineteenth–early twentieth century period, demand for stable jobs, increasing wages and the initial forms of social security gradually spread through Western Europe, although there were major inequalities according to gender (women were excluded) and between unionized and "independent" workers, small family and large production units, and so forth. This shift occurred at the same time as the scramble for Africa. It also contributed to the global evolution of labor relationships: the British sought to export their Indian experience to Africa, and thus maintain the coexistence of the colonial Masters and Servants Acts and coercion under the indirect rule. As in India, legal pluralism was less a tool to reduce social and political inequalities than to reinforce them; indigenous courts were tolerated as long as they did not interfere with the relationships between "natives" and British actors. Even more radically, in French Equatorial Africa (FEA) there were almost no native courts and local populations enjoyed few rights. The violence of the planters and concession companies exploited this institutional architecture. It was no accident that exit played a crucial role in Africa: this did not happen solely because resources—mainly land—

were widely available, but also because the state, individual rights and forms of voice were either absent or weak before, during and after colonialization.[2] In the case of the FEA, another variable came into play: the local populations' absence of voice was compounded by the lack of public debate in France regarding the abuses of colonialism. This issue arose just as the welfare state was becoming established in France and Western Europe. On the face of it, welfare economics and fiscal redistribution were supposed to reduce inequalities. However, this was only partially true in France and Britain; as Thomas Piketty has shown, the *rentier* economy did not come to an end until after World War I, and social inequalities did not substantially diminish until after 1945. Even worse, the colonial worlds were totally excluded from the new system, for multiple reasons: colonial people were said not to be "ready" for it, or racially and culturally inferior. European workers were also supposed to suffer competition from cheaper, more motivated workers. Finally, the colonial world had to repay with compulsory labor the "progress"—infrastructure, civilization, culture—Europe brought to it. The dynamics of more welfare and voice (rights) in the mainland, and no welfare but violence and thus exit in the colonies were closely related.

At this point, some conclusions present themselves: the colonial world, and labor in particular, were swept along in the huge abolitionist tide as never before in history, sponsored mostly by the British and partially by the French powers. At the same time, the concrete meaning and practices of freedom in the colonial world differed profoundly from those in the mainland. The various versions of Enlightenment and liberalism produced unequal rights between masters and laboring people both in Europe and in its colonies. From this perspective, particularly in the aftermath of the abolition of slavery, the colonial world was an extension of labor institutions and rules in the mainland. The Masters and Servants Acts and the French labor contract were replicated in the colonies in harsh variations and more radically enforced than in the mainland, producing deeper and more lasting inequalities.

The welfare state brought with it a new trend: in labor relationships, the colonies were no longer an extreme variation of the mainland, but its negation. Whereas labor conquered increasing rights in Europe, it was purposely excluded from any improvements in the colonies. The "great divergence" in labor institutions between the mainland and the colonial world was a consequence of welfare far more than of liberalism. We are still paying the price for that choice today.

Notes

1. Martin Ruef, *Between Slavery and Capitalism: the Legacy of Emancipation in the American South* (Princeton: Princeton University Press, 2014).
2. Some references: Frederick Cooper, *Africa in the World* (Boston, MA: Harvard University Press, 2014); Martin Klein, ed., *Breaking the Chains. Slavery, Bondage and Emancipation in Modern Africa and Asia* (Madison, Wisconsin: University of Wisconsin Press, 1993).

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[1] Note: Page numbers followed by 'n' refer to notes.

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Palgrave Series in Indian Ocean World Studies,
https://doi.org/10.1007/978-3-319-70392-3