Voluntary slavery and the meaning of slavery: the role of semantics[1]

Voluntary slavery generally involved individuals selling and/or placing themselves or their family members in control of others, with conditions *similar* to that of slaves.[2]

Voluntary Slavery is a sin against the Law of Nature, which no man in his right mind can be guilty of.[3]

[A]s all were originally free; as nature made every man's body and mind *his own*; it is evident that no just man can be consigned to *slavery*, without his own *consent*.[4]

Abstract

For most scholars of slavery, the pairing of the terms 'voluntary' and 'slavery' remains problematic. The dominant model of slavery defines it as an *involuntary* status, in which people - according to the liberal model of ownership - were reduced to 'things', able to be used, abused and even killed at will. However, this involuntary model is a modern creation, developed by abolitionists from the eighteenth century. Prior to this, being owned did not necessarily involve being reduced to a 'thing'; as a result, the decision to enter ownership voluntarily did not carry the same weight of contradiction. In this article I show that as the idea of slavery as involuntary was consolidated, so the rhetorical and critical value of 'voluntary slavery' as the ultimate oxymoron rose to the fore. In the process, however, the exploitation of those who agreed to submit themselves to others was downplayed.

Keywords

slavery; bondage; language; philosophy; semantics; abolitionists; ownership; property.

Introduction

As the economist Murray N. Rothbard explained in *The Ethics of Liberty*, the pairing of slavery with choice is a nonsense, for:

> so long as a laborer remains totally subservient to his master's will voluntarily, he is not yet a slave since his submission is voluntary; whereas, if he later changed his mind and the master enforced his slavery by violence, the slavery would not then be voluntary.[5]

The problem for Rothbard, as for others, is that the idea of voluntary slavery is perceived as a contradiction – it simply does not align with the involuntary property model that dominates western discourse. As outlined in the 1970s by Suzanne Miers and Igor Kopytoff:

> The slave of the common Western image is first and foremost a commodity, to be bought and sold and inherited. He is a chattel, totally in the possession of another person who uses him for his private ends. He has no control over his destiny . . . and may be illtreated, sometimes even killed, with impunity.[6]

In this framework, which embraces what Stephen Kershnar has called 'the full liberal concept of private property', choosing to become a slave would not only be nonsensical, but irrational.[7] Since the liberal model of ownership allows virtually unlimited rights of use and disposal over *things* that are owned, it would denude the individual of any legal personality as well as putting their life at risk. Yet this has to be weighed against the fact that voluntary routes into subjection appear in many of the codes of custom and law that regulated the ownership of people in the past. 'Enslavement by consent', as Alessandro Stanziani preferred to call it, was common across India, Africa, China and Southeast Asia and was sanctioned by the Hebrew Bible.[8] It also appears in the law codes of medieval England, retaining its legitimacy as a route into 'villeinage or servitude' in England until well into the early modern period.[9] In Scottish law too, according to the fourteenth century body of laws known as the *Quoniam Attachiamenta*, a free man was able to relinquish his liberty, at his choice, in a number of courts; 'once thus relinquished' it was permanently lost moreover, unable to be 'recovered in his lifetime'.[10]

If historians find it difficult to write the phrase 'voluntary slavery', scholars of modern slavery too struggle to imagine slavery outside a coercive framework.[11] Here again the involuntary property model enjoys poll position, with the liberal model of ownership remaining at the core of international anti-slavery agreements. But since owning people is now illegal, and ownership has to be established through its 'fundamental powers', a closer focus is often placed on the involuntary nature of the relationship in modern slavery studies.[12] According to Kevin Bales, one of the leading scholars in this field, modern slavery has two 'essential ingredients': 'control'; and 'violence and its threat'.[13] Once again, therefore, the idea of slavery as a voluntary choice seems little short of ludicrous – choice belongs to freedom, not to slavery. As Judy Fudge has pointed out, '[f]or liberal political economy, neo-classical economics, and contract law the voluntariness of the exchange is the distinctive feature of free labour and consent is the regulative ideal.'[14] The dangers in this are already apparent in the context of exploitative labour relations - those who *agree* to such positions are generally excluded from the appellation of 'slave'. Indeed, to accept that slavery could be voluntary would be to undermine what Julia O'Connell Davidson had identified as modern slavery's depoliticising effects. The new abolitionists, very much like their forebears, have focused attention on a specific set of labour relationships, characterised by involuntary

entry, to the detriment of other exploitative practices. 'Since slavery, which is the epitome of unfree labour, interferes with individual autonomy, it must be outlawed as a crime'.[15] Framed today as an attack on individual human rights from organised criminal gangs, the involuntary property model serves to shore up the global structural inequalities that create exploitation and oppression.[16]

A further discourse on voluntary slavery exists within the fields of philosophy and political theory. Here, the terminology is more openly employed and opinions are more divided. For extreme libertarians, the idea of voluntary slavery presents few problems, as Robert Nozick was prepared to suggest. Indeed, taken to its logical conclusion, a system of freely contracting individuals should allow a man 'to sell himself into slavery'.[17] Inalienable rights theory offers a challenge to such libertarian ideas, yet here too, the blueprint against which voluntary slavery has been measured and permitted iss the involuntary property model. John Locke, the English philosopher, who opposed voluntary slavery on the grounds that 'every man has a *property* in his own person' which he could not part with by choice, offers one example of this. To do so would be to make an individual subject, as a slave, 'to the absolute, arbitrary power of another, to take away his life when he pleases'.[18] The German philosopher Immanuel Kant, took a similar approach. He too refuted the idea that individuals could agree to become slaves, because being 'things', or non-persons, in the *dominium*, or ownership, of others, would put them at risk of death. 'For if the master is authorized to use the powers of his subject as he pleases, he can also exhaust them until his subject dies or is driven to despair (as with the Negroes on the sugar islands)'.[19] Lives, for both philosophers, must always remain inalienable.

Nevertheless, as Johan Olsthoorn and Laurens van Apeldoorn have pointed out in a recent article, it is also possible to identify those, in the classical social contract tradition, who supported the notion of voluntary slavery. This included the Dutch jurist, Hugo Grotius, Thomas Hobbes, the English philosopher, and the German jurist, Samuel Pufendorf. Importantly, this did not require them to alienate their right to life, because the model of slavery they were working from did not reduce them to property. 'Perfect slavery', for Grotius and Pufendorf, gave masters only a right to the perpetual service of their slaves.[20]

Since Olsthoorn and van Apeldoorn's findings suggest that the meaning of slavery in the seventeenth century could be contested, this article takes an historical semantic approach to the use of this language.[21] Helpful for looking at the history of concepts comparatively and in the long run, its real benefit in this context comes from a specific focus on the emergence, growth and evolution of the semantics of 'slavery'.[22] What this analysis reveals is the tension between coercion as a marker of slavery, the actual decision to choose to be owned, and the language we use to describe it. This not only affects our interpretation of voluntary forms of subjection in the past, but is critical to our understanding of slavery, both historical and modern, today.[23]

The article begins with an overview of the dominance of the involuntary property model in the historiography of slavery, in order to demonstrate why the concept of voluntary slavery is so problematic. The next section turns to the reluctance to use such terminology in the historiography of slavery, and a desire in the study of both historical and modern slavery to deny its validity. Section Three examines the figurative use of voluntary slavery in other scholarly fields, most notably philosophy and political theory, where there is more division of opinion. The fourth section turns to the first figurative pairings of 'voluntary' and 'slavery' during the seventeenth century, and the broader development of the language of slavery. In the final section I outline the consolidation of the involuntary property model and the conceptual and linguistic shift that undermined the notion of 'voluntary slavery'. What emerges in the process is a new landscape of semantics, in which the meaning of the term 'slavery' evolves from its first emergence in the sixteenth century under the weight of humanist scholarship, religious and political change, an obsession with the idea of contract, and the growth of anti-slavery thought.

1. **The involuntary property model**

Slavery, in which the individual is reduced involuntarily to the status of property, is, according to Jonathan Brown, a universally reprehensible, immoral and thus undesirable institution.[24] This meaning, as it has come down to modern scholars, was ultimately the product of the anti-slavery arguments of the eighteenth century. Indeed, according to Joel Quirk, the two themes that 'were fundamental to the Anti-Slavery Project from the outset', and eventually won the abolitionists the day, were '*the ownership of human beings* and *extreme domination and exploitation*.'[25] As Thomas Clarkson, founding member of the Committee for the Abolition of the Slave Trade, wrote in his famous *Essay*, commerce in people, which he identified as 'slavery', was 'founded on the idea that men were *property*'.[26] But above and beyond that, however, and of crucial significance to his goal, was the fact that slavery was involuntary and, as a result, illegitimate. The majority of those turned into 'property', Clarkson believed, had either been 'privately kidnapped' or 'publickly seized' on the authority of their prince – they had been received only by 'fraud and violence'.[27]

From the start, and unsurprisingly given the use of the enslaved in colonial plantations, attention was focused on slavery as a way to extract labour from the unwilling. Herbert Spencer, the nineteenth century English polymath and sociologist, was keen to link civilisation to the emergence of free labour; slavery in his view had been necessary in earlier stages of development to force the unwilling to work:

> Once more, it is taken for granted that as among ourselves free labour is conducive to social welfare, it is everywhere and at all times conducive to it; but in early stages the undisciplined primitive man will not labour continuously, and it is only under a *régime* of compulsion that there is acquired the power of application which has made civilization possible.[28]

Herman Nieboer's ethnological study at the turn of the twentieth century described slavery as an 'industrial system', in which the slave was 'a man who is the property of another, politically and socially at a lower level than the mass of the people, and performing compulsory labour.'[29] For social scientists W.G. Sumner and A.G. Keller, whose work appeared some thirty years later, slavery (as for Spencer) was 'an expedient adjustment, and an indispensable link in the evolutionary series along which the [human] race was moving'. But for them too, slaves were a form of property, that as sentient 'things' required discipline: 'it was in the school of oppression, of which enslavement was a salient feature, that the human race learned steady industry'.[30] By the 1960s the idea of the involuntary property model had not only been secured in the sociological and anthropological literature, but had become deeply embedded in the historiography. According to David Brion Davis, Pulitzer prize winner, and historian *par excellence* of slavery, the slave had three defining characteristics: 'his person is the property of another man, his will is subject to his owner's authority, and his labor or services are obtained through coercion'. [31]

Challenges to the involuntary property model began to emerge from the 1970s. Blending the historical with the anthropological, Suzanne Miers and Igor Kopytoff 's *Slavery in Africa* characterised the acquisition of people there along a continuum from consent to coercion. This could range 'from voluntary or peaceful personal transactions between neighbouring groups to bilateral compulsory transfers and, with increasing degrees of coercion and organization, to the largescale entrepreneurship of raiding and war.'[32] In singling out African systems of ownership as unique, however, the work of Miers and Kopytoff made little impact on the wider historiography - they established Africa as different, rather than the 'Western semantic field' as erroneous.[33] Moreover, their claim that African slavery could include a voluntary element was soon to be derailed, attacked at once by Claude Meillasoux as nothing more than a 'strict application of western notions of law and economics'; his own critical iteration resituated captivity at the heart of slavery.[34] This he held firm in his 1991 monograph, *The Anthropology of Slavery.* Enacted as a result of 'constant raids and wars of capture', slavery was described as a status that could be imposed 'only on an "alien" social category which is distinct from the categories of kin'.[35]

The property element of the 'western' model came under particular critique from the sociologist, Orlando Patterson, who argued that the notion of ownership as 'absolute dominion in tangible things' was a specific feature of classical Roman law; as a result it had no comparative value.[36] But there was to be no denial by him of the involuntary element. Instead, his work acted to raise the profile of the involuntary model by situating coercion at the core of the master-slave relationship. In his groundbreaking 1982 monograph, *Slavery and Social Death*, Patterson's new definition established slavery as '*the permanent violent domination of natally alienated and generally dishonoured persons.*'[37] This emotive tripartite interpretation, which inspired a new generation of research, has also come under close scrutiny, such that thirty-five years after its appearance, it is only Patterson's core concept of coercion that has escaped

unscathed. David Lewis has restored the centrality of 'property' to the definition of the 'slave', and Ehud Toledano is just one of the scholars to question the universality of Patterson's claims about natal alienation and dishonour.[38] In addition, a growing body of twenty-first century scholars is seeking to push back on the historical universality of the involuntary element, following in the footsteps of Miers and Kopytoff. [39] But this feature of slavery has achieved a level of orthodoxy that remains difficult to dislodge, as Toledano's recent definition demonstrated. Slavery, he believed, was '*an involuntary relationship of mutual dependence between two quite unequal partners*'.[40]

2. Slavery and voluntary slavery as social status

The domination of the involuntary property model helps explain a parallel trend in the scholarship - for as long as slavery has been understood as involuntary, scholars have appeared reluctant to include the phrase 'voluntary slavery' in their analyses. Spencer, for example, discussed its voluntary possibilities, but without introducing the phrase itself. He noted that fugitives sometimes:

> yield up their freedom for the sake of protection: a man makes himself a slave by breaking a spear in the presence of his wished-for master, as among the East Africans, or by inflicting some small bodily injury upon him, as among the Fulahs.[41]

This may have been stylistic – Spencer also talked of war captives falling into 'unqualified servitude' – but there are enough other examples to suggest that the use of the phrase 'voluntary enslavement' has been routinely downplayed.[42]

Such minimisation has taken a number of forms. Where scholars have accepted that there were a range of practical contexts within which people may have subjected themselves to ownership, some have chosen to qualify their use of 'voluntary'. Dev Chanana was able to include the 'voluntary slave' in his list of slavery types in the Ancient Indian epics, for example, but he felt it important to note that this 'was not absolutely voluntary', as 'decisions were taken under the pressure of some circumstance which forced the victim to renounce his liberty'.[43] Others have taken a different approach. Patterson, who, as already noted, saw slavery as a system of permanent and violent domination, recognised - like Chanana - that poverty could act as a driver, noting that in China, Japan and Russia voluntary entry had been 'a major source of slaves'.[44] When it came to a discussion of this mode of entry, however, he chose to couch it in the language of 'self-sale', and he has not been alone in this. Alice Rio, whose work on early medieval Europe revealed cases in which individuals used voluntary entry instrumentally (as opposed to desperately), referred to such practices as 'voluntary self-sale' or 'voluntary entry into unfreedom', rather than 'voluntary slavery'.[45] Alessandro Stanziani too was careful with the language he used in presenting his discussion of the *kholop* status in Russia, about which there has been considerable debate.[46] Though he appeared to accept that self-sale was one of the three routes into

slavery in the earliest versions of the *Russkaia Pravda* - a collection of legal acts first compiled in 1016 - he was reluctant to use the same terminology when it came to the early modern period.[47] There are difficulties. Stanziani noted that because 'the Russian language generated one single word (*kholopstvo*) to express bondage', qualifiers were needed for what he defined as 'gradations of dependence', each gradation being 'addressed specifically by statutory definitions and regulations and/or by contracts'.[48] Records show that while there were a few individuals who inherited their unfree status, unfreedom for the majority was contractual, either having a limited time period, or ending with the death of the master.[49] This impermanency, and the fact that all these subgroups had certain rights, meant they did not look like regular 'slaves'.[50]

What Stanziani's analysis reveals, in addition, are the subtleties of meaning that can inhere in certain terms. 'Self-sale' presupposes consent, at least, as do other contractual routes, but the act of choosing carries additional connotations - that individuals in some sense prefer subjection to the alternative, insofar as they expect to benefit from it. Such ideas are often associated with modern rational choice theory, which aligns the concept of choice with personal advantage, but they were already a feature of political philosophy by the mid-seventeenth century.[51] There is one further distinction in the literature that is also clear in Stanziani's work - between 'bondage' and 'slavery' – which often emerges in relation to indebtedness. This has also been a longstanding issue in the historiography. As reported by Benedicte Hjejle in the 1960s, ownership among the Bancoor *tāluk* in southwestern India in the early nineteenth century could take the form of bondage or slavery; the former was voluntary, the latter was not:

> The moondahl ders were not properly slaves but bound themselves to lifelong service in order to have their marriage expenses defrayed. They could never be sold but their services might be mortgaged. The mogaers were hereditary slaves. They were bought and sold at the will of their masters and could also be mortgaged and rented out. [52]

Scholars of contemporary slavery too struggle to fit 'the liberal model of people as either *objects* or *subjects*' into the realities of exploitation, because those caught up in contemporary forms of slavery, including trafficking and forced labour, often agree to that work.[53] Again the issue is often one of choice versus consent. When the framing of that choice pits destitution against slavery, then the notion of it as 'choice' has surely to be jettisoned. Individuals may have 'agreed' to their exploitation, but this should not in itself indicate that the condition was entered into voluntarily. In examining the issues of bonded labour in South East Asia, for example, Kara has been critical of the premise of some economists who would preclude the use of any label of forced labour or slavery simply because 'they constitute agreements freely entered into by rational parties'.[54]

Certainly the protocols that define forced labour and slavery in international conventions rely on the concept of coercion. The *Slavery Convention* of 1926 makes it clear that slavery was a species of 'compulsory or forced labour', for example.[55] The 1930 convention of the International Labour Organisation defined as forced labour 'all

work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily'.[56] The more recent *Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children* of 2000 also defines trafficking as a coercive process, although it does begin to recognise that the boundary between coercion and consent is problematic.[57] In the main, however, '[a]nti-trafficking and anti-modern slavery discourse hinges on an imagined line between those who have actively chosen to move and consented to the type of work they will undertake and the conditions under which it will be undertaken (cast as agents), and those who have been tricked, cheated, bullied, and trapped (cast as non-agential victims)'. On the one hand, this undermines the agency that people exercise 'in choosing between the narrow range of fates available and working them as best they can to meet their own interests and goals'; on the other, it removes them from the framework of support they would receive as victims of slavery.[58]

This binary of 'choice' and 'coercion', though idealised, is vital in driving perception and meaning: voluntary entry into subjection does not draw out the same level of humanitarian concern or condemnation as its involuntary counterpart. Slavery for nineteenth century abolitionists was not so much a different *species* of hard and exploitative labour as a different *genus*. Those working for a low wage 'under the hard compulsion of necessity' were at least able to receive that wage:

> A slave, though he be even well-fed – an indulgence not altogether so uncommon, but forming rather the exception than the rule – is still a slave. His limbs, his affections, his impulses, his life, his very soul, are not in his own keeping. He has no existence in law save as chattel. A log of wood, scored as worth so many dollars, is his equal.[59]

This idea is mirrored in modern abolitionist definitions. For Kevin Bales, co-founder of the new abolitionist movement *Free the Slaves*, slavery can only ever be involuntary. This 'obscenity . . . is not just stealing someone's labor; it is the theft of an entire life. It is more closely related to the concentration camp than to questions of bad working conditions'.[60] Indeed, Bales had no problem characterising prisoners held under illegitimate regimes 'without due process, threatened or coerced with violence, and robbed of their labour power' as slaves. But the experience of inmates in British prisons who were 'voluntarily enrolled' in paid work projects could, he argued, 'hardly be described as slavery'.[61]

3. Slavery and voluntary slavery as political abstraction

The phrase 'voluntary slavery' appears much more frequently in the fields of philosophy and political theory, where its value comes from its rhetorical or allegorical power. But here too it is the archetype of the involuntary property model that is needed to energise the metaphor. Scholars generally agree that slavery if involuntary is impermissible, but a number are prepared to contemplate the idea that the 'enforcement of slavery

contracts is consistent with the value of autonomy and with liberalism'.[62] For a few extreme libertarians, for whom contract is paramount and freedom from interference is inviolable, slavery must be allowed to be established and upheld by agreement, even if this reduces the individual in question to the status of property. Ownership, in this framework, again, is understood through the standard liberal model. As Walter Block has argued, no law should be allowed to exist that limited 'in any way people's rights to alienate those *things* they own. This is "full monte" alienability, or commodification.'[63]

Robert Nozick too was able to support the idea of voluntary exchanges, even if one party, as in the case of slavery, 'faces severely limited options, with all the others being much worse than the one he chooses'. While the actions of some may limit the opportunities of others, what made their subsequent choices 'non-voluntary' depended on the extent to which others had 'a right to act as they did.'[64] Yet even here, the allegorical power of voluntary slavery as a vehicle for Nozick's polemic rests on the shoulders of the involuntary property model. In *Anarchy, State and Utopia*, Nozick imagined voluntary slavery as a process rather than an event, in which individuals were engaged in an incremental selling of 'shares' of themselves:

> Perhaps no persons sell themselves completely into slavery, or perhaps the protective associations do not enforce such contracts. At any rate, there are at most only a few complete slaves. Almost everyone who sells any such rights sells only enough to bring the total (though *very* extensive) up to ownership with some limits on its extent. Since there *are* some limits to the rights others hold in them, they are not completely enslaved.[65]

His point was that such self-sale was not illegal. 'Since this very extensive domination of some persons by others arises by a series of legitimate steps, via voluntary exchanges, from an initial situation that is not unjust, it itself is not unjust'.[66] Nevertheless, by allowing voluntary sale in this piecemeal manner, he created a scenario in which the legitimate ownership of those shares, whether they were held by one individual or many, could create conditions of oppression. Importantly, this slow and gradual descent into slavery, unperceived by the subject, was the key to a powerful political argument intended to undermine John Rawls' justification for the liberal welfare state.[67] For Nozick, the creeping increase in voluntary slavery alerted readers to the process that citizens, as supporters of a liberal welfare democracy, experienced: little by little, they agree to their property being taken from them as taxes and redistributed to a growing number of people by the state. Arguing that the state should provide only for basic protection - the cost of policing, defence and law courts – Nozick was able to claim that the modern liberal welfare state made 'slaves' of its citizens by giving recipients of benefits a right to the products of those who laboured. As the 'Tale of the Slave' reveals, by this gradual and legitimate *voluntary* process, individuals, without realising, give the state incremental power over their personal property to the point at which they lose control of it entirely.[68]

Though *Anarchy, State and Utopia* was published in 1974, the involuntary property model has retained its position of orthodoxy in this field of studies.[69] Consequently, it is more common to find liberal philosophers, in the tradition of Locke and John Stuart Mill, denying the legitimacy of voluntary slavery. An important figure in the development of liberalism as well as social contract theory, Locke's views on voluntary slavery are well known. Driven by a model of slavery as 'absolute, arbitrary power' that threatened individual survival, Locke attacked the coupling of 'voluntary' and 'slavery' head on:

> This freedom from absolute, arbitrary power is so necessary to, and closely joined with, a man's preservation, that he cannot part with it but by what forfeits his preservation and life together. For a man, not having the power of his own life, cannot by compact or his own consent enslave himself to any one, nor put himself under the absolute, arbitrary power of another to take away his life when he pleases.[70]

Locke argued that a man might sell himself into drudgery, but not slavery, since both 'God and nature' prohibited him 'so to submit himself to another, as to give him a liberty to destroy him'.[71] This key point is important. Protection of property in the Lockean framework was the key to liberty and survival, and so by positioning a man's body outside his ability to dispose of it unreservedly, contractual forms of government could not grant sovereigns the power to make arbitrary decision about their subjects' lives.[72]

Writing some time later, in the mid-nineteenth century, John Stuart Mill took the same view. Though as a libertarian, he believed that '[o]ver himself, and over his own body and mind, the individual is sovereign', and as a utilitarian he accepted that choice presumed some relative benefit, Mill, nevertheless, was unable to agree that anyone should be allowed to choose slavery for themselves. Though he did not offer a definition of slavery as such, he recognised that slaves were a form of 'saleable property', and he equated them in his mind with absolutism, whether that was 'political absolutism, or the absolutism of the head of a family.'[73] To enter slavery voluntarily was then to act irrationally and contrary to any benefit, because in the process freedom from absolute power was lost:

> In this and most other civilized countries, for example, an engagement by which a person should sell himself, or allow himself to be sold, as a slave, would be null and void; neither enforced by law nor by opinion . . . The reason for not interfering, unless for the sake of others, with a person's voluntary acts, is consideration for his liberty. His voluntary choice is evidence that what he so chooses is desirable, or at the least endurable, to him, and his good is on the whole best provided for by allowing him to take his own means of pursuing it. But by selling himself for a slave he abdicates his liberty; he forgoes any future use of it beyond that single act. He therefore defeats, in his own case, the very purpose which is the justification of allowing him to dispose of himself.[74]

But Mill, like Nozick, had been less interested in what the concept of voluntary slavery said about slavery, and more interested in what he could get it to say about marriage. In Mill's view, agreements that bind parties together should always have an option for release, and if not, at the very least a time limit, to allow for the possibility of amendment.[75] Since marriage had neither, Mill made great show of comparing wives with slaves.[76] He noted that '[o]riginally women were taken by force, or regularly sold by their father to the husband', and informed his readers that before Christianity had restricted his power, the man 'had the power of life and death over his wife', and she could 'invoke no law against him'.[77] Voluntary slavery, for Mill, was then an ideal vehicle for revealing the arbitrary and absolute power that lay at the heart of the marriage 'contract'.

It is not just the *presence* of contract that determined attitudes towards voluntary slavery in the field of philosophy however, but the *nature* of that contract. In making a liberal argument *for* slavery - while noting at the same time that his case did not apply 'to most cases of slavery in the contemporary world' – Kershnar, for example, claimed that 'the notion of a slavery contract' could be considered legitimate because 'certain contractual relations . . . resemble temporary slavery contracts' insofar as they abrogate a number of legal rights. Examples included those who agreed to indentured servitude arrangements in order to avoid destitution, and women who were willing to enter the 'sex-trade'. Such contracts in his view could be considered valid because they did not transfer absolute ownership – 'the rights against a person need not include within them all the rights that characterize the full liberal concept of private property'.[78] Similar approaches drove Danny Frederick's 2014 defence of voluntary slavery, and feature in the work of the last of the scholars to be discussed briefly in this section - Olsthoorn and van Apeldoorn.[79]

Olsthoorn and van Apeldoorn had been puzzled by the different approaches to voluntary slavery in the work of seventeenth century political theorists, including John Locke, Hugo Grotius, Thomas Hobbes and Samuel Pufendorf. But having scrutinised their various definitions of slavery, the pair were able to offer an explanation.[80] Locke, it seems, was the odd man out - he appeared to have been working with 'idiosyncratic conceptions of slavery and absolutism' that were not entertained by others 'in the classical social contract tradition.'[81] While Grotius, Hobbes and Pufendorf imagined slavery as a contractual agreement between people in which the enslaved were not owned 'in the way we own things (which may be destroyed at will)', for Locke, slavery represented a condition of absolute and arbitrary power, in which rulers might 'arbitrarily kill and maim their subjects at will, by dint of having *dominium* [ownership] in the latter's lives'.[82] Armed with these different conceptualisations of slavery, Olsthoorn and van Apeldoorn were able to explain how two opposing views of voluntary slavery could exist in parallel within an inalienable rights framework. On the one hand voluntary slavery could be imagined as legitimate, because it was in a sense normalised as part of a bigger set of consensual social relationships that secured the right to life. On the other, it was to be prohibited, because to enter into it would mean

alienating that very right. Here, it seems, the meaning that was attributed to slavery determined the extent to which the concept of voluntary slavery could gain support. What Olsthoorn and van Apeldoorn did not explore, however, was how those different conceptualisations of slavery may have come about.

4. **The language of slavery**

The pairing of the terms 'voluntary' and 'slavery' breaks into English sources from the early seventeenth century, initially as a tool of religious and political critique. The collocation, as presented in the work of William Watson in 1602, for example, was invoked as a critique of Catholicism; for Stephen Jerome in the 1630s it was a way to critique the sinful vanities of humankind.[83] By the 1650s, Mary Cavendish, philosopher, poet, playwright and scientist, had developed a personification of War that allowed her to attack Hobbes' call for subjects to agree to absolute sovereignty in exchange for the peace that would enable their survival:

> **War.**
> Thou *Flattering Peace,* and most unjust, which drawes
> The *Vulgar* by thy *Rhet'rick* to *hard Lawes:*
> Which makes them *silly Ones,* content to be,
> To take up *Voluntary Slavery.* [84]

Critical to the phrase's value here and elsewhere was the association between arbitrary power and slavery, which critics of *Leviathan* saw in Hobbes' support for the absolute rule of the sovereign. The rhetorical value of voluntary slavery as self-evident contradiction therefore relies heavily on the meaning of slavery as involuntary.

The language of slavery itself was relatively new at this point, although the use of the term 'slave' had expanded from its low base in the late medieval period. While the transatlantic slave trade has come for many to represent the worst excesses of a system of institutionalised slavery that had existed since antiquity, the vernacular terminology we use to signify it emerged only in this period.[85] First appearing in English manuscripts in the late thirteenth century, the 'slave', along with a number of similar west European neologisms (*esclave*, *escravo*, *esclavo*, *Sklave*), was derived from the medieval Latin *sclavus*, originally an ethnic descriptor for people of Slavic origin.[86] But from the outset, the term was associated with the misuse or abuse of power. Slavic peoples were frequently the target for arbitrary raids, and often found themselves seized as merchandise for sale on medieval commodity markets.[87] And as the ethnic descriptor became a common noun, so the term *sclavus* was infused with connotations of arbitrary subjection, often through violence, and commodity sale.

Little used in the late medieval period, the 'slave' entered into a period of linguistic expansion and extension from the early sixteenth century. The term 'slavery' makes what may be its first appearance in a pamphlet by the Protestant reformer, Thomas

Becon, in 1542.[88] However the usage here is figurative, rather than literal – 'slavery' was a vehicle for demonstrating the redeeming power of the Lord, who could transform sorrow into joy, darkness into light, death into life, and 'slavery' into honour. There are early literal uses too, where 'slavery' appeared as a type of noxious and miserable work - 'all vyle service all slaverie and drudgerye, with all laboursome toyle and busines'.[89] But it was in its abstract formulation as a critique of arbitrary power that the use of the term expanded most. Mary Nyquist has shown just how effective the 'polyvalent metaphor' of slavery was in the early modern period, and as she pointed out, the attack on tyranny that slavery enabled, was, until the late seventeenth century, 'conceptualised almost exclusively with reference to political governance'.[90]

The problem for scholars is that another model of slavery emerged in the early modern period following humanism's focus on the study of classical Roman texts. Finding in those texts both figurative and literal elements of ownership - anti-tyranny discourse on the one hand, and legal regulation on the other – encouraged English writers, increasingly obsessed with the idea of contract, to translate the term *servus* as 'slave'.[91] During the late medieval period the *sclavus*, as a post-Roman Latin neologism, had been set in opposition to the classical Roman *servus*, which had survived as a descriptor of legal ownership, but was by then more closely associated with the language of bondage or voluntary servitude. In returning to the study of classical Latin, however, the medieval *sclavus* was effectively excised from the canon. And though classical Latin had a number of terms for legitimate forms of bondage – *servus*, *ancilla*, *mancipium, servitus* – it had no separate descriptors for unjust or arbitrary forms of power. Critics of ancient rulers had therefore been forced to render the independent subject in terms of his antithesis - the *servus*, over whom the master had complete dominion - in an effort to highlight the injustice of the free born citizen reduced to a possession.

It is not difficult to see how useful the term 'slave' would have been in the atmosphere of religious and political upheaval that characterised early modern England. As a result, by the end of the seventeenth century, there had been a transition in translation practices, as the *servus* came to be directly equated with the 'slave'.[92] Having emerged in the context of arbitrary forms of captivity, the language of slavery increasingly came to overlay much older, legitimate descriptors of subjection, including the Latin *servus*, and its associated terms. The processes by which this shift was achieved were varied and complex, but of central importance were political debates during the English Civil Wars when concerns over absolutism fuelled ideals about natural liberty and representative government. These debates used 'slavery' figuratively as a critique of royal authority, and paired it with the reality of Roman 'slavery', in which the *servus* not only lost control over his goods, but over his body too. This placed ancient institutions of servitude - with their frameworks in custom and law - inside a new language of slavery in which ownership could be imagined as arbitrary and absolute. Though the full ramifications of this are yet to be understood, there were a number of immediate and significant outcomes.[93] It was now possible to imagine an absolute form of involuntary slavery alongside a more moderate voluntary form, in which the 'slave' was

positioned within a broader category of 'servants', all bound in some greater or lesser degree to a master.

It is within this context, that Grotius' *De Jure Belli ac Pacis*, written in 1625, was received in England. Grotius used the idea of a man agreeing to private ownership (*privatam servitutem*), as had been possible in Hebrew and Roman law, as justification for the voluntary abrogation of power and ownership by a subject to a ruler. This he considered legitimate, because the subjection was not absolute or arbitrary in his view - in neither Roman nor Hebrew law had ownership reduced people to the status of things. Barksdale's translation of this work in 1654 reflects this position, in which he chose the language of servitude, rather than slavery, for his text.[94] It should also be noted that Pufendorf did not himself transform Grotius' classification by separating 'perfect slavery' (in war) from 'imperfect slavery' (voluntary servitude); this was instead the act of his English translators.[95] In the Latin original, both forms were rendered as *servitutis*. Thus at the end of the seventeenth century it was possible to imagine 'slavery' both as the arbitrary and absolute power of a captor over his captive, *and* as a contractual arrangement as part of an older institution of service, which included time limited labour contracts as well as permanent ownership.

It is this dual use of the term 'slavery', moreover, that informs the work of Olsthoorn, van Apeldoorn and others. David Ellerman, for example, has argued that early modern philosophers working in the natural rights tradition – including Pufendorf and Hobbes – discussed slavery as if it were contractual. '[D]efenses of slavery on *contractual* grounds', he believed, were included in the *Institutes* of Justinian, where 'three legal ways to become a slave' were listed: through capture in war; through inheritance of the mother's status; or by agreeing to be sold. All, Ellerman suggested, could be understood as contractual agreements, and were presented as such by early modern theorists.[96] Slavery can indeed be presented as a form of contractual arrangement if the *servus* and the 'slave' are taken as equivalent descriptors. The problem is that this analysis fails to take account of the gap between the meaning of *servus* in classical Roman law and its later translation, a problem that is further exacerbated by the *zeitgeist* of contract that pervaded early modern political thought, and the fact that this era, as Kahn has argued, has long been understood as one in which there was a shift from status to contract.[97]

5. The involuntary property model

'Slavery' clearly existed in more than one register in seventeenth century English documents, but this situation would not continue indefinitely. The threads of the involuntary property model are already visible in the late seventeenth century material, including the first English translations of Pufendorf's *De Jure Naturae et Gentium*.[98] With Kennett's translation in the early eighteenth century those threads were even clearer. Here, in a more complete and direct translation of the text, it was claimed that many 'barbarous' nations had reckoned their 'slaves' 'in the Number of their Goods and

Possessions', treating them 'not in a way of Sovereignty, but of arbitrary Violence, calling them their own in the same Sense as their Cattle.'[99]

By that time, English colonial law had not only defined purchased African labourers as 'slaves', but codified them as chattels.[100] There was no statute in English Common Law that permitted slavery, but cases involving claims to slaves increasingly made their way into the law courts as plantation owners returned home with their African 'servants', or disputes developed over their ownership. Such cases could not fail to impact on the development of English law, as the work of the jurist and legal scholar William Blackstone reveals. In pulling together his treatise on Common Law in the 1760s, Blackstone laid the legal foundations of the involuntary property model, as ownership comes to be defined in law as absolute with non-human property as its object. Here the 'right of property' is described as 'that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe.' And so there could be no misunderstanding as to the form that property could take, Blackstone added the following: '[t]he objects of dominion or property are *things*, as contradistinguished from *persons*'.[101] Blackstone had also been clear that 'pure and proper slavery . . . whereby an absolute and unlimited power is given to the master over the life and fortune of the slave' was not supported in Common Law, but confirmed that contracts of perpetual *service* were. This, in Blackstone's view, was 'no more than the same state of subjection for life, which every apprentice submits to for the space of seven years, or sometimes for a longer term'.[102] Already, by the 1770s, the implication of such understandings was clear. According to William Davy, counsel for the prosecution in the case of Somerset v. Stewart in 1772, 'the absurdist of all Contradictions is, for a man to sell himself as a slave'.[103]

Crucially, the same differentiated use of language came to characterise the wider abolitionist position. In his recent study of slavery and Islam, Jonathan C. Brown argued that in order to defeat the 'colossal edifice' of millenia-long support for slavery, nineteenth century abolitionists had to argue that '*all* slavery, anywhere, was so evil that no defense of it could be stomached.'[104] Raising the possibility that it could be voluntary would not have helped their cause. Certainly, for Granville Sharp, the contract was the point of demarcation. In discussing claims for 'perpetual service' he indicated that such service was not unlawful in itself. But 'when masters claim a *right* to the *perpetual service* of a man, without being able to produce an authentic written *contract*', this he challenged; 'for without a voluntary *contract*, there *cannot be* ANY RIGHT'.[105] Setting British peasants, waged workers and servants alongside slaves contrasted the rights of the former groups to have 'an interest' and choice in their labour that the latter did not: contracted labour, in other words, was not the same as slavery.[106]

Thomas Clarkson's *Essay on the Slavery and Commerce of the Human Species, Particularly the African* (London, 1786) appears at first to complicate this rather neat bifurcation: his twofold taxonomy was drawn from one category - slavery - which he

subdivided into its voluntary and involuntary forms.[107] Clarkson is known above all for his work as an abolitionist. Indeed, this is how he positioned himself to posterity, and how those who remember and celebrate his antislavery activities memorialise him.[108] In his birthplace of Wisbech in Cambridgeshire, the local museum (which contains his collection of artefacts, and in which he is the main exhibit) introduces him to the general public as 'one of the main architects of the anti-slavery movement', who 'led an extraordinary campaign against the trade'.[109] Yet Clarkson did not merely entertain the idea that voluntary slavery was permissible, he actually appeared to sanction it. Since this support for slavery from one of the foremost English abolitionists has been difficult to explain, it is rarely discussed in the historiography.[110]

Clarkson along with Granville Sharp was instrumental in forming the Committee for the Abolition of the African Slave Trade in 1787, after experiencing a sudden revelation.[111] The son of a clergyman, Clarkson went to Cambridge University in 1779, where he studied mathematics.[112] Winning the undergraduate Latin essay competition in 1784 encouraged him to submit an entry for the master's prize the following year, although he did not realise at the time it would be a life-changing moment. In that year, Peter Peckard the newly appointed vice-chancellor, had chosen for the senior bachelor's Latin essay prize the title: *Anne Liceat Invitos in Servitutem Dare?* (usually translated as 'Should it be lawful to put people into slavery against their will?'). Clarkson had heard a lecture by Peckard in 1784, and later claimed that this had spurred him on to enter the competition.[113]   His winning entry was published in English by the Quaker bookseller James Phillips in 1786 as *An Essay of the Slavery and Commerce of the Human Species, Particularly the African*. He became convinced of the need to end the slave trade.

The question set by Peckard is significant because it appears to presume that slavery when undertaken according to the will of the subject was lawful. Moreover, Clarkson appears to have internalised this understanding, probably from ideas he had encountered elsewhere.[114] He therefore opened his essay with:

> a general division of slavery, into *voluntary* and *involuntary*. The *voluntary* will comprehend . . . two classes . . . ; for, in the first instance, there was a *contract,* founded on *consent;* and, in the second, there was a *choice* of engaging or not in those practices, the known consequences of which were servitude. The *involuntary,* on the other hand, will comprehend those, who were forced, without any such *condition* or *choice,* into a situation, which as it tended to degrade a part of the human species, and to class it with the brutal, must have been, of all human situations, the most wretched and insupportable.[115]

Even though Clarkson accepted that the two voluntary classes were differently positioned - those reduced on the one hand by 'various contingencies of fortune' or on the other by 'their own imprudence' - he still saw both as voluntary.[116] He had examined the history of owning people for his *Essay* and was aware that it had been sanctioned as a punishment in the past; as a trainee clergyman he would also have been

aware that Christian theologians authorised ownership when entered into voluntarily or as punishment for sin.[117]

Clarkson had read that among the Egyptians, the Jews, the Greeks and the Romans there had been 'free-born citizens, who, from the various contingencies of fortune', had become so poor that they had been 'reduced to state of servitude'. This choice of terminology was critical, as Clarkson went on to position such individuals in service-like agreements as *separate* from 'slaves':

> We may observe of the above-mentioned, that their situation was in many instances similar to that of our own servants. There was an express contract between the parties: they could, most of them, demand their discharge, if they were ill used by their respective masters; and they were treated therefore with more humanity than those, whom we usually distinguish in our language by the appellation of *Slaves.*[118]

Those whose ownership was the result of imprudence he believed:

> were in a far more wretched situation, than those of the former; their drudgery was more intense; their treatment more severe; and there was no retreat at pleasure, from the frowns and lashes of their despotick masters.[119]

Nonetheless, these too were to be redefined as 'servants'. In Clarkson's *Essay* there is evidence of the overlap between the languages of slavery and servitude that historians and lexicographers have interpreted as euphemism.[120] But what is also clear is his determination to create a model of slavery that abolitionists could get behind – the involuntary property model. The voluntary slavery he had seen in the past was relegated by association with contract and service to a lesser form of subjection, while anyone violently seized and reduced against their will to 'property' was in his view a 'proper slave', and so, in time, they became.[121]

The construction of slavery as a system of involuntary subjection is perhaps most clearly articulated in the writings of the former slave and leader in the American abolitionist movement, Frederick Douglass. For Douglass, the issue of choice was crucial. When asked if the Irish could be regarded as slaves following the famine of the late 1840s and early 1850s, Douglass argued that because they were free to emigrate they should not be compared with the slaves in the American south. 'The Irishman is poor, but he is not a slave . . . He is still the master of his own body, and can say with the poet, "The hand of Douglass is his own."'[122] Douglass recognised his concept of the slave, held in the 'absolute power' of a master as property, was drawn from the 'vocabulary of the Southern States'. But he also gave 'this monstrous relation' a timeless and universal character that has been hard to gainsay:

> Whether on the coast of Africa, among the savage tribes, or in South Carolina, among the refined and civilized, slavery is the same, and its accompanyments one and the same. . . . *Slavery* is always *slavery*—always the same foul, haggard,

and damning scourge, whether found in the Eastern or in the Western hemisphere.[123]

Summary conclusion

In his spoof on the libertarian case for slavery, Ellerman suggested that to see slavery purely as involuntary was 'a failure of the imagination'. It was surely 'not beyond the wit of man to design a civilized contract for the sale of labor by the lifetime' as had been done for 'the sale of labor by the day, week, or year.' [124] Indeed, he claimed that such lifetime labour contracts had enjoyed the support of numerous illustrious individuals, such as Locke, Montesquieu and Blackstone; it was only 'the absolute slavery that permits the master to kill the slave' that these scholars had prohibited.[125] In this he had identified the rhetorical power of a model of slavery that increasingly tied abstract notions of involuntary subjection to a reality in which lives were held in absolute and arbitrary ownership, in battles over sovereignty, labour and property.

That attitudes towards the legitimacy of voluntary slavery were different in the seventeenth century has been explained by Olsthoorn and van Apeldoorn as a function of varying definitions slavery. Those who supported it imagined a concept of ownership in which claims over people's lives existed within a system of social obligation that could be both consensual and coercive. Those who did not saw the concept of ownership as absolute, giving owners the power to use, abuse and destroy the *things* they owned at will. That both models could be articulated in the same language was the consequence of a linguistic quirk – as the late medieval *sclavus* was lost in the return to classical Latin, the *servus* was left to do the work of both the 'servant' and the 'slave'. Only later, following its reconfiguration by abolitionists, was the involuntary property model of the slave secured in the public, and the academic, imagination.

It was for this reason, moreover, that the idea of voluntary slavery had to be dismissed. In 1852 the Anti-Slavery Reporter informed its readers:

> Yet we are told that to fatten in slavery is better than to eke out a miserable existence in freedom: and so might it be, if the happiest kind of slavery were not a hundred-fold worse than the most miserable freedom.[126]

Emily West's recent study of the petitions for self-enslavement that took place after Louisiana law permitted the practice in 1859 indicates that historians too have felt 'uncomfortable' with this idea: 'the very notion that individuals might want slavery causes unease, because it suggests bondage could be "better" than freedom'.[127] Indeed, the idea of voluntary slavery had proved to be a boon for pro-slavery activists. Such petitions were seized upon as pro-slavery propaganda by southern newspapers keen to argue that slavery was better for free people of colour than freedom. Here the involuntary property model had real traction, however, because petitioners who chose slavery were literally reduced to the status of property, this being effected by a

monetary exchange.[128] Their self-enslavement, West argued, not unlike the reduction of their ancestors to possessions in Africa, was neither fair nor just: 'callous' slaveholders had 'cajoled, tricked, or otherwise persuaded desperate and impoverished blacks into petitioning for enslavement'.[129] Perhaps because of this, requests for voluntary enslavement were relatively scarce: in a free black population of just over 250, 000 in 1860, fewer than 200 chose to petition for it.[130]

Though West noted that the motives of free blacks in 'choosing' slavery were 'multifaceted', this number stands in stark contrast to the many examples of voluntary entry in the historical record, and of decisions by workers today to enter into exploitative labour relationships.[131] That neither of these has been understood as slavery is related to the fact that it is only with the language of slavery from the late medieval period that the conceptual character of owning people has been understood as involuntary. To be sure, the *servi* of Ancient Rome had been subject to coercion, but their ownership had not been arbitrary – it had been governed by a socio-legal system of ownership in which claims to the lives of others reflected obligations those individuals were perceived to have incurred. Examples of voluntary reduction to the status of possessions in the ancient and medieval sources therefore reflect a recognised and sanctioned form of strategic action, that was permitted - and regulated - by the customs and laws of numerous societies. Many of the historical cases appear to have been related to survival, which raises questions about the reality of choice if not the voluntary nature of the subjection. Howard for example has pointed out that 'for consent to be meaningful, you need to be able to withhold it'.[132] At the same time, continuing to define slave labour as involuntary excludes those among the 'working poor [who] often elect to accept exploitative, coercive or abusive labour conditions as a tactical necessity in the pursuit of their livelihood goals, since the adverse terms under which they have been incorporated into the global economy preclude any superior option'.[133] Research shows that those 'at the margins of the global economy routinely choose – and probably have always routinely chosen – to submit to this kind of exploitation as their best available option'.[134] Does this bar them from the label 'slave'? If the comparator is the involuntary property model then the answer is yes.

Emerging first to identify conditions of arbitrary and absolute subjection, the language of slavery had by the late seventeenth century become equated, through translation, with the Roman *servus*. As a result the ownership of people could be presented both as contractual agreement and as unlawful coercion. However, with this double encoding of meaning came a diminution of the core message about the need for abolition that Clarkson and others sought to construct. It also challenged the idea of free labour, so central to classical economics, that Adam Smith was writing about.[135] And so, by aligning voluntary subjection with this contractual and implicitly free system of labour, Clarkson was able to consolidate as slavery the involuntary property model that would go on to dominate future scholarship. The strength of the phrase 'voluntary slavery', in place from the seventeenth century, was its power of self-negation. Juxtaposed against the involuntary property model, it has proved both illusory and contradictory, but its

rhetorical power is perhaps unmatched. That should not mean that we dismiss exploitative voluntary agreements as unworthy of abolitionist concern however. West's research demonstrates that discussions of slavery today exist in a highly contested landscape because of the deep trauma and profound human suffering with which it is historically associated, and its continuing implications for the operation of social justice. As O'Connell Davidson noted in relation to the issue of modern slavery, an active choice does not have to be understood as 'a "voluntary" and autonomous choice'.[136] And while this may trouble the liberal idea of 'slavery' and 'contract' as opposites, the absence of external constraint is not in itself the best measure of freedom.

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[1] This article emerged out of a paper first given in September 2020 at the Worlds of Related Coercions in Work Conference in Budapest. I am grateful to all those whose comments helped to improve this final version, including those of the anonymous reviewers.

[2] Voluntary slavery - 'one of the unusual aspects of the history of slavery' - is understood as 'the persistence of coercion in a form that has been accepted as a means of keeping people alive'. Stanley L. Engerman. "The Rise, Persistence, and Slow Decline of Legal Slavery,*"* in Jean Allain, ed., *The Legal Understanding of Slavery: From the Historical to the Contemporary* (Oxford: Oxford University Press, 2012), 170. My emphasis.

[3] Thomas Harrison, *The Doctrine of Passive Obedience and Jure Divino disproved* (London: 1689), 1.

[4] Thomas Clarkson, *An Essay on the Slavery and Commerce of the Human Species* (London: 1786), 68-9.

[5] Cited in Elodie Bertrant and Vida Panitch, eds, *The Routledge Handbook of Commodification* (Abingdon: Routledge, 2024), 1980.

[6] Suzanne Miers and Igor Kopytoff, "African 'Slavery' as an Institution of Marginality," in Suzanne Miers and Igor Kopytoff, eds, *Slavery in Africa* (Madison: University of Wisconsin Press, 1977), 3. See also Suzanne Miers, "Slavery: A Question of Definition," in *Slavery and Abolition* 24, no. 2 (2003): 1-16.

[7] Stephen Kershnar, "A Liberal Argument for Slavery," in *Journal of Social Philosophy* 34, no. 4 (2003): 511. And see A. M. Honore, "Ownership," in *Oxford Essays in Jurisprudence*, ed. A. G. Guest (Oxford: Oxford University Press, 1961), 107–47.

[8] Alessandro Stanziani, *Bondage: Labor and Rights in Eurasia from the Sixteenth to the Early Twentieth Centuries* (Berghahn Books, 2018), 64; Exodus 21: 5-6, Deuteronomy 15: 16-17.

[9] L.J. Downer ed., *Leges Henrici Primi* [Laws of Henry I] (Oxford: Clarendon Press, 1972), 76:3, 239; Edward Coke, *The First Part of the Institutes of the Lawes of England. Or, A Commentary upon Littleton* (London, 1628), sects 172 and 175.

[10] "*Quoniam Attachiamenta sive Leges Baronum*" in M. Houard, *Traités Sur Les Coutumes Anglo-Normandes* [Treatises on Anglo-Norman Customs], Volume 2 (Rouen, 1776), ch. 70, 341. For dating see *Dictionaries of the Scots Language* at https://www.dsl.ac.uk/entry/snd/quoniam_attachiamenta [accessed 17 July 2024]

[11] The term 'modern slavery' is itself problematic. Used extensively in England following the introduction of the Modern Slavery Act in 2015, it remains less popular and contested elsewhere. See Agnes Simic and

Brad K. Blitz, "The modern slavery regime: a critical evaluation," in *Journal of the British Academy*, 7(sI) (2019): 1-34. I use it here to indicate current as opposed to historical forms of slavery.

[12] See the *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*, Section 4, article 7(a) at https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.15_supplementary%20slaverytrade.pdf [accessed 22 October 2024] and the *Bellagio Harvard Guidelines on the Legal Parameters of Slavery*, Guideline 1, at https://glc.yale.edu/sites/default/files/pdf/the_bellagio-_harvard_guidelines_on_the_legal_parameters_of_slavery.pdf [accessed 22 October 2024]. Those powers, according to Kevin Bales, are 'control, use, management, and profit'. Bales, "Slavery in its contemporary manifestations," in Jean Allain, ed., *The Legal Understanding of Slavery* (Oxford: Oxford University Press, 2012), 283-4.

[13] Bales, "Slavery," 284.

[14] Judy Fudge, 'What Makes Free Labour (And Why This Question Matters)' *Futures of Work*, 7, 24 May, 2019 at https://futuresofwork.co.uk/2019/05/24/what-makes-labour-free-and-why-this-question-matters/ [accessed 3 September 2020].

[15] Fudge, "What Makes Free Labour".

[16] Julia O'Connell Davidson, *Modern slavery: the margins of freedom* (Palgrave Macmillan, 2015), Introduction.

[17] Robert Nozick, *Anarchy, State and Utopia* (Oxford: Blackwell, 1974), 331.

[18] John Locke, *Second Treatise of Government*, ed. C.B. MacPherson (Indianapolis: Hackett Publishing Co., 1980), ch 4 §23; ch 5 §27.

[19] Immanuel Kant, *The Metaphysics of Morals*, ed. Mary Gregor (Cambridge: Cambridge University Press, 1996), "The Doctrine of Right," Part II, D.6:330, 104.

[20] Johan Olsthoorn and Laurens van Apeldoorn, " 'This man is my property' ": Slavery and political absolutism in Locke and the classical social contract tradition', *European Journal of Political Theory*, 21, no. 2 (2022): 255.

[21] Tim Geelhaar, Ludolf Kuchenbuch, Nicolas Perreaux, Juliane Schiel, Isabelle Schürch, "Historical Semantics – A Vade Mecum," in Claude Chevaleyre, Juliane Schiel, and Thomas Wallnig, eds, *Work Semantics / Semantiken der Arbeit,* 34, Institut für Wirtschafts- und Sozialgeschichte, in *Österreichische Zeitschrift für Geschichtswissenschaften* (2023): 18-47, at https://hal.science/hal-04265988/document

[22] I searched for terms associated with the language of slavery, including 'slave', 'slavery', 'enslave' and 'enslavement' in a number of online databases including the Corpus of Middle English Prose and Verse, Early English Books Online [EEBO], The Bible in English Database, a concordance of Shakespeare's works, and the English State Papers Online.

[23] Julia O'Connell Davidson has argued that accommodating the experience of modern migrants 'into the orthodox conceptual binaries of trafficking/smuggling, forced/voluntary migration, and slavery/freedom generates an oxymoron—we find ourselves looking at 'voluntary slaves' and 'free choice trafficking'. O'Connell Davidson, "Troubling freedom: Migration, debt, and modern slavery," *Migration Studies*, 1, no. 2 (2013): 182.

[24] Jonathan A.C. Brown argues that in 'much contemporary Western, particularly American, discourse' slavery appears as 'an absolute evil throughout history'. Brown, *Slavery & Islam* (London: Oneworld Publications, 2019; pbk 2020), 4.

[25] Joel Quirk, *The Anti-Slavery Project: From the Slave Trade to Human Trafficking* (Philadelphia: University of Pennsylvania Press, 2011), 141.

[26] Clarkson, *Essay*, 31. Thomas Clarkson, *The History of the Rise, Progress, and Accomplishment of the Abolition of the African Slave-trade by the British Parliament* [1808], Volume 1 (London: Frank Cass, 1968), 255-7.

[27] Clarkson, *Essay*, 94-6.

[28] Herbert Spencer, *The Principles of Sociology*, Volume 3 (New York: D. Appleton, 1920), ch 15, §794, 465.

[29] Herman Nieboer, *Slavery as an Industrial System* [1900], second ed. (Hague: Nijhoff, 1910), 5.

[30] W.G. Sumner and A.G. Keller, *The Science of Society*, Volume 1 (New Haven: Yale University Press, 1927), 230, 232, 246.

[31] David B. Davis, *The Problem of Slavery in Western Culture* (Oxford: Oxford University Press, 1966), 31.

[32] Miers and Kopytoff, "African 'Slavery'," 14.

[33] Miers and Kopytoff, "African 'Slavery'," 77.

[34] Claude Meillassoux, "Review of *Slavery in Africa: Historical and Anthropological Perspectives* by Suzanne Miers and Igor Kopytoff," *African Economic History* 5 (1978): 39.

35 Claude Meillasoux, *The Anthropology of Slavery: The Womb of Iron and Gold* [1986], trans. Alide Dasnois (London: Athlone Press 1991), 85.

36 Patterson accepted that slaves were possessions, but argued that this did not single them out as a 'distinct category of persons'. Orlando Patterson, *Slavery and Social Death* (Cambridge MA.: Harvard University Press, 1982), 21-32.

37 Patterson, *Slavery*, 13.

38 Ehud R. Toledano, "Ottoman Elite Enslavement and 'Social Death'," in John Bodel and Walter Schiedel, eds, *On Human Bondage* (Chichester: John Wiley, 2017), 136-50; David M. Lewis, "Orlando Patterson, Property, and Ancient Slavery: The Definitional Problem Revisited,", in Bodel and Schiedel, eds, *On Human Bondage*, 31-54.

39 See for example Miers, "Slavery," 1-16; Indrani Chatterjee and Richard M. Eaton, eds, *Slavery & South Asian History* (Bloomington: Indiana University Press, 2006), Fernando Santes Granero, *Vital Enemies* (Austen: University of Texas Press, 2009), and Kostas Vlassopoulos, *Historicising Ancient Slavery* (Edinburgh: Edinburgh University Press, 2021).

40 Ehud R. Toledano, *As if Silent and Absent* (New Haven: Yale University Press, 2007), 33.

41 Herbert Spencer, *The Principles of Sociology*, Volume 2, Part 1 (New York: D. Appleton and Co., 1896), §459, 299.

42 Spencer described war captives as 'slaves', in what by then had become the classic model: 'They belong absolutely to their captors . . .who retain the right afterwards to kill them if they please. They become property, of which any use whatever may be made.' Spencer, *Principles*, Vol 2-1, §456, 291.

43 Dev R. Chanana, *Slavery in Ancient India* (New Delhi: Peoples Publishing House, 1960), 67.

44 Patterson, *Slavery*, 130-31.

45 Alice Rio, "Self-sale and Voluntary Entry into Unfreedom, 300-1100," *Journal of Social History*, 45 no. 3 (2012): 661-85.

46 Stanziani, *Bondage*, 65.

47 Stanziani, *Bondage*, 68.

48 By the sixteenth and seventeenth centuries the term *kholop* status, covered a variety of status positions, identified by a qualifier: '*starinnoe* (hereditary), *polnoe* (full), *dokladnoe* (registered), *dolgovoe* (obligated, indebted), *zhiloe* (limited to a period of time), *dobrovol'noe* (voluntary), *kabal'noe* (limited service contract).' Stanziani, *Bondage*, 66, 69.

49 Stanziani, *Bondage*, 66.

50 Stanziani, *Bondage*, 68.

51 In *Leviathan*, Thomas Hobbes noted that 'of the voluntary acts of every man, the object is some Good to *himselfe*'. See Hobbes, *Leviathan* (London: 1651), Part 1, ch 14, 66.

52 Benedicte Hjejle, "Slavery and agricultural bondage in South India in the nineteenth century," *Scandinavian Economic History Review*, 15 no. 1. (1967): 92, citing the Report from J. G. Ravenshaw to the Madras Board of Revenue, dated 7 August 1801. In Madras Board of Revenue Consultations, 20 August 1801. Here again the categorisation is drawn from the involuntary property model.

53 Neil Howard, "Abolitionist Anti-politics? Capitalism, Coercion and the Modern Anti-slavery Movement," in Laura Brace and Julia O'Connell Davidson, eds, *Revisiting Slavery and Antislavery: Towards a Critical Analysis* (Cham, Switzerland: Palgrave Macmillan, 2018), 268.

54 Siddharth Kara, *Bonded Labour: Tackling the System of Slavery in South Asia* (New York: Columbia University Press, 2012), 34.

55 *Slavery Convention, 1926* at https://www.ohchr.org/EN/ProfessionalInterest/Pages/SlaveryConvention.aspx [accessed 21 September 2023]

56 'For the purposes of this Convention the term *forced or compulsory labour* shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.' *Forced Labour Convention, 1930*, at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029 [accessed 25 July 2024]

57 After laying out the definition of trafficking in subparagraph (a) of Article 3, as: " 'Trafficking in persons' shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.', subparagraph (b) notes that: "The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used". *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and*

Children, 2020 at
https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/ProtocolonTrafficking.pdf
[accessed 25 July 2024]

[58] Laura Brace and Julia O'Connell Davidson, "Slavery and the Revival of Anti-slavery Activism," in Brace and O'Connell Davidson, eds, *Revisiting Slavery*, 24-5.

[59] *Anti-Slavery Reporter*, 1, no. 2, February 1st, 1853, "The Stafford-House Address," 37.

[60] Kevin Bales, *Disposable People New Slavery in the Global Economy* (Berkeley: University of California Press, 1999), 7.

[61] Kevin Bales, *Understanding Global Slavery* (Berkeley: University of California Press, 2005), 58.

[62] Kershnar, "Liberal argument", 510.

[63] Walter Block, "Toward a Libertarian Theory of Inalienability: A Critique of Rothbard, Barnett, Smith, Kinsella, Gordon, and Epstein," *Journal of Libertarian Studies*, 17 no. 2 (2003): 44. My italics.

[64] Nozick, *Anarchy,* 262.

[65] Nozick, *Anarchy*, 283.

[66] Nozick, *Anarchy*, 283.

[67] John Rawls' *A Theory of Justice* had been published in 1971. Ellen Frankel Paul, "Nozick, Robert (1938-2002)," in Ronald Hamowy, ed., *The Encyclopedia of Libertarianism* (Thousand Oaks, California: Sage, 2008), 360-2.

[68] Nozick, *Anarchy*, 290-292.

[69] 'Slavery is the legal, quasi-legal, or coercive relation whereby one person owns another'. Kershnar, "Liberal argument", 510.

[70] Locke, *Second Treatise*, ch 4, §22.

[71] Drudgery did not involve absolute ownership. Locke, *Second Treatise*, ch 4, §23, and ch 14, §168.

[72] See Lorenzo Sabbadini, *Property, Liberty, and Self-Ownership in Seventeenth-Century England* (Montreal and Kingston: McGill-Queens University Press, 2020).

[73] "On the Subjection of Women," in John Stuart Mill, *Three Essays: On Liberty* [1859] *Representative Government* [1861] *The Subjection of Women* [1869] (Oxford: Oxford University Press, 1912), 466.

[74] "On Liberty," in Mill, *Three Essays*, 125-6. Rousseau too had been prepared to force individuals to be 'free' in order to secure the social compact and prevent personal dependence. See Jean Jacques Rousseau, *Du Contrat Social* (Paris: 1762), ch 1:7.

[75] "On Liberty," in Mill, *Three Essays*, 126.

[76] Instead, '[s]he vows a lifelong obedience to him at the altar, and is held to it all through her life by law'. "Subjection of Women," in Mill, *Three Essays*, 462.

[77] "Subjection of Women," in Mill, *Three Essays*, 461.

[78] Kershnar, "Liberal argument," 510-11.

[79] Danny Frederick, "Voluntary Slavery," *Las Torres de Lucca,* 4 (2014): 115-137.

[80] Olsthoorn and van Apeldoorn, " 'This man is my property,' " 253-75.

[81] Olsthoorn and van Apeldoorn, " 'This man is my property,' " 253.

[82] Olsthoorn and van Apeldoorn, " 'This man is my property,' " 255.

[83] William Watson, *A decacordon of ten quodlibeticall questions concerning religion and state* (London: 1602), 141-2; Stephen Jerome, *The Arraignement of the Whole Creature, at the Barre of Religion, Reason, and Experience* (London: 1631), 264.

[84] Margaret Cavendish, *Poems, and fancies written by the Right Honourable, the Lady Margaret Newcastle* (London: 1653), "A *Dialogue* betwixt *Peace*, and *War*," 90.

[85] 'Thanks to the cataclysmic experiences associated with centuries of Transatlantic enslavement, slavery is commonly recognised as epitomising the 'worst of the worst' as far as exploitation, vulnerability and coercion are concerned'. Joel Quirk, "What counts as slavery today?", *Global Policy* blog at https://www.globalpolicyjournal.com/blog/28/08/2020/what-counts-slavery-today [accessed 4 September 2020]

[86] See Charles Verlinden "L'origine de *sclavus* – esclave," ['The origin of *sclavus* – the slave'] in *Archivuum latinitatis medii aevi*, XVII (1943): 97-128.

[87] The process that saw a large number of people of Slavic descent being seized and sold for profit appears to have began in earnest in the ninth century as Slavs were trafficked around and across Europe to satisfy a growing Muslim demand. Rotman claimed that Byzantium was 'the principal consumer market for Slavic slaves outside the Arab world'; as a result there was an ongoing contest between Arabs and Byzantines for Slavic captives. See Youval Rotman, *Slavery in the Mediterranean World*, trans. Jane Marie Todd (Cambridge, MA.: Harvard University Press, 2009), ch 2, with citation on 74.

[88] Thomas Becon, *A comfortable epistle too Goddes faythfull people in Englande* (Strasbourg:1542), Ciii.

[89] Raphe Robynson, *A fruteful and pleasaunt worke of the beste state of a publyque weal, and of the newe yle called Utopia* (London: 1551), second book, 'Of their lyuing and mutuall conversation together', n.p.
[90] Mary Nyquist, *Arbitrary Rule* (Chicago: University of Chicago Press, 2013), 4.
[91] Victora Kahn's study of the crisis of political obligation in England during the English Revolution revealed not just how deep the concern for contract ran, but how contested it was. Kahn, *Wayward Contracts: The Crisis of Political Obligation in England, 1640-1674* (Princeton: Princeton University Press, 2004), Introduction.
[92] See the entries for *servus* in *The dictionary of syr Thomas Eliot knight* (London: 1538), and Elisha Coles, *A Dictionary, English-Latin, and Latin-English* (London: 1677).
[93] See Judith M Spicksley, *Possessing Lives: A History of Ownership, Life Debt and Slavery from Antiquity to Abolitionism* (Cambridge University Press), forthcoming.
[94] 'It is lawful for every man to addict and yield himself into private servitude to whom he pleaseth'. C[lement] B[arksdale], *The illustrious Hugo Grotius Of the law of warre and peace with annotations. III. parts. and memorials of the author's life and death* (London: 1655), 86. Tuck's 2005 edition has 'It is lawful for any Man to engage himself as a Slave to whom he pleases'. See Hugo Grotius, *The Rights of War and Peace,* Volume 1, ed. Richard Tuck (Indianapolis: Liberty Fund, 2005), Book 1, 3.8.1, 261. For the Latin (*Licit homini cuique se in privatam servitutem cui velit addicere*) see Hugo Grotius, *De Jure Belli et Pacis Libri Tres*, Vol 1, trans. William Whewell (Cambridge: John Parker, 1853), 114.
[95] Olsthoorn and van Apeldoorn, " 'This man is my property,' " 263. I have used the fourth edition - Samuel Pufendorf, *Of the Law of Nature and Nations*, Eight Books, trans. Basil Kennett (London: 1729), as did Olsthoorn and van Apeldoorn. The first edition in 1703 has been described as a 'collaborative translation'. See C. E. A. Cheesman, "Kennett, Basil (1674–1715), antiquary and translator." *Oxford Dictionary of National Biography.* 23 Sep. 2004. https://www.oxforddnb.com/view/10.1093/ref:odnb/9780198614128.001.0001/odnb-9780198614128-e-15401. [accessed 21 July 2024].
[96] See David Ellerman, "Inalienable Rights: A Litmus Test for Liberal Theories of Justice," *Law and Philosophy*, 29 (2010): 574-8.
[97] Kahn, *Wayward Contracts*, 1.
[98] 'It is also the Practice to pase away on Property in such *Slaves* who are taken in War, or bought with our Mony, to when we please, after the same manner as we do our other Goods and Commodities.' *The Whole Duty of Man according to the Law of Nature* (London: 1691), 240. This first translation of *De Jure Naturae et Gentium Libri Octo* [Of the Law of Nature and Nations Eight Books] into English was undertaken by Andrew Tooke.
[99] Pufendorf, *Law of Nature*, 6.3.7, 617.
[100] "An act for the better ordering and governing of Negroes" [Barbados, 1661], in S. Engerman, Seymour Drescher and Robert Paque, eds, *Slavery* (Oxford: OUP, 2001), 105.
[101] William Blackstone, *Commentaries on the Laws of England* (Oxford; 1766),2.1, 2; 2.2, 16.
[102] William Blackstone, *Commentaries on the Laws of England* (Oxford; 1765), 1.14, 411-3.
[103] Andrew Lyall, *Granville Sharpe's Cases on Slavery* (Portland, Oregon: Hart Publishing, 2017), 184. For Davy the idea that a slave could even contract was 'a Contradiction to the Idea of Slavery'.
[104] Brown, *Slavery*, 7-8.
[105] Granville Sharpe, *A Representation of the Injustice and Dangerous Tendency of Tolerating Slavery* (London: 1769), 138.
[106] 'For abolitionists, the distinction between slavery and drudgery hinged on consent.' Laura Brace, *The Politics of Slavery* (Edinburgh: Edinburgh University Press (2018), 136.
[107] Clarkson, *Essay*, 6.
[108] Clarkson, *History*, 203-30.
[109] https://www.wisbechmuseum.org.uk/clarkson/index.php [accessed 25 July 2024]
[110] Brace discussed it as a contractual form that Clarkson distinguished from slavery, but did not explain his use of the term. Brace, *Politics*, 136.
[111] Clarkson, *History*, 209-10.
[112] Hugh Brogan, "Clarkson, Thomas (1760–1846), slavery abolitionist." *Oxford Dictionary of National Biography.* 23 Sep. 2004. https://www.oxforddnb.com/view/10.1093/ref:odnb/9780198614128.001.0001/odnb-9780198614128-e-5545 [accessed 25 July 2024].
[113] Clarkson, *History*, 204-6.
[114] Clarkson had read, among others, the works of Montesquieu, Granville Sharp and James Ramsay. Edward B. Rugemer, *Slave Law and the Politics of Resistance in the Early Atlantic World* (Cambridge M.A.:

University of Harvard Press, 2018), 216. All three outlined a distinction between voluntary and involuntary slavery.

[115] Clarkson, *Essay*, 6.

[116] Clarkson, *Essay*, 3-4.

[117] The association of 'slavery' [*servitus*] with sin in Christian theology is stated most explicitly in the works of Augustine. See Peter Garnsey, *Ideas of slavery from Aristotle to Augustine* (Cambridge: Cambridge University Press, 1996), 213.

[118] Clarkson, *Essay*, 4.

[119] Clarkson, *Essay*, 5.

[120] Robin Blackburn, *The Making of New World Slavery: From the Baroque to the Modern 1492-1800* (London; Verso, pbk, 1998), 66; Hugh Rawson, *Rawson's Dictionary of Euphemisms and other Doubletalk* (Edison, New Jersey: Castle Books, 2002), 376-7.

[121] Clarkson, *Essay*, 247-8.

[122] Frederick Douglass, *My Bondage and My Freedom* (New York: Miller, Orton and Mulligan, 1855), 433.

[123] Cited in Engerman, "Rise," 168-9.

[124] David P. Ellerman, *Intellectual Trespassing as a Way of Life* (Lanham MA.; Rowan and Littlefield, 1995), 77.

[125] Ellerman, *Intellectual Trespassing*, 75.

[126] *Anti-Slavery Reporter*, 38.

[127] Emily West, *Family or Freedom* (Lexington: University of Kentucky, 2012), 1, 154.

[128] West, *Family*, 77, 1, 90-92.

[129] West, *Family*, 155.

[130] West, *Family*, 2.

[131] West, *Family*, 155.

[132] Howard, "Abolitionist,", 268.

[133] Cited in Howard, "Abolitionist," 267.

[134] Howard, "Abolitionist," 266.

[135] 'It appears, accordingly, from the experience of all ages and nations, I believe, that the work done by freemen comes cheaper in the end than that performed by slaves.' Adam Smith*, An Inquiry into the Nature and Causes of the Wealth of Nations*, Volume 1 (London, 1776), I.8, 99.

[136] O'Connell Davidson, "Troubling freedom,", 177.