

Chapter 1

Prostitution and Selling Children as Slaves

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We will no doubt forgive a specialist in the past for introducing a collection of texts that are highly relevant even today: the past often finds its way into the present in thinly disguised forms. Prostitution is a largely diversified universe in which it is appropriate to distinguish women who offer themselves freely, or relatively so, from all those who have fallen into a state of total dependence—for which we generally, and quite rightly, reserve the expression “human sex trafficking”— maintained by the classic means of violence, drugs and accumulated debts to their pimps. These women of today are not very far from the slaves of the past. We speak of “slavery” somewhat hesitantly when it comes to them, since we emphasized the fact that a slave can only be defined through a legal status. From Burma’s Manu law to Bangkok law, and even to Vietnamese Law (derived from a very different Chinese tradition), this legal status had been defined much earlier. Nothing of the kind exists these days, during an era of globalization, when all countries adhere to the principles of the Universal Declaration of Human Rights, and their civil laws proclaim that all men are born free, and so on. Hence, it can be considered as illegal slavery, and at the very most, we can talk about a de facto slavery, which highly resembles a legally defined slave, since the dependent has suffered from a loss of identity¹. Furthermore, we can mobilize another notion, very popular in legal circles these days: legal pluralism. The State has its laws that define legal standards; but people have their norms as well, though not necessarily the same, which they respect by force of habit and because they consider them legitimate. As for the mafia or unlawful underworlds of all kinds, they have their code as well—that has nothing to do with that of the

State—which they keep in force through their own means by resorting to violence. A sensational trial several years ago in France saw the Court condemning a French couple for “slavery”, stating that they had confiscated the papers of a young Black African girl whom they had accommodated (for work). This loss of identity, purely factual from the lawyer’s point of view, insignificant in the eyes of the law, was enough to draw a comparison with the slave of ancient times, deprived of name and rights, but in that case, also before Roman law.

Nowadays, slavery, even if it normally goes hand in hand with a climate of violence, did not always originate from violence, kidnapping, war or raids. Men and women were sold as slaves, or sold their children, because of extreme poverty or deep indebtedness. Such practices were common and perfectly institutionalized in the past. In fact, in 1884 on the eve of the Protectorate, the Cambodian King Norodom declared to the representatives of France: “Slavery for debt is one of the foundations of the Cambodian State”². We believe³ these are very ancient traditions deeply rooted in the different cultures of Southeast Asia”.

The example of the *mooi-jai* (*mui-tsai*)⁴ can help introduce this topic. In Cantonese dialects, the term meant “little sister” or “little servant” and applied to all those who had been sold by their parents while they were still quite young. Their number was estimated at two million in the 1920s in the whole of China. International opinion revolted against this and launched a campaign, called the anti-*mui-tsai* campaign to stop this human trafficking and to liberate those who were later called “little slaves”. In reality, the selling of humans in China—as in several non-Western societies—covers a diversified phenomenon. The name *mooi-jai* corresponded to greatly varied⁵ situations, including “concubine” (or rather second wife bought for a sum of money similar to that described in anthropology as “matrimonial compensation” or “bride price”), the poor girl placed to work as a servant for a rich family, or a daughter pawned against a loan. As a result, the West was not wrong in calling all *mooi-jai* slaves in general. This very vast group included a large variety of contrasting situations both in terms of their status, as well as their condition. It is indisputable, however, that within this group, some could be described as being slaves. An example is the following deed from 1927, authenticated by thumb impressions, concerning a girl named Ah Mui:

In consequence of urgent needs for funds to meet family expenses, I am willing to sell my own daughter, Ah Mui, 10 years of age [...] to Chan Yee Koo through a go-between. [...] Price is to be 141 dollars. After this sale, Chan Yee Koo shall have the right to change the name of the girl. If the girl is disobedient, Chan Yee Koo shall be allowed to

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sell her, and the mother shall have no recourse. In the event of any misfortune befallen on the girl, there is no blame to either Party. It is also perfectly clear that the girl has neither been betrothed to any other family, nor is there any mortgage on her. [...] This is a straightforward sale and purchase (Jaschok, 1988 : 146-7).

Another deed, dated from 1895, written at greater length, carries similar details (finger prints, presence of a go-between, certification saying that the girl is neither affianced nor pawned, declaration of an absolute sale—without privilege of repurchase—, negotiated price, removal of responsibility from both parties in case of misfortune striking the girl, etc..) and explicitly stipulates the objectives of this sale:

The maker of this deed for the absolute sale of a girl for the purpose of prostitution is the Tang family, who has a girl for prostitution surnamed ... and named ... aged 16. [...] They wish to sell her to anyone [...] Whenever the sale is complete the girl is to go away for ever. [...] The purchaser has a right to have the girl taught to play music and taught singing so that she may be put on the river as a prostitute, and she will dress herself up to receive visitors as her calling and to thus spend her life [...] (Jaschok, 1988 : 147).

These ancestral practices, well known to historians⁶, call for the following remarks:

1. Chinese authorities banned them a long time ago. The Qing code (Ts'ing, 1644-1911) devotes several articles to the suppression of pawning or renting a daughter or wife, and the selling “as main, secondary or slave wife” of a daughter, sister or a wife⁷. It would not have been necessary to do it had it not been a current practice. In fact, more can be said with regard to legal pluralism: this illegal practice (illegitimate from a legal point of view) undoubtedly coexisted with the opposite idea that it was legal for parents to sell their children. This idea or sentiment was rooted in the fact that it was an old practice steeped in moral convention, and was coupled with the traditional moral attitude that attributes total authority to the father within the family.
2. The submission of a girl sold to her buyer was, in a way, merely the extension of submission to the father's wishes.
3. State prohibition followed the lines of Confucian morals, restricting the father's power (since Antiquity in China, it has been prohibited for a father to kill his son). The father would be held in utter reprobation for making

a profit from his matrimonial alliances (instead, receiving money for a daughter's marriage was compensated for by granting an equal or greater dowry). However, this moral attitude belonged to the elite and not to peasants: the latter accepted "to make money" by marrying their daughters, placing them as servants, or even selling them with dubious intentions.

4. What Chinese Law forbade, the Law of other countries allowed, especially in Siam. According to Lingat's research (1931), even until nineteenth century Bangkok law, a father could pawn his children (in *that*, "redeemable" in Lingat's terminology) or sell them as slaves (in *that*, non-redeemable, which perfectly corresponds to the definition of a slave). In Indian Law, the authorized slavery of an individual for the purpose of debt settlement or sale is included in what has been accepted as *Dharmashastra*, except within the upper caste of the Brahmins. Civil laws of most Indianized societies in Southeast Asia draw from this model quite directly. At the same time, they confer on the father a very great power, similar to that of the father in Roman tradition, endowed with *patria potestas* (paternal power).
5. The case of China, yet again, would help us to be wary when it comes to the very vague idea of the sale of children. In no society was selling a daughter the same thing as selling a son. It is enough to mention the old Chinese proverb: "Ten fine girls are not equal to one cripple boy"⁸. Furthermore, ancestral cult requires to have an heir, and there was less reluctance to sell a daughter than a son. Finally, it is traditional to seek profit from daughters, not only because they can join brothels or prostitution networks, but simply because almost everywhere in Southeast Asia, a man should pay to have a wife—through matrimonial compensation to the father or a bride-price. In many cases, fathers have authorized bad marriages simply for financial reasons; it would not have been very different if they had pawned them or placed them as servants. After all, servants do get married, albeit with less interesting parties. As for the practice of absolute sale, as mentioned in the deeds cited above, the fathers have renounced to any right of inspection, responsibility and protection over them. In retrospect, is one situation so different from the other?

To study the questions of human trafficking for the purpose of sexual exploitation in Southeast Asia, I have considered only the case of China. But it is a relevant case. Furthermore, old sales records of slaves are abundant in Southeast Asia, whether within States or within "tribes".

In conclusion, I think that whenever the topic of prostitution is brought to light within the context of certain Third World countries, extreme poverty is too easily cited as the cause. It is undeniably an explicatory factor. But it is not the only one. Past historical and cultural trends should also be considered. In the case of Southeast Asia—and Asia in general—freedom does not have the same value that we give it in the West. A 1930 Shanghai newspaper reported that, in those days, famine was so severe in the outskirts of Lishan that thousands of children were brought there by their families in the hope of selling them rather than dying of hunger. In the West, no such thing has ever happened since the Greeks, even during the darkest periods. Selling oneself or allowing oneself to be sold to be able to eat or settle family debts was a common, if not normal, occurrence in several countries of East Asia. It was not a glorious thing to do, but neither was it unconceivable nor abominable: that is what traditional Indian Law calls “slaves of the stomach”. The second historical and cultural tradition that we wished to discuss in these pages focuses on the traditional family structure, which confers on the father a position of moral authority, who has a veritable power over his children, inducing complete submission of his children. How could we then not expect that the poorest of the families, regularly burdened with debts, get some help from daughters who represented the means to do so?

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