

## REVIEW ESSAY

# Slavery and Labour Contracts: Rethinking Their Nexus

ULBE BOSMA

*International Institute of Social History*  
*Cruquiusweg 31, 1019 AT Amsterdam, The Netherlands*

E-mail: ubo@iisg.nl

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Bonded, Labour. Global and Comparative Perspectives (18th–21st Century).  
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2016. 232 pp. Ill. Maps. € 29,99. (E-book: € 26,99).

STANZIANI, ALESSANDRO. Labor on the Fringes of Empire. Voice, Exit and the  
Law. [Palgrave Series in Indian Ocean World Studies.] Springer [etc.] New  
York [etc.] 2018. xiii, 334 pp. € 106,99. (E-book: € 83,29).

Work out of Place. Ed. by Mahua Sarkar. [Work in Global and Historical  
Perspective, Vol. 3.] De Gruyter, Berlin [etc.] 2018. viii, 254 pp. € 69,95;  
\$80,99; £57,99.

The slow death of slavery and the persistence of coerced labour in many forms and shades is a central, and presently perhaps even the most debated, topic within the field of global labour history. This, at least, is what we may conclude from three recently published books. First, Alessandro Stanziani's monograph *Labor on the Fringes of Empire: Voice, Exit and the Law*. This book critically engages with the diffusionist Anglocentric picture of a medieval Master and Servant Act that was disseminated throughout the British colonies, mostly in the form of indentured labour contracts for workers, who – if of Asian origin – were pejoratively referred to as “coolies”. By including France and its colonies in the conversation, Stanziani presents a far more balanced perspective than this diffusionism.<sup>1</sup>

1. For comparative work within the British Empire, see Douglas Hay and Paul Craven (eds), *Masters, Servants, and Magistrates in Britain & the Empire, 1562–1955* (Chapel Hill, NC, 2004).

In addition to his important monograph, two edited volumes have recently been published: *Bonded Labour: Global and Comparative Perspectives (18th–21st Century)* resulted from a double workshop in Cologne in 2014 and Havana in 2015, *Work Out of Place* from a Berlin workshop, also in 2015. Most contributors are familiar names in the field. The common denominator of these three books is that they interrogate the nexus between slavery and indentured labour, opening up new perspectives that encompass both the many problems that once surrounded the implementation of the abolition of the slave trade and the current glaring lack of protection for international migrant workers, which entails for millions a “new slavery”.<sup>2</sup>

Ever since Hugh Tinker, the tendency has been to perceive indentured labour as a form of labour coercion that both antedated and succeeded chattel slavery for plantations with essentially the same purpose – namely to solve labour shortages while limiting labour costs. The three books that deal predominantly, but not exclusively, with the nineteenth-century Global South invite us to rethink the nexus between the abolition of slavery and the introduction of the labour contract along three different lines. The first considers the introduction of indentured labour contracts in nineteenth-century plantation economies as an intervention by colonial civil servants to combat human trafficking at a time when rapidly growing urban markets for tropical commodities saw, in addition to a continuation in the New World, an unprecedented rise in enslavement in other parts of the world. The second gives historical context to this introduction of the indentured labour contract in colonial dependencies. Its introduction in nineteenth-century plantation economies happened at a time when the notion of personhood gave rise not only to slave emancipation and citizenship, but also to the notion of the free contract as being one between equal partners. This notion of personhood had already guided the elimination of the penal sanction in French labour contracts in 1793, and by the time the British Master and Servant Act was eventually abolished in 1875 it had become completely discredited as an instrument to oppress the labour class. However, the indentured labour contract was granted a new life in the colonial context, primarily to regulate often existing systems of debt bondage of migrant labourers. A third line of rethinking involves a reconstruction of how the notions of personhood and free contract that also gained ground in colonial dependencies still engendered forms of labour coercion that were hardly discernible from the conditions endured by slaves. The old

For a review of this book, see Ravi Ahuja, “Making the Empire a Thinkable Whole: Master and Servant Law in Transterritorial Perspective”, *International Review of Social History*, 52:2 (2007), pp. 287–294.

2. This term was introduced into the academic literature by Hugh Tinker. See his *A New System of Slavery: The Export of Indian Labour Overseas, 1830–1920* (London, 1974).

subordination that disappeared in industrial Europe through the notions of citizenship and equality under the law returned in the colonies, where citizenship did not exist except for the predominantly European upper crust. The existence of labour contracts between citizens and non-citizens continues until this very day in the extensive world of international labour migration, disempowering millions of workers.

#### AGAINST THE DIFFUSIONIST MODEL

The inhumanity and economic injudiciousness of the slave trade, of slavery, and of servitude, as well as the notion of personhood were all powerfully expressed during the Enlightenment. However, despite claims of universal validity, the philosophical and ontological underpinnings were part of particular historical currents. Dipesh Chakrabarty has already noted in his *Provincializing Europe* that universal European ideas originated in specific historical European contexts with all their idiosyncrasies.<sup>3</sup> Even within Europe, these contexts varied widely and changed over time, as we learn from Stanziani's book.

Stanziani's ambition to locate the historical twists and turns of the emergence of the wage labour contract resulted in a book full of original insights, which draws upon many years of research on slavery, servitude, and indentured labour throughout Eurasia and Africa. By comparing the French and British trajectories of abolition and their respective national trajectories towards the modern wage labour contract, Stanziani demonstrates that the notion of free labour was originally fairly limited both in colonial and metropolitan societies, but that in the course of the nineteenth century labour in metropolitan societies became emancipated, while in colonized societies the notion of free labour advanced at a snail's pace and usually remained rather hollow.

Stanziani grounds his argument on his research in the colonial archives of India, Mauritius, Réunion, and West Africa. His case studies, which cover the period from the early nineteenth to the early twentieth centuries, demonstrate how wage labour eventually became part of colonial legislation, but exclusively as a negative freedom, and how the few legal entitlements were offset by severe penal sanctions. Despite the universal claims of the French Lumières and British Utilitarians, labour legislation within their respective colonial empires began to exhibit sharp inequalities, usually along racial lines over the course of the nineteenth century. Although the results were fairly similar and to the long-term detriment of labour in the

3. Dipesh Chakrabarty, *Provincializing Europe: Postcolonial Thought and Historical Difference*, [original] 2000 edition, p. 12, and *ibid.*, *Provincializing Europe: Postcolonial Thought and Historical Difference* (Princeton, NJ, 2009), p. xiii.

Global South, the French and British philosophical underpinnings of abolitionism – as well as those of the Dutch for that matter – varied considerably. This pertained also to the role of criminal law in enforcing labour contracts.

British abolitionists were imbued with the feeling that slavery and economic monopolies were paired, and that free trade was also fair trade, in the sense that free labour was an essential part of it. It was a sentiment strongly expressed, for example, by the Quaker merchant and abolitionist James Cropper. This position allowed for inconsistencies such as cotton, and later sugar, to be grown by enslaved workers entering England's market after England had abolished slavery in its own colonies in 1834. This apparent inconsistency was defended by the claim that free trade would eventually erode slavery anyway.<sup>4</sup> When, in the 1860s, this turned out to be an illusion, it was John Elliot Cairnes who famously claimed that economies based on slavery could not be competitive in the longer run as this institution stifled innovation. This turned out to be equally wrong. Stanziani shows the very Britishness of this assumed relationship between free trade and slave emancipation, an empty notion of emancipation as it implied only the absence of ownership of persons. The French legal tradition – as well as the Dutch – was informed rather by the notion of labour as a constraint, the corollary of which is that the state has to play a role to protect people in constrained conditions. In their thinking about slave emancipation, for example, the question of the right of access to means of subsistence as well as the obligation to work plays a central role.

The wider ramification of this European diversity is that state power and cultural values are crucial in shaping coerced labour conditions, Stanziani argues. Hence, it is not a matter of extra-human necessity, but one that lies within the reach of human conscience. This is a familiar point for anyone who has read Steinfeld's observation that the disappearance of the penal sanction in the US in the early nineteenth century could not be explained by economic factors, as labour was still in short supply at that time.<sup>5</sup> Finding it similarly a-historical and one-dimensionally economic to explain slavery in terms of a shortage of labour at agricultural frontiers, Stanziani discards the Nieboer-Domar thesis and cites the example of Europe, where the scarcity of labour led to the end of servitude (Stanziani, p. 31). There are, of course, important historical examples of labour shortages that have engendered labour coercion. As Hay and Craven have demonstrated, the indentured labour contract in Britain was a response to serious labour shortages in the

4. See C. Duncan Rice, "‘Humanity Sold for Sugar!’ The British Abolitionist Response to Free Trade in Slave-Grown Sugar", *The Historical Journal*, 13:3 (1970), pp. 402–418.

5. Robert J. Steinfeld, *Coercion, Contract, and Free Labor in the Nineteenth Century* (Cambridge, 2001), p. 33.

wake of the Black Death epidemic.<sup>6</sup> Yet, I think the point must be made that labour shortages as such are never a sufficient condition for extra-economic labour coercion, which automatically leads us to other dimensions, including power and moral values and, in particular, the boundaries of class, ethnicity, or nationality to help explain workers' subordination. It is a perspective that rejects both diffusionism and economic determinism and foregrounds issues of personhood, citizenships, entitlements, and obligations.

#### THE LABOUR CONTRACT IN THE STRUGGLE AGAINST SLAVERY

The abolition of servitude and slavery threw up a whole new range of questions for the ruling elites. How was one to balance the need to control labour while respecting the personhood of the labourer? How was one to maintain the ban on human trafficking, but also prevent workers walking away with advances made to them by their employers who paid their fare? How could workers' conditions be improved without endangering the existing social order? These issues gathered pace once European nations started abolishing slavery as well as serfdom and, at the same time, saw their unruly urban proletarian populations growing rapidly. Finally, in these years the question of how to recruit sufficient labour for the rapidly expanding colonial plantation economies, and keep it there, became an increasingly pressing one.

In the early nineteenth century, Stanziani emphasizes, it was obvious even to the abolitionist Utilitarian philosopher Jeremy Bentham that the criminal law should be used to compel workers who had absconded from their employers to finish the work to which they had committed themselves. The rationale was that, as a rule, labour contracts were sealed by a pecuniary advance (a Queen's Penny), or could include a fare, for example for the journey across the Atlantic. For Bentham, the conceptual separation of slavery and a labour contract under penal law was straightforward, because in the latter case the legal property pertained to the labour and not the person selling it. But the historical reality was far more complicated, both for the obvious reason that physically the two are inseparable and the fact that labourers were socially subordinated to employers and, *inter alia*, denied the right of association. Moreover, while free and unfree labour can be defined and distinguished analytically, in practice emancipation from slavery purely as a negative freedom, without legal protection against abuse or the right of association or alternative means of subsistence, proved meaningless.

6. Hay and Craven, *Masters, Servants, and Magistrates*, p. 5.

In the essays contained in the edited volumes, as well as those in Stanziani's book, we can find pertinent examples of this. Up until the 1860s, there was virtually no protection of migrant plantation workers. In his contribution to *Bonded Labour*, Zeuske describes how, in the 1860s, Chinese coolies in Cuba were treated worse than beasts: their wounds were not cared for, on arrival they were sold like cattle to plantations, and their repatriation to China was not organized. He cites Clarence-Smith, who dismisses any doubt that the Chinese workers sent to Cuba were anything other than enslaved. Without contractual clauses regarding repatriation, they were stuck in Cuba and at the mercy of the planters (Zeuske in *Bonded Labour*, p. 49). Stanziani notes that until 1848, the year in which the French abolished slavery, the conditions of slaves and indentured labourers (the latter termed *engagés* in the French Empire) imported from India were difficult, if not impossible, to distinguish from each other.

However, some efforts were made to develop criteria for separating slavery from permissible coercion. In 1823, Governor Thomas Stamford Raffles of Singapore, for example, set a limit of two years on the repayment of the debts incurred by Chinese labour immigrants for their fares.<sup>7</sup> Without such a limit, he felt, these workers would simply be reduced to debt slaves. He was one of the first civil servants in a long line to learn that the fight against enslavement was a struggle against the many-headed Hydra. None other than John Russell, Secretary of State for the Colonies, dubbed indentured labour the new slavery in 1840 (Hahamovitch in *Work Out of Place*, p. 25). He was referring to the case of Mauritius, where appalled British civil servants had stopped the import of Indian workers the year before, but he also temporarily halted the shipment of indentured workers to the West Indies.<sup>8</sup>

Civil servants were less interested in the formal distinctions than in the practices. Hugh Tinker, who wrote the well-known book *A New System of Slavery* about the export of Indian labourers between 1830 and 1920, was one of these British civil servants. In that capacity he had witnessed the terrible "Long March" of 400,000 Indian labourers fleeing from the Japanese occupation of Burma in 1942, which left 70,000 dead along the route.<sup>9</sup> It was the actual abuses and calamities that opened eyes and over time produced a sharper definition of free labour and a broader understanding of slavery. In the end, the list of what constituted conditions amounting to slavery included deceitful recruitment practices, workers' confinement, absence of meaningful legal assistance, employers keeping their workers in debt, and curtailment of

7. Yen Ching-hwang, *A Social History of the Chinese in Singapore and Malaya, 1800–1911* (Singapore [etc.], 1986), p. 5.

8. Noël Deerr, *The History of Sugar*, 2 vols (London, 1949–1950), II, p. 264.

9. See Tinker, *A New System of Slavery*, and Hugh Tinker, "A Forgotten Long March: The Indian Exodus from Burma, 1942", *Journal of Southeast Asian Studies*, 6:1 (1975), pp. 1–15.

rights to collective action. The recognition of these conditions as impermissible labour coercion was a long process beginning in the early nineteenth century, in which the ILO Forced Labour Convention (no. 29) of 1930 and the Palermo Protocol of 2000 against human trafficking would become important milestones.

The introduction of indenture contracts in Asia was instigated not only by concerned British civil servants, but also by the Chinese imperial court, which, in 1868, gave up its indifference towards its emigrated subjects and insisted on their protection.<sup>10</sup> The challenge for the authorities was to impose a ban on human trafficking without impeding the smooth supplies of labour for plantations and mining. They were helped by the fact that, for much of the nineteenth century, labour was still extremely subordinated in Europe, too, according to twenty-first-century standards. Limiting workers' freedom was considered to be acceptable as long as they knew what they were signing up to and as long as it was for a limited duration. Over time, colonial authorities added refinements to these desiderata, including the obligation on the employer to pay for the return home of their workers, the banning of truck systems to protect workers against permanent indebtedness, and the introduction of banking facilities for remittances to smoothen the workers' reintegration into the society of origin.<sup>11</sup> The Indian government appointed officials, given the title of Protector, to monitor the labour conditions of British subjects overseas and in one case, in Singapore, those of Chinese workers. All these measures were taken to shore up the notion of temporality to disentangle nominal contract wage labour from slavery, and all these measures were limited in the sense that they understood free labour merely to mean not legally enslaved. It was only at the turn of the twentieth century that aspects such as food and medical care became part of the colonial concern for migrant workers.

It was not only that the indentured labour contracts did little to protect workers against abuse, they were also a rather marginal phenomenon in the world of labour migration. Contracts signed under the auspices of the colonial states probably made up barely ten per cent of total overseas labour migration in the Indian Ocean and Maritime Southeast Asia.<sup>12</sup> Moreover, they accomplished little in terms of severing the linkage between local

10. The first coolie ordonnance in the Dutch East Indies was, not coincidentally, issued in 1868 and was aimed at deceit and coercion during recruitment. See Ulbe Bosma, "Dutch Imperial Anxieties about Free Labour, Penal Sanctions and the Right to Strike", in Alessandro Stanziani (ed.), *Labour, Coercion, and Economic Growth in Eurasia, 17th–20th Centuries* (Leiden [etc.], 2013), pp. 63–86, 81.

11. See Ng Siew Yoong, "The Chinese Protectorate in Singapore, 1877–1900", *Journal of Southeast Asian History*, 2:1 (1961), pp. 76–99.

12. This figure is often cited for the Chinese overseas migrations. See, for example, Dirk Hoerder, *Cultures in Contact: World Migrations in the Second Millennium* (Durham, NC [etc.], 2002), p. 377.

enslavement and coerced labour for colonial production. By the mid-nineteenth century, many Chinese coolies were enslaved – in the sense of having become merchandise – in Southeast China under the appalling conditions of a civil war and piratical depredations. These enslaved people were carried across the oceans as indentured labourers. Although no longer slaves in terms of being a person's property, once in Cuba they were treated as slaves, as Zeuske describes. Coolies on plantations in Mascarenes were bought as slaves in Portuguese Africa, a practice heavily criticized by the British (Stanziani, p. 202). Another example pertained to African soldiers in the Dutch colonial army in the Dutch East Indies who were bought as slaves in Ghana, a practice also sharply censored by the British government.<sup>13</sup> In other words, local systems of slavery persisted and were tied to colonial post-slavery coercive labour systems. Precisely these linkages between coercive labour systems outside the purview of the colonial powers, on the one hand, and labour conditions within the domains of colonial mining and plantation economy, on the other, have been much overlooked.

The soaring demand for commodities by the industrializing world brought about the Second Slavery, not just in the southern states of the US, Brazil, Cuba, and Puerto Rico, but also in Africa and Asia.<sup>14</sup> A strong demand for commodities and shortages of labour engendered massive enslaving, as Gareth Austin and others have shown for West Africa and Warren and others for Southeast Asia.<sup>15</sup> It entailed a worldwide trafficking of human beings towards the commodity frontiers. The universality of this movement has only become fully apparent in recent decades, because the histories of slavery under European legislation and all the other systems of slavery were considered to be worlds apart. Actually, these worlds were deeply intertwined. This began in the seventeenth century, when Indian circuits of enslavement, both through debt – in which escape from famine

13. Memorandum from Britain's Ambassador to the Netherlands, National Archive, The Hague, Verbaal 1064, 12 March 1836, no. 14.

14. The Second Slavery concept was coined in 1988 by Dale Tomich to refer to the continuation of slavery after the mid-nineteenth century in Brazil, Cuba, Puerto Rico, and Louisiana after the system had been abolished in the British colonies. See Dale Tomich, "The 'Second Slavery': Bonded Labor and the Transformation of the Nineteenth-Century World Economy", in Francisco O. Ramirez (ed.), *Rethinking the Nineteenth Century: Contradictions and Movements* (Westport, CT, 1988), pp. 103–117. For Dale Tomich's article on this subject, see elsewhere in the present issue. See also, for example, Frederick Cooper, *Plantation Slavery on the East Coast of Africa* (New Haven, CT, 1977), pp. 43–45 in particular. See also Abdul Sheriff, *Slaves, Spices, & Ivory in Zanzibar: Integration of an East African Commercial Empire into the World Economy, 1770–1873* (Athens, OH, 1987); James Francis Warren, *The Sulu Zone 1768–1898: The Dynamics of External Trade, Slavery, and Ethnicity in the Transformation of a Southeast Asian Maritime State* (Singapore, 1981).

15. Gareth Austin, "Cash Crops and Freedom: Export Agriculture and the Decline of Slavery in Colonial West Africa", *International Review of Social History*, 54:1 (2009), pp. 1–37, 17; Warren, *The Sulu Zone*.

played a crucial role – and extensive raiding, were linked up to those of the European trading companies. The numbers of labourers involved soon numbered tens of thousands every year. This was actually a general feature of the Indian Ocean World. Stanziani mentions 2.5 million enslaved people transported across the Indian Ocean between 1400 and 1900, but we are only now beginning to obtain an insight into the numbers involved. Campbell, for example, suggests that the Indian Ocean maritime slave trade may even have surpassed that of the Atlantic slave trade in numbers.<sup>16</sup>

Against the backdrop of massive human trafficking in the nineteenth century, the attempts by colonial civil servants to regulate labour migrations through indentured labour contracts appear almost futile. It was a futility that could be masked only by turning a blind eye to the ubiquitous slavery beyond the economic and political reach of European colonial powers and hoping that slavery in the New World would falter under the healthy pressure of capitalism. In other words, the relationship between these slaveries and global capitalism has been systematically ignored. In this respect, *Bonded Labour* makes a valuable contribution to redressing this amnesia as five of the eight contributions (by Zeuske, van Rossum, Hutson, Tappe, and Damir-Geilsdorf) refer explicitly to the linkage between capitalism and slavery beyond the orbit of European colonial domination. Tappe points out, for example, that the extensive raids by the Siamese kingdom in the early nineteenth century were a response to burgeoning demand by China for forest products.<sup>17</sup> This is a valuable addition to the point already made by Warren for Maritime Southeast Asia in his seminal work on slave-raiding pirates operating from the Sulu archipelago just north of Borneo.<sup>18</sup>

Local modes of enslavement and sites for global production were linked by extensive circuits of human trafficking, and this pertains even to systems of debt slavery. While local laws on debt enslavement often contained a ban on selling outside the community, in practice enslaved people were widely sold and put to commercial use. Moreover, enslavement through debts was often not voluntary by the worker, but imposed upon by the state or the result of debt traps by gambling sessions and by spreading the consumption of opium. This was a widespread phenomenon in colonial Indonesia too.<sup>19</sup>

16. Gwyn Campbell, “Children and Forced Labour in the Indian Ocean World, circa 1750–1900”, in Stanziani, *Labour, Coercion, and Economic Growth in Eurasia*, pp. 87–112, 95.

17. He does this by citing Victor Lieberman, “A Zone of Refuge in Southeast Asia? Reconceptualizing Interior Spaces”, *Journal of Global History*, 5:2 (2010), pp. 333–346, 339.

18. Warren, *The Sulu Zone*.

19. See, for example, Terance William Bigalke, *Tana Toraja: A Social History of an Indonesian People* (Singapore, 2005). For contemporary sources see D.F. van Braam Morris, “Het Landschap Loehoe, Getrokken uit een Rapport van den Gouverneur van Celebes”, *Tijdschrift voor Indische Taal-, Land- en Volkenkunde*, 32:5 (1889), pp. 498–555, 514–516; [anon.], “De Lampongsche Distrikten op het eiland Sumatra”, *Tijdschrift voor Nederlandsch-Indië*, 14 (1852), pp. 245–275 and 309–333, 320.

Meanwhile, commercial agriculture (rice, pepper, or coconuts), or forest (rattan, birds' nests) and sea (sea slugs or pearls), were the best ways to make profitable high-risk and substantial investments in slaves rather than house slaves, whom only the wealthiest families could afford. That slavery outside territories under direct European rule was not benign and in many ways similar to the Atlantic slavery is also an argument made by Hutson in her contribution to *Bonded Labour*, which resonates the conclusions drawn by Hopper for the same Gulf area.<sup>20</sup> Slaves were put to productive use in the date and pearl industries (Hutson in *Bonded Labour*, p. 136).

While there is mounting evidence of widespread slavery for commercial use in the nineteenth century, the authors of the three books being reviewed here still feel compelled to underline this point. They do so because the older literature clung to the notion that slavery beyond the European colonial world was predominantly non-commercial and milder than the Atlantic chattel slavery.<sup>21</sup> This, in turn, can be traced back to the reluctance of late nineteenth-century colonial authorities to recognize the linkages between local slavery and global capitalism and who instead spoke about mild slavery, which they felt allowed them to temporize abolition in the newly acquired territories. The French colonial authorities tolerated slavery in their West African possessions until 1903 and in Equatorial Africa until 1905. Stanziani further notes the apparent discrepancy between the fierce British stance against trafficking and their reluctance to act against slavery. The British were apparently even more careful to avoid conflict with powerful local actors than the French. In the Sokoto Caliphate, where Lord Lugard started abolition in 1903, emancipation progressed at such a slow pace that it was not achieved until the 1920s. Similar examples can be found for the Malay Peninsula, North Borneo, and the Indonesian archipelago. The reason for this reluctance was that the usually understaffed and militarily underequipped colonial authorities were afraid to antagonize local chiefs, whose power was based on the institution of slavery.<sup>22</sup> The slow abolition of slavery was a general feature among all colonial powers in the late nineteenth century and the early years of the twentieth century, with the notable exception of the United States in the Philippines.<sup>23</sup>

20. See Matthew S. Hopper, "Slaves of One Master: Globalization and the African Diaspora in Arabia in the Age of Empire", in Robert Harms *et al.* (eds), *Indian Ocean Slavery in the Age of Abolition* (New Haven, CT, 2013), pp. 223–240.

21. Quirk signals this mentality among civil servants in Africa, but it holds equally for Southeast Asia: Joel Quirk, *The Anti-Slavery Project: From the Slave Trade to Human Trafficking* (Philadelphia, PA, 2011), p. 11; Alessandro Stanziani, *Sailors, Slaves, and Immigrants: Bondage in the Indian Ocean World, 1750–1914* (New York, 2014), p. 132.

22. Toyin Falola, "The End of Slavery among the Yoruba", in Suzanne Miers and Martin A. Klein (eds), *Slavery and Colonial Rule in Africa* (Abingdon, 2006), pp. 232–249, 236.

23. Michael Salman, *The Embarrassment of Slavery: Controversies Over Bondage and Nationalism in the American Colonial Philippines* (Berkeley, CA [etc.], 2001).

## THE CONTRACT AND THE “COOLIE”

In Asia and Africa, where slavery was so widespread and the powers of colonial civil servants still so limited, the indentured labour contracts were of minor importance. What made these contracts even more ineffective was that the authorities could do little against widespread practices of deceit. Stanziani notes that the degree of indebtedness was “poorly explained to the workers at the time of recruitment” (Stanziani, p. 161). Indentured labourers from India were brought to Réunion under deceit after having signed contracts for Singapore. In the volume *Work Out of Place*, Houben details how Dutch colonial authorities in the port towns of Java were assigned the task of informing those recruited for the Sumatra plantations about the exact terms of their contract and discarding the false promises of the recruiters. Since this verification happened in the presence of the recruiter and in groups, the likelihood that individuals would reclaim their liberty was non-existent (Houben in *Work Out of Place*, pp. 68–69).

Recruitment costs were high for plantations, and particularly the less capitalized plantations squeezed the maximum out of their labour. Moreover, in the absence of any further supervision by the authorities, the planters flaunted the rules regarding food and wages (Stanziani, p. 217). The plantations were at the very beginning of the commodity chain, which made them price takers. The cases Stanziani discusses for the sugar islands of Mauritius and Réunion in the 1850s to 1870s are particularly interesting because these have not been extensively researched and relate to plantations that suffered from secularly declining prices, unlike rubber estates in Malaysia for example. Moreover, in the mid-nineteenth century, labour inspections were not yet a feature in the way they would be by the early twentieth century in many plantation belts in Southeast Asia, for example. For most of the nineteenth century, plantations were undercapitalized enterprises and not yet part of incorporated business, which goes a long way to explaining the severe exploitation of workers and their often overdue pay.

Planters who were short of capital did everything in their power to retain for a new term those workers whose contracts were expiring. In the 1850s and 1860s, many, if not the majority, of the indentured labourers in Réunion did not have the means to return to India. Since the government promoted short six- to twelve-month contracts, the plantation managers employed a range of tactics to keep the workers tied to the plantations through debts. These included delaying wage payments, harsh systems of fines, and sharp deductions for sickness and absenteeism. From Réunion, only a third of the Indian indentured labourers returned home, whereas the overall figure for Indian return migration was over eighty per cent.<sup>24</sup> Because of the

24. Kingsley Davis, *The Population of India and Pakistan* (New York, 1951), p. 100.

increasing mono-cropping of sugar and a growing population, food supplies declined and particularly rice, a key component of the diet of workers, was increasingly substituted by maize and manioc. Access to justice was extremely limited for labour immigrants, who did litigate, but only against all odds. Eventually, Stanziani emphasizes, the British authorities intervened on behalf of their Indian subjects.

While the planters of sugar colonies in the Indian Ocean were keen to keep migrant workers, the state and the rest of society were not, Stanziani underlines, because food and land were already in short supply on their islands. Here, we see a gradual adaption of the indentured labour contracts to a new situation. In the French case, the *engagé* contracts were based on maritime labour law, which could take the return of sailors to their port of origin for granted. The same type of contract was used for European migration to the New World in the seventeenth and eighteenth centuries, where the purpose of settlement was obvious. Indentured plantation workers were neither sailors, nor settlers, and colonial governments were keen to have workers repatriated after their indenture. Under pressure from the British authorities, the administration of Réunion had to create a fund, in which part of the wages of the workers were deposited and from which the return fare had to be paid. From the reverse perspective, to ensure repatriation the colonial government of the Dutch East Indies insisted on indentured labour contracts for Javanese workers outside Java and Indonesia as well as for Chinese workers.<sup>25</sup> For the colonial governments, a rather perverse trade-off emerged between giving in to the employers about instituting penal sanctions, for which they received in return a guarantee that foreign workers would be repatriated. The perversity was that the obligation to pay for their return entailed for the employers a premium to keep the workers indebted through gambling, and inflated prices at plantation shops, for example.

The indentured labour contract severely limited the scope for collective action by migrant workers. The transition to wage contracts in the colonies did not entail real rights for former slaves and immigrant workers, while it weakened their bargaining power. In this respect, I would like to add a point that is not elaborated in the three books under review. As a rule, labour migrants travelled and worked in groups under their own foremen. In Asia, there are the well-known examples of Chinese tin-mining *kongsis* in the Malay Peninsula and Bangka and Belitung, and Indian labour gangs, *kanganies*, in the rubber plantations of the Malay Peninsula. The governments of receiving countries preferred to deal with individual migrants

25. For the Javanese workers to British Malaya see, for example, J. Norman Parmer, *Colonial Labor Policy and Administration: A History of Labor in the Rubber Plantation Industry in Malaya, c. 1910–1941* (New York, 1960), p. 109.

rather than groups. McKeown mentions how the exclusion and the marginalization of the small brokers, which was successfully applied in the United States, marginalized migration systems and, as a result, the collective power of migrants.<sup>26</sup> In a similar vein, the indentured labour radically weakened the position of the leaders of the labour gangs and the social cohesion among the workers and thus their capacity for collective action. Stanziani's case study of Réunion demonstrates this nicely. When, in 1837, the Indian labourers on this island formed a labour union, their collective action was promptly suppressed as a violation of their labour contract (Stanziani, pp. 198–200). However, there are many other examples of plantations that were unsuccessful in breaking the power of the labour gangs, which in some cases successfully resisted the employers by mass desertions.<sup>27</sup>

It is important to note in this respect that, in the era of indentured overseas migration of Asian workers, the word “coolie” acquired new connotations. The volume *Bonded Labour* deals extensively with the meaning of the word “coolie”, which in pre-colonial India signified both paid work and inferior caste (Damir-Geilsdorf in *Bonded Labour*, p. 15). Indeed, the “coolie” was an existing Asian phenomenon that was readily absorbed by colonial economies. As Van Rossum points out, this was well before the introduction of the indentured labour contract by the Europeans in this part of the world. However, through the individual labour contract the position of the “coolies” changed fundamentally, as it was a deliberate attempt to extract them from their social context. The overseas recruitment systems turned the coolie into an alien subjected to a work discipline that was akin to or even derived from maritime law. This is a condition that prefigures twenty-first-century labour conditions of South and Southeast Asians in places such the Arabian peninsula or Singapore.

#### FREE LABOUR, THE RIGHT AND THE OBLIGATION TO WORK

In the Western world, the abolition of the penal sanction on any breaches in the labour contract by workers was usually part of an expanding sense of citizenship. According to Steinfeld, in the US during the first half of the

26. Adam McKeown, *Melancholy Order: Asian Migration and the Globalization of Borders* (New York, 2008), pp. 113–118.

27. Wong Lin Ken, *The Malayan Tin Industry to 1914* (Tucson, AZ, 1965), pp. 97, 185, 203, 223–225; R.N. Jackson, *Immigrant Labour and the Development of Malaya 1786–1920* (Kuala Lumpur, 1961), p. 113. The power of the labour gangs has also been noted for plantations in South India. Paul E. Baak, “About Enslaved Ex-Slaves, Uncaptured Contract Coolies and Unfreed Freedmen: Some Notes about ‘Free’ and ‘Unfree’ Labour in the Context of Plantation Development in Southwest India, Early Sixteenth Century-Mid 1990s”, *Modern Asian Studies*, 33:1 (1999), pp. 121–157, 139.

nineteenth century a labour contract began to mean a contract between equal partners, an emerging norm that befitted US citizenship. This happened long before Britain abolished the Master and Servant Act in 1875, which – together with the Combination Act of 1825 – had turned tens of thousands into prisoners and practically hamstrung labour unions.<sup>28</sup> France, according to Stanziani, appears to be the first country in the world to have abolished criminal penalties in labour disputes in 1793 (with the exception of sailors), not coincidentally during the French Revolution.<sup>29</sup> France was not the first, however, as Lucassen has demonstrated, because in the maritime provinces of the Dutch Republic labour was free of penal sanctions, again except for maritime employment.<sup>30</sup> While the Netherlands and France did not, unlike the British, maintain the penal sanction in metropolitan labour legislation, they did develop their own specific strands of labour coercion based upon the notion that free labour was an empty category as people needed to work for their subsistence. Both metropolitan societies merged the obligation and the right to work in their policies against pauperism and vagrancy.

In France and in the Netherlands powerful voices against emancipating slaves without giving them any means to subsist made themselves heard. In the Netherlands it was Johannes van den Bosch, who, as governor of the Dutch Caribbean (1827–1828), took an important step towards abolition – by legally recognizing the personhood of the enslaved – but rejected emancipation that did not involve distributing land as this would only produce pauperism. The proposal launched by Victor Schoelcher for emancipation in 1842, cited by Stanziani, would allow former masters and slaves to share the profits of the plantations. After the abolition in 1848, the *métayage* system, a sharecropping system that had existed for many centuries in metropolitan France, spread in the French Antilles. The system was, however, beefed up by the notorious “arrêté Guydon” in Guadeloupe and the “arrêté Husson” in Martinique, introduced a few years after emancipation, making it obligatory to possess a very expensive passport. This, according to an indignant Victor Schoelcher, turned barely emancipated people into actual debt slaves, making their labour cheaply available

28. Robert J. Steinfeld, *The Invention of Free Labor: The Employment Relation in English & American Law and Culture, 1350–1870* (Chapel Hill, NC, 1991), p. 15. See also *idem*, *Coercion, Contract, and Free Labor*, pp. 29, 76.

29. Alain Cottureau, “Droit et bon droit. Un droit des ouvriers instauré, puis évincé par le droit du travail (France, XIXe siècle)”, *Annales. Histoire, Sciences Sociales*, 57:6 (2002), pp. 1521–1557, 1535–1536.

30. See Jan Lucassen, “Labour and Early Modern Development”, in Karel Davids and Jan Lucassen (eds), *A Miracle Mirrored: The Dutch Republic in European Perspective* (Cambridge, 1995), pp. 367–409.

to the planters of the Antilles.<sup>31</sup> For the Netherlands, the same Johannes van den Bosch founded the forced Cultivation System (1830–1870) in Java, as he was convinced not only about the right to subsistence, but also about the obligation to work. For him, free labour was meaningless if it led to starvation.<sup>32</sup> From a broader European perspective, it was not the French but the British who were the outliers in abolishing slavery without the provision of further economic assistance to those emancipated and with the New Poor Law of 1834, which aimed to turn poor relief into a punishment, the idea being that economic necessity should drive people to work.<sup>33</sup>

Interestingly, while Van den Bosch pushed aside Dutch liberal objections to his continuation and expansion of the forced supply of agricultural products introduced by the Dutch East India Company, the British East India Company (EIC) was reluctant to grant British indigo factories a penal sanction for peasants who failed to deliver their harvest to redeem their advance payment. For a few decades, there was an ongoing debate within the EIC on what the role of the state should be in enforcing contractual deliveries and contract labour. Eventually, twenty years after the immigration to Mauritius had been denounced as a new slavery and the penal sanction in labour contracts in India had been abolished, the penal sanction was reintroduced to enforce the redeeming of advance payments (Stanziani, p. 92). It was no coincidence that this happened in the wake of the Sepoy Rebellion of 1857, when the British were determined to assert that they were the masters.

While, until the mid-nineteenth century, the evolution of colonial labour legislation exhibited some remarkable divergences among the major colonizers, from the second half of the nineteenth century the treatment of labour in the colonies seemed to converge. The colonial distinction between citizen and subject became the central dividing line, exemplified by the French *Code de L'Indigénat* – though there were similar mechanisms in the British and Dutch colonies. As Stanziani observes, this colonial boundary was not a contradiction, but rather an extension of what was to be found in Europe, where women and, for most of the nineteenth century, the majority of the male population as well were disenfranchised, working under labour contracts and laws that favoured employers. But while the Master and Servant Act was repealed in Britain in 1875, a harsher and more radical version of it was adopted in the British territories in Africa (Stanziani, p. 256). In the Dutch East Indies, the colonial government introduced the

31. Victor Schoelcher, *L'arrêté Gueydon à la Martinique et l'arrêté Husson à la Guadeloupe* (Paris, 1872).

32. Bosma, "Dutch Imperial Anxieties", p. 72.

33. See for the Dutch case Albert Schrauwers, "The 'Benevolent' Colonies of Johannes van den Bosch: Continuities in the Administration of Poverty in the Netherlands and Indonesia", *Comparative Studies in Society and History*, 43:2 (2001), pp. 298–328, 299.

penal sanction, even though the Dutch parliament had explicitly banned it in 1872 – a ban that was certainly intended to apply to the Dutch East Indies as well. The entire set of colonial regulations on the indentured labour system for Javanese who had migrated to other Indonesian islands, and to the plantation belt of Sumatra in particular, therefore violated Dutch law.<sup>34</sup> Batavia had actually carved out an extra-legal frontier space outside Java where the rule of law did not apply, and the Dutch parliament acquiesced. A variation of this practice could be found in French Equatorial Africa, where governance was outsourced to private companies that maintained a highly repressive work discipline with systematic violence (Stanziani, pp. 268–272).

In the final years of the nineteenth and early years of the twentieth century, colonial governments did improve living and working conditions at the plantations and mines, implementing measures that were informed by metropolitan labour legislation. However, the excesses were too numerous and the suppression of collective action too obvious to rescue the indentured labour system from international condemnation. The severe restrictions on workers' freedoms, in itself already highly problematic, were exacerbated by the colonial distinction between citizens and subjects, a distinction that largely coincided with racial categories. In the 1920s, the ILO began to campaign against the indentured labour contracts, and this eventually resulted in the Forced Labour Convention (no. 29) of 1930.

#### PERSISTENCE OF ENSLAVEMENT PRACTICES

The citizenship–subject distinction allowed for a sharp demarcation between those labourers entitled to protection, to association, and access to the welfare state, and those who were not, although some notions about welfare did resonate in colonial policies. While colonial subjects had become increasingly disadvantaged compared with metropolitan citizens in terms of their workers' rights, as subjects of colonial empires they still enjoyed some protection. The fact that France and the Netherlands created notable exceptions only underlines the principle that colonial subjects were their responsibility. This changed after decolonization. Various contributions to the volume *Work Out of Place* can be read as a sequel to Stanziani's book, carrying the story into the present.

In some ways, Hahamovitch argues in her contribution, the situation today is worse than in the heydays of colonialism. Inherited from colonial times are the mechanisms of indebtedness, deceit, and indenture. Unlike the

34. A.F. van Blommestein, *Ontwerp eener Ordonnantie tot Regeling van den Arbeid van den elders afkomstige Personen in Bedrijven, welke in het Gewest Oostkust van Sumatra geheel of gedeeltelijk buiten de Bevolkingscentra Worden Uitgeoefend, en Memorie van Toelichting, in Voldoening aan eene Opdracht van den Minister van Koloniën Samengesteld* (s.l., s.a.).

past, however, most labour migrants for low-skilled jobs come from the poorer countries that are in desperate need of foreign exchange. The receiving states are not interested in protecting labour migrants, because they are not their citizens. Like the nineteenth-century Asian indentured labourer, today's labour migrants are not settlers, Castles points out in his contribution to *Work Out of Place*, and it is their labour that is in demand, not their person. Or, to be more precise, it is all about obtaining cheap products from unprotected labour. Here, the comparison with the export enclaves in the Global South comes in; they prefer to work with labour migrants either from the countryside or, if they can, recruit legal aliens with fragile rights of abode from across the border. Today's extended commodity chains are highly detrimental to workers' rights at the production end (Castles in *Work Out of Place*, p. 171). I would add that labour conditions in today's sweatshops are, in many ways, similar to those of the poorly organized and financed plantations of the nineteenth century.

Castles points out that the current high demand for low-skilled domestic service leads to coerced labour conditions for women. Their high and often inflated recruitment costs are billed to the employers, setting a premium on confining their domestic staff to their premises. This abuse is further aggravated by the policies of the Gulf States, Malaysia, and Singapore to make the employer legally responsible for the worker, which is effectuated by the employers confiscating the workers' passports. While advertisements circulate in the Gulf States offering rewards for bringing back absconded maids, there is also an "illegal" market for deserted domestic servants. As a chilling reminder of the days of the slave markets, advertisements can be found in Gulf States newspapers offering to take over housemaids, including a price for this transaction (Damir-Geilsdorf in *Bonded Labour*, p. 171).

Again, the sending countries are in a weak position to protect their citizens against such and other abuses. Hahamovitch recounts the story of Jamaican guest workers who came to Florida during World War II to replace American workers who had enlisted in the US army. These workers were forced to sign Jim Crow laws to avoid being sent back to Jamaica. When, in 1946, the Jamaican Labour Party in government threatened to stop the migration of Jamaicans to Florida under these conditions, the government of Barbados announced that it would step in. The Jamaican government gave in (Hahamovitch in *Work Out of Place*, p. 50). Whereas indentured labourers within the British Empire could become settlers if they survived (a condition that could not be taken for granted), the new Jamaican guest workers in the US were disposable labour thrown out of the country, Hahamovitch concludes. Deportation always loomed over the guest workers, if the employers wanted to get rid of them for whatever reason.

Although our understanding of free labour has changed over time and varies across countries, there is nonetheless the universal story of the cause of free labour advanced by broadening the definition of slavery. This was the rationale behind the introduction of the indentured labour contracts by colonial governments in the nineteenth century, and the same rationale led to the demise of these contracts during and after World War I. At that time, it seemed that slavery was in its final days and the imperial powers were sufficiently equipped to maintain the rule of law. This turned out to be a chimera: the ILO puts the number of people in modern slavery at over 40 million.<sup>35</sup> The fundamental questions that colonial servants tried to address with their indentured labour contracts and the appointment of protectors are not only still unsolved today, they have become even more inextricable owing to the relatively weak position of the sending countries in the international system. The two edited volumes, combined with Stanziani's monograph, offer an indispensable historical background to contemporary global problems of wanting protection for labourers, and labour migrants in particular.

35. ILO, "Forced Labour, Modern Slavery and Human Trafficking", available at: <https://www.ilo.org/global/topics/forced-labour/lang-en/index.htm>; last accessed on 2 July 2018.