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Geninka and Slavery: Jesuit Casuistry and Tokugawa Legislation on Japanese Bondage (1590s–1620s)

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Abstract

Based on Japanese and Portuguese sources, this paper aims at recovering local categories of bondage in order to identify mechanisms by which people were subjected to bonded labour in early modern Japan. The analysis focuses on crossing local forms of bondage, here referred to as *genin*, and the processes of subjecting individuals to this condition, the so-called called *geninka*, with the European notion of slavery and enslavement. Local forms of subjection to bondage are drawn from the analysis of early seventeenth-century Tokugawa legislation dedicated to the suppression of human trafficking networks. These documents use a number of labels such as *genin*, *hōkōnin*, *wakatō*, *chūgen*, *hikan*, and *komono*, all references to people subjected to various forms of bondage. At the same time, a crucial debate among members of the Society of Jesus in India offers the opportunity to scrutinise the application of the historical and legal European concept of slavery and enslavement to Japan, a region beyond the secular authority of colonial empires. Ultimately, slavery reveals itself as one of the many categories used by early modern actors to interpret and regulate labour arrangements in the budding Christian communities created by missionaries in the Iberian world.

Keywords: Japanese slavery; bondage; *genin*; Jesuit missionaries; Tokugawa Japan

Introduction

By the end of the sixteenth century, Japan was reaching the end of a long process of commodification of labour that had been intensified by the great famines of the thirteenth century.¹ Individuals who were subjected to the ownership of others were generally known as *genin* (lower person), a comprehensive term found in historical sources and Japanese scholarship. Similar to the Portuguese *cativo*, the term has been employed to denote a person subjected to one of the many forms of dependent relations of medieval Japan, such as *shojū*, *nubi*, *zōnin*, and *shimobe*.² By the late 1500s, however, contracts of

¹ See Isogai Fujio, *Nihon chūsei doreisei ron* [Medieval Japan slave system theory] (Tokyo: Azekura shobō, 2007), 232–3, 321–52; Nakata Kaoru, *Hōseishi ronshū 3 no ge* [Collected works on legal history vol. 3, tome 2] (Tokyo: Iwanami Shoten, 1943), 309–64.

² Isogai, *Nihon chūsei doreisei ron*, 460. Borrowing from studies on Mediterranean slavery, Japanese scholarship has often cited the transformation of the individual into property when equating the *genin* to slaves. Ōta Hidemichi, *Higashi chichūkai sekai: kodai ni okeru oriento to girisha* [The world of Eastern Mediterranean: orient and Greece in antiquity] (Tokyo: Iwanami shoten, 1977), 22; Minegishi Kentarō, *Kinsei mibunron* [Early modern

limited-time bondage, according to which one agreed to work for someone else for a number of years in exchange of a small sum of money, but not necessarily become property of another person, were increasingly becoming the norm. Known as *nenki hōkō* (temporary service), these arrangements were ubiquitous during the Edo period (1600–1868), when such contracts became highly specialised.³ The process was intensified by the legal separation between farmers and the military promoted between the late sixteenth century and the early seventeenth century, which resulted in a highly hierarchised Japanese society.⁴

This period also coincided with the arrival in Japan of Iberian merchants and Jesuit missionaries, who promptly equated the various local forms of bondage for money with slavery. Eventually, this process was consolidated by the Japanese invasions of the Korean peninsula between 1592 and 1598. As a result of this equation and the encounters between European merchants and local traders, local and regional human trafficking networks, previously restricted to the waters between the Japanese islands and the shores of China and Southeast Asia, were then integrated into the ever-expanding global slave-trade network of the early modern period.⁵ After decades of tacit acceptance and cooperation with the trade, the increasingly dangerous political environment of the late sixteenth century led the missionaries of the Society of Jesus to condemn the trade altogether.⁶

The focus of this article is the process of subjugating an individual into bondage, which I refer to as enslavement on the European side and, on the Japanese side, as *geninka*—the transformation of an individual into a *genin*.⁷ Methodologically speaking, this is not an attempt to bring a category from Japanese studies to the historical debate, but rather a

status theory] (Tokyo: Azekura shobō, 1989), 21–5; Yamaguchi Keiji, *Sakoku to kaikoku* [Closed country and open country] (Tokyo: Iwanami shoten, 1993), 109–10; Toyoda Takeshi, *Nihon no hōkensei* [The Japanese feudal system] (Tokyo: Yoshikawa kōbunkan, 1983), 70. Although aware of the arbitrariness of the equation, I follow Japanese scholarship in favouring the similarity between slaves and *genin*.

³ Edo-forms included servants of military houses (*buke hōkōnin*), temporary field labourers (*murakata hōkōnin*), urban peddlers and apprentices (*machikata hōkōnin*), day-labourers (*hiyōtori*), and entertainment workers (*tsutomebōkōnin*). Maki Hidemasa and Fujiwara Akihisa, *Nihon hōseishi* [Japanese legal history] (Tokyo: Aoyama shoin, 1993), 196–200. The translation for these contracts, however, remains problematic. Suggestions include temporary slavery, temporary servitude, limited-time servitude, and limited-time bondage. See Lúcio de Sousa, *The Portuguese Slave Trade in Early Modern Japan: Merchants, Jesuits, and Japanese, Chinese, and Korean Slaves* (Leiden: Brill, 2019), 283; Stuart M. McManus, “‘Servitum Levem et Modici Temporis Esse Arbitrantes’: Jesuit Schedules and Japanese. Limited-Term Servitude in Gomes Vaz’s *De mancipiis Indicis*,” *Bulletin of Portuguese-Japanese Studies* series II, 4 (2018): 77–99, 77; Liam Matthew Brockey, “Jesuits and Unfree Labor in Early Modern East Asia,” in *Jesuits and Race: A Global History of Continuity and Change, 1530–2020*, ed. Nathaniel Millet and Charles H. Parker (Albuquerque: University of New Mexico, 2022), 75–96, 77–8. The very notion of *nenki* also deserves further consideration, as shown by recent Japanese scholarship. Matsuzono Jun’ichirō, “Chūsei ni okeru nenkihō no kinō to henyō” [Function and modifications of prescription law in the medieval period], *Hitotsubashi hōgaku* 18:1 (2019), 69–91.

⁴ Nakabayashi Masaki, “Chūkinsei ni okeru tochi shijō to kin’yū shijō no seido henka” [Systemic changes in real estate market and financial market in the medieval and early modern periods], in *Shakai keizai shigakuno kadai to tenbō* [Topics and perspectives in social and economic history], ed. Socio-Economic History Society (Tokyo: Yūhikaku, 2012), 56–70, 68–9.

⁵ Shimōjū Kiyoshi, *Miuri no nihonshi: jinshin baibai kara nenki hōkō he* [The Japanese history of self-selling: from human trafficking to temporary servitude] (Tokyo: Yoshikawa kōbunkan, 2012), 83.

⁶ I previously discussed this process at length. Rômulo da Silva Ehalt, “Jesuits and the Problem of Slavery in Early Modern Japan” (PhD. diss., Tokyo University of Foreign Studies, 2017).

⁷ I am here, of course, taking seriously the path first suggested by Miers in her text on the so-called definitional problem. Suzanne Miers, “Slavery: A Question of Definition,” *Slavery & Abolition* 24:2 (2003), 1–16. Rather than putting forward a new definition for slavery in order to maintain its universality, I follow Gwyn Campbell in adopting *bondage* as the universal in order to explore the historicity of the very idea of slavery in face of other forms of coerced labour. Gwyn Campbell, “Introduction,” in *Bondage and the Environment in the Indian Ocean World*, ed. Gwyn Campbell (Cham: Palgrave-Macmillan, 2018), 2.

proposition to complicate the discussion through seizing local, underappreciated categories without overpowering these same ideas through the imposition of European categories.⁸ As a result, it becomes possible to identify two distinct moments of the process of subjugation: first, the capture, alienation, kidnapping or self-sale of the individual and, second, their subjection to Western, alien practices of bondage. Inspired by the notion of intersection as envisioned by the proposers of the *histoire croisée*, this paper searches for connections and overlaps between the two distinct epistemologies in order to find how the trade itself worked and what aspects of local bondage and human trafficking were seized by the European-Japanese trade.⁹ By identifying the mechanisms used by traffickers in Japan, the article will explore how the European slave trade interacted with local human trafficking networks and how this interaction supplied the small yet significant demands for bonded labour of Japanese origin in colonial societies. At the same time, seizing the privileged point of view of Jesuit theology, I highlight the complex process of recognition of the legal category of slavery in areas beyond the secular jurisdictions of early modern colonial empires and the importance of assessing historical definitions of bondage.

Scholars such as Thomas Nelson and Lúcio de Sousa have claimed that the late sixteenth-century Jesuit condemnation of the enslavement of the Japanese was the result of missionaries having witnessed the suffering of the enslaved. Also, it has largely overlooked that the central issue for Jesuits in Japan was not to save the souls of enslaved individuals themselves, but rather the salvation of those who claimed ownership over subjugated others in Japan.¹⁰ This paper argues that, firstly, previous attempts to identify methods of subjugation in Japan have failed to notice the specificity of Japanese categories because of scholars' conflation of all those terms with slavery as a universal label.¹¹ Furthermore, scholars have used Western and, at times, Japanese sources to identify these mechanisms but with no attention to the epistemological differences and the challenges these distinctions pose.¹² I argue that while a range of subordinate and bonded positions were available in medieval and early modern Japan, the dialogue between these categories and the European notion of slavery as a historical form of bondage is fundamental to better understand how these two worldviews interacted.

⁸ As a methodological movement, it parallels the discussion put forward by Syed Farid Alatas and others on the influence of Orientalism in Malay Studies in silencing local categories. Syed Farid Alatas, "Silencing as Method: The Case of Malay Studies," in *Fieldwork and the Self: Changing Research Styles in Southeast Asia*, ed. Jérémy Jammes and Victor T. King (Singapore: Springer Nature, 2021), 199–214. My approach is also inspired by Julia Winnebeck et al., "The Analytical Concept of Asymmetrical Dependency," *Journal of Global Slavery* 8 (2023), 1–59.

⁹ Michael Werner and Bénédicte Zimmermann, "Beyond Comparison: Histoire Croisée and the Challenge of Reflexivity," *History and Theory* 45:1 (2006): 30–50. One must not forget, though, that Japanese society also accepted other various forms of bondage that went beyond the hired or purchased *genin* (including some discussed in this article), although it was not common for these individuals to end up under European ownership. Sekiguchi Hiroo, *Kinsei sonraku no ryōiki to mibun* [Territory and status in early modern villages] (Tokyo: Yoshikawa kōbunkan, 2021), 122–3.

¹⁰ This line of thought has been cited numerous times by Nelson and, more recently, repeated by Sousa. Thomas Nelson, "Slavery in Medieval Japan," *Monumenta Nipponica* 59:4 (2004), 463–92, 466; Sousa, *The Portuguese Slave Trade in Early Modern Japan*, 510–1.

¹¹ Despite introductory remarks, Sousa fails to take these differences into consideration throughout his analysis. Sousa, *The Portuguese Slave Trade in Early Modern Japan*, 5–8. As for Nelson, he disregards the historicity of the category of slavery in favour of identifying forms of slavery in Japan, opting for a discussion on the means by which one could "descend into slavery, and what rights these slaves had, if any," in an apparent attempt to transpose conclusions from scholarship on Atlantic slavery to an Asian context. Nelson, "Slavery in Medieval Japan," 472. Since these issues go beyond the limits of the present paper, I will further explore these in my upcoming book on slavery in early modern Japan.

¹² See, for instance, Isogai, *Nihon chūsei doreisei ron*, 578–84.

Japanese administrators were keen to regulate the Japanese market in labour, where human trafficking was abundant. Bandits lurked roads in search of victims to rob and kidnap, while others were captured in wars.¹³ In the cities, too, many were at risk. In 1579, a woman in Kyoto was executed after confessing to deceiving, abducting, and selling more than eighty people.¹⁴ The law also targeted traders selling captured Japanese to foreigners. After a series of prohibitions against local human trafficking enacted by Japanese ruler Toyotomi Hideyoshi (1537–98), authorities crucified Japanese traffickers by the docks of Nagasaki in the 1590s.¹⁵ Besides kidnapping, there were also many who sought self-alienation as a solution in times of famine and other large-scale crises, an alternative that was tacitly accepted by central authorities and even championed by local administrators.¹⁶ In the 1610s, the Tokugawa shogunate or Tokugawa Bakufu resumed the persecution of human traffickers, policy that had been abandoned temporarily due to the wars following the emergence of the new regime and the demise of the Toyotomi clan. Consequently, the second *shōgun*, Tokugawa Hidetada (1581–1632), enacted two prohibitions that underlined the many ways in which people could be hired, sold out, or kidnapped, inadvertently producing a detailed account of the practices of the time.

A second argument that I make here is that notwithstanding the above, a clash occurred between European ideas of slavery and Japanese notions of bondage, which included perpetual and temporary forms of coerced labour.¹⁷ The idea of slavery held by the missionaries referred to a legal definition that was difficult to identify amidst the various intricacies and variables of common life in colonial societies and missionary fronts in general. Their project was, from a Foucauldian standpoint, to use the tension between the idealised *servitus* of European *ius commune* and the everyday forms of bondage to create ways to impose their own religious and political agendas on Christian communities. Thus, it is clear that they were resorting to one of the very few clear-cut contemporary definitions of slavery in their own debates, which allows scholars to work with these tensions without succumbing to the unsurmountable challenge that practical and individual variations of thought, expectation, and enforcement represent for historical research.

Inside Traders

European merchants could hardly hide their shock at the low prices at which Japanese men, women, and children could be acquired in the late sixteenth and early seventeenth centuries. Florentine merchant Francesco Carletti, who spent eight years circling the globe during in the last decades of the 1500s, wrote of Nagasaki that men could easily

¹³ Fujiki Hisashi, *Zōhyōtachi no senjō: chūsei no yōhei to doreigari* [Battlefields of the common soldiers: medieval mercenaries and slave-raiding] (Tokyo: Asahi Shinbunsha, 1995).

¹⁴ Ōta Gyūichi, *The Chronicle of Lord Nobunaga*, ed. J. S. A. Elisonas and J. P. Lamers (Leiden: Brill, 2011), 330; Ōta Gyūichi, *Shinchō kōki* [The chronicle of Lord Nobunaga], ed. Nakagawa Taiko (Tokyo: Kadokawa, 2019), 301.

¹⁵ Biblioteca de la Real Academia de la Historia, Madrid [hereafter BRAH], *Cortes 566 (9/2666)*, *maço* 21, 275, Decision taken by the bishop and the priests of Japan on the freedom of the Japanese and the Koreans, 4 September 1598.

¹⁶ Hasegawa Yūko, “Chūkinsei ikōki no hitouri kankō ni miru dogō no yūzū: seimei iji to mura no naritachi no shiten kara” [The adaptability of local clans as seen on the custom of human trafficking in the transition from the medieval to the early modern period: from the perspective of life maintenance and the history of villages], in *Shōen to mura wo aruku II* [Walking through estates and villages II], ed. Fujiki Hisashi and Kuramochi Shigehiro (Tokyo: Azekura Shobō, 2004), 92–118, 95–101; Isogai, *Nihon chūsei doreisei ron*, 73; Sekiguchi, *Kinsei sonraku*, 125–7.

¹⁷ European here is adopted as a general moniker for what were, effectively, Mediterranean forms of bondage carried by mainly Iberian actors, as well as secular and ecclesiastical authorities, to Asia in the early modern period.

find a “girl of fourteen or fifteen years, a virgin and beautiful, for three or four *scudos*, more or less, according to the span they want to have her at their disposition.”¹⁸ The same happened to Chinese and Koreans captured overseas and brought to be sold in Japan.¹⁹ Even in Europe, theologians such as Luís de Molina, whose imaginations were constantly fed by the innumerable missionary reports coming from Asia, were aware of the infamously low prices given for enslaved people in the archipelago.²⁰ Japan was a very dynamic market, in which sellers tried to pass along men, women, and children as merchandise as fast as possible.²¹

With the gradual substitution of perpetual forms of medieval bondage for the more dynamic contracts of early modern temporary servitude, a vast number of farmers rushed to urban centres, forming a renovated labour force. By the late sixteenth century, the medieval *genin* had split: those who possessed land became known as *nago*—individuals held in bondage, yet owners of their own means of production—while those who held no land nor the means of production became temporary hires, i.e., *nenki hōkōnin* (persons under *nenki hōkō* contracts).²² Nevertheless, the distinction between *genin* and *nenki hōkōnin* was not always clear-cut. In early modern military circles, temporary hires could still be called *genin*. In this case, the term encompassed middle-rank categories of military servants such as the *chūgen*, *komono*, and *arashiko*, often responsible for tasks such as tending horses and carrying weaponry.²³ At the same time, there were the so-called *buke hōkōnin*, servants of military houses which often included individuals of social status subjected to control by people in higher ranks who could also be referred to as *genin*.²⁴ One persistent theory in Japanese scholarship explains that the medieval *genin* disappeared by the end of the sixteenth century as a result of popular revolts that led to a total reshuffle of the ruling social system in Japan, thus opening the way for the emergence of temporary bondage as the basic form of labour.²⁵ By the seventeenth century, the term *genin* seems to have survived only in military ranks.

Despite this definitional imbroglio, the fact is that both forms of human trafficking and temporary bondage went through profound changes between the late sixteenth and the early seventeenth centuries, prompted not only by historical circumstances but also by legal action. In the 1610s, the second *shōgun* of the Tokugawa clan, Hidetada, decided to

¹⁸ Reinier H. Hesselink, *The Dream of Christian Nagasaki: World Trade and the Clash of Cultures, 1560–1640* (Jefferson, N.C.: McFarland & Company, 2016), 106–8.

¹⁹ Luís Fróis, *Historia de Japam*, ed. Josef Wicki, 5 vols. (Lisbon: Biblioteca Nacional de Lisboa, 1976–1984), 1: 215, 5: 41–2; BRAH, *Cortes 566* (9/2666), *maço 21*, 273v.

²⁰ António Manuel Hespanha, “Luís de Molina e a escravização dos negros,” *Análise Social* 35 (2001), 937–60, 952.

²¹ See prices compiled in Sousa, *The Portuguese Slave Trade in Early Modern Japan*, 286–92. For the internal human trafficking, see Isogai, *Nihon chūsei doreisei ron*, 332–8. Isogai also notes that during the Kamakura period (1185–1333), the ownership of people could be handed over for free in times of famine, idem, 548. Citing Isogai, Fujiki explains that the ransom of captives of war was generally two to five times the average price for a *genin* in Japan. Fujiki, *Zōhyōtachi no senjō*, 32.

²² Minegishi, *Kinsei mibunron*, 24–5, 50–1.

²³ Fujiki, *Zōhyōtachi no senjō*, 4–5.

²⁴ The precise identification and definition of *buke hōkōnin*, particularly for the end of the sixteenth century, is still an unsolved question. Fujii Jōji, “Mibun to shite no hōkōnin: sono sōshutsu to shōmetsu,” in *Shokuhōki no kenkyū no ima* [Current research on the Oda-Toyotomi period], ed. Shokuhōki kenkyūkai [Association of Research on the Oda-Toyotomi Period] (Tokyo: Iwata shoin, 2017), 61–4. Regardless, the influence of Kuroda Toshio’s thought in the debate is remarkable. Kuroda Toshio, *Nihon chūsei no kokka to shūkyō* [The state and religion in medieval Japan] (Tokyo: Iwanami shoten, 1975), 360–1.

²⁵ Kuroda, *Nihon chūsei no kokka to shūkyō*, 396–7; Mizukami Ichikyū, *Chūsei no shōen to shakai* [Medieval manors and society] (Tokyo: Yoshikawa Kōbunkan, 1969), 169. All of them are influenced by the work of Nakata Kaoru, *Hōseishi*.

renew anti-human-trafficking policies that had been temporarily halted by the Imjin War (1592–98) and the internal conflicts waged in the wake of his clan's rise to power in the first fifteen years of the seventeenth century. Behind his decision were abusive *nenki hōkō* contracts, which could hold people in bondage for decades, effectively amounting to perpetual servitude. A pragmatic concern with a lack of labour in the fields also motivated the shogunal policy. After the sieges of Ōsaka (1614–15), a decree (*sadame*) enacted in October 1616 and a set of thirteen articles (*jōjō*) published on 27 December 1619 marked the hardening of the Bakufu's stance towards human trafficking.²⁶

The first act had an immediate impact on bondage. Contracts of *nenki hōkō* were capped to a three-year period, and human traffickers attempting to sell people into perpetual bondage could be condemned to capital punishment. The law had determined the annulation of further perpetual sales of people, while guaranteeing to the individual freedom to decide what to do with themselves. Those who had been victims of kidnappings were to be returned to their parents (including people who were not biological parents, but were considered responsible for the child) or, in the case of stolen *genin*, to their original master (*honnushi*).²⁷ As for the specific case of *buke hōkōnin*, hired men-at-arms at the service of military houses, the new law reinforced a previous determination from the Bakufu, according to which people of dubious backgrounds could not participate in these arrangements.²⁸ At once, the 1616 decree restricted temporary contracts of labour, proscribed human trafficking, and regulated military bondage. Placards were erected throughout the country displaying the new rules. After that, the decree was reenacted twice—in January and December of 1618.²⁹

In 1619, the decree was complemented by a set of thirteen articles (or *jōjō*) that would become the most comprehensive anti-human trafficking law of the Tokugawa shogunate. It introduced seven items regulating and condemning various forms of human trafficking and bondage contracts. Its provisions condemned to death kidnappers who sold their captives, set fines and prison sentences for those intermediating human trafficking, punished parents selling their own children, determined that people kidnapped and sold were to be returned to their original master or set free, prohibited long periods of bondage by contract, and more.³⁰ The severe punishments reveal much about how professional human traffickers worked in early modern Japan.

The first form of *geninka* discussed in the 1619 *jōjō* was that of the kidnapping of a person (or a *genin*) followed by a sale.³¹ The law determined that the individual sold was to be

²⁶ For anti-human-trafficking laws in the aftermath of Japanese wars, see Fujiki, *Zōhyōtachi no senjō*, 74–5.

²⁷ One must keep in mind, however, that the term for kidnapping in Japanese documents does not always refer to the actual physical capture of a person. As Isogai warns, in medieval Japan, one could be accused of the crime of kidnapping a person (*hito kōin*) if an individual given as collateral for a debt fled or was not handed over to the collector. Isogai, *Nihon chūsei doreisei ron*, 400.

²⁸ *Dai Nihon shiryō*, 12:25 [Chronological source books of Japanese history], ed. Historiographical Institute of the University of Tokyo (Tokyo: University of Tokyo, 1925), 701–3. See also Sekiguchi Hiroo, “Edo Bakufu no jinshin baibai kinrei wo megutte” [On the prohibitions against the sale of humans by the Edo Shogunate], *Rekishi Minzoku Shiryōgaku* 24 (2019), 231–63, 236–9; Takagi Shōsaku, *Nihon kinsei kokkashi no kenkyū* [Research on the history of the state in early modern Japan] (Tokyo: Iwanami Shoten, 1980), 257–85.

²⁹ Maki Hidemasa, *Kinsei Nihon no jinshin baibai no keifu* [The genealogy of sale of humans in early modern Japan] (Tokyo: Sōbunsha, 1970), 57–8.

³⁰ Various copies of this *jōjō* exist with minor differences that do not affect its meaning. See, for instance, National Archives of Japan Digital Archive, *Naikaku Bunko* collection, n. 180–0027, v. 12, book 29 [available at <https://www.digital.archives.go.jp/file/3142672>]. Maki, *Kinsei Nihon no jinshin baibai no keifu*, 58–9. See also Sekiguchi, “Edo Bakufu no jinshin baibai kinrei wo megutte,” 241–3.

³¹ The original master (*honnushi*) is a term that is repeated throughout the law together with the term parent. This combination appears to indicate that the original master was not only the person claiming ownership of an individual subjected to bondage but also any legal responsibility for the individual.

returned to his or her original master or parent. In case there was no such person, the victim should be set free. Here, the kidnapper was sentenced to death.³² Next, the law discussed the role of active intermediary sellers, specialised in selling away individuals sold to them by a parent in need or a *genin* owner. The letter of the law reveals there were two types of intermediaries: first, the occasional seller, who sold individuals once or very few times; second, the so-called *hitoakinaiyado* or *hitoshōbaiyado*, a professional human trafficker. Here, the punishment depended on the experience of the trafficker. An occasional seller was to be sentenced to one hundred days in prison and pay a hefty fine, which should surpass the criminal's financial resources. In case of default, they were executed. Professional traffickers, however, were immediately sentenced to death.

Those sold directly by those claiming ownership over a *genin* or by a parent to a buyer, or the case of labourers hired for abusively long terms, were also addressed by the 1619 *jōjō*. Given the three-year cap set previously to labour contracts, the articles determined that anyone hired for four or more years was to be set free—in such cases, the buyer and seller were to receive an “appropriate fine.” A similar punishment was reserved for people directly selling a person or a child. Furthermore, the articles of 1619 condemned the sale of an individual by his or her original master or parent to a buyer through the use of an intermediary. The text also determined that such go-betweens were to be arrested or receive a hefty fine, depending on the severity of the offence. Lastly, the law also condemned organised schemes of kidnapping and intermediation involving at least two professional traffickers: a kidnapper and a broker. The victim, taken away from their *honnushi* or parent, was sold by the kidnapper to a specialised intermediary. This fixer would then negotiate the sale with the final buyer. Against such organisations, the shogunal decree decided that both kidnapper and broker were to be condemned to death.³³

Together, the laws of 1616 and 1619 criminalised the intermediation of human trafficking and perpetual bondage.³⁴ However, it is not possible to say that they plainly outlawed *geninka*. There was no provision setting free people who had previously been subjected to bondage. Also, the effect of this legislation on the enslavement of Japanese and other individuals by Europeans in Japan is questionable, despite claims by Japanese scholars.³⁵ The foreign slave trade would be eventually impacted by Tokugawa legislation only in 1621, when Dutch and Portuguese traders were targeted by a Bakufu ordinance against foreigners hiring Japanese servants.³⁶ Still, the panorama offered by the Bakufu laws of the late 1610s evidences a high degree of specialisation in Japanese human trafficking networks, where professional vendors and kidnappers depended on the transformation of people

³² Sekiguchi calls the kidnapper *hitoakibito*, although the term is absent from the text of the 1619 law. Sekiguchi, “Edo Bakufu no jinshin baibai kinrei wo megutte,” 242.

³³ Despite Sousa's assertion that the kidnapper was known as *hitokadoi* and the seller as *hitoakibito*, none of the legislation mentioned here or other early modern laws make use of such terms. Instead, these were more common between the twelfth and the fourteenth centuries, as extensively shown by Isogai. Sousa, *The Portuguese Slave Trade in Early Modern Japan*, 269; Isogai, *Nihon chūsei doreisei ron*, 186, 232, 263, 273, 329, 381, 400, and 549. The fact that Japan Jesuits knew Japanese medieval classics such as the Heike Story (*Heike monogatari*) may explain the inclusion of old-fashioned terms such as these in their 1603–1604 dictionary, from which Sousa draws this vocabulary.

³⁴ Sekiguchi, “Edo Bakufu no jinshin baibai kinrei wo megutte,” 243.

³⁵ Isogai, *Nihon chūsei doreisei ron*, 563–4. According to Minegishi, the proscription of Christianity and the prohibition of human trafficking were fundamental in reorganising Japanese society and setting the conditions for the consolidation of Tokugawa power while creating a conscience of unity among the population. Minegishi, *Kinsei mibunron*, 120–1.

³⁶ Rômulo da Silva Ehalt, “Suspicion and Repression: Ming China, Tokugawa Japan, and the End of the Japanese-European Slave Trade (1614–1635),” in *Slavery and Bondage in Asia: Towards a Global History of Coerced Labour 1550–1850*, ed. Matthias van Rossum, Kate Ekama, and Lisa Hellman (Berlin: De Gruyter, 2022), 215–30.

into *genin* and their sales for their own sustenance.³⁷ Yet, this legislation leaves aside a number of situations for the *geninka* of people in Japan, as shown by Jesuit records of the period.

Finding Slavery

The first signs of intervention by Japan Jesuits in the Japanese-Portuguese slave trade date back to the 1560s. By then, missionaries were collecting small amounts from merchants interested in procuring Japanese people in exchange for access to individuals from areas ruled by *daimyō* with whom they had a good rapport, such as the historical provinces of Bungo and Hizen, in southern Japan. Soon, the priests started issuing licences stipulating the number of years of service under the Portuguese. The practice emulated the Japanese *nenki hōkō*, which soon caught the attention of Jesuit authorities outside of Japan. By the end of the decade, the superiors had decided that their *confrères* in the archipelago had the necessary means to properly evaluate the theological and moral consequences and circumstances regarding the issuing of the licenses and their intervention in the trade.³⁸

The practice continued at least until 1590, when Japanese ruler Toyotomi Hideyoshi ended a cycle of various prohibitions started in 1587 against kidnappings and human trafficking in Japan. The visitor of the then-Jesuit vice-province of Japan, the Italian priest Alessandro Valignano, a trained lawyer whose actions had deep repercussion in the policies adopted by the various missions of the order in Asia, decided to interfere and halted members of the Society of Jesus from intermediating sales of Japanese individuals to Portuguese merchants.³⁹ The measure soon lost its practical effect. During the following decade, the Imjin War brought some twenty- to thirty-thousand war prisoners to the islands, creating a regional boom in human trafficking in which well-known figures of the Japanese Christian community, such as Konishi Yukinaga, baptised Agostinho, played a major role.⁴⁰ At the same time, Jesuits lost control of their monopoly on the transmission of the dogma to Japanese Christians. After their arrival in 1549, the Society of Jesus was the only missionary order in the country until the 1580s, thus enjoying complete control over what points of the Christian doctrine and any positive laws of the Church were transmitted to local believers. This situation allowed them to avoid teachings that could be detrimental either to Japanese Christians or to their own political situation. The arrival of mendicant friars from the Philippines in the 1580s and 1590s—especially Franciscans and Dominicans—meant Jesuits lost their dogmatic monopoly. By then, local Christians could search for alternative council when facing issues related to enslavement, making it more difficult for Jesuits to address this and other moral challenges such as usury, matrimony, idolatry, and the anointment of the sick.⁴¹ As they recused themselves

³⁷ There are undeniable parallels with the practices found in Chinese bondage in this period that indicate deeper exchanges in the region. See James Fujitani's article in this special issue.

³⁸ Ehalt, "Jesuits and the Problem of Slavery in Early Modern Japan," 224–35; Oka Mihoko, "Kirishitan to tōitsu seiken" [Christians and the unification regime], in *Iwanami kōza Nihon rekishi* [Iwanami lectures history of Japan], vol. 10, ed. Ōtsu Tōru et al. (Tokyo: Iwanami Shoten, 2014), 169–204, 186–7.

³⁹ Ehalt, "Jesuits and the Problem of Slavery in Early Modern Japan," 315–53. On Valignano, see the chapters in Adolfo Tamburello, M. Antoni J. Üçerler and Marisa Di Russo, eds., *Alessandro Valignano, S.I., Uomo del Rinascimento: Ponte tra Oriente e Occidente* (Rome: Institutum Historicum Societatis Iesu, 2008).

⁴⁰ According to Japanese scholarship, in the twenty years following the war about 7,500 Koreans returned to the peninsula, while about 20,000 people were either absorbed by Japanese society or sold to merchants and taken overseas to Southeast Asia and even Europe. Nakamura Tadashi, *Kinsei taigai kōshō shiron* [Historical theory of early modern foreign trade] (Tokyo: Yoshikawa Kōbunkan, 2000), 1.

⁴¹ Ehalt, "Jesuits and the Problem of Slavery in Early Modern Japan," 462.

from meddling in issues of enslavement in Japan, the only option left for the priests of the Society of Jesus was to search for new criteria that could safeguard their own physical survival in an increasingly harsh environment, marked by growing tensions and violence against missionaries, and keep Christians from sinning when procuring locally subjugated bond labour.⁴²

The most radical decision of the period came in 1598. Concerns with retaliations against missionaries led the Roman Jesuit curia to instruct the bishop of Japan to enact a letter of excommunication against foreign and local Christians selling Japanese and Koreans in Japan. It was the first time that missionaries made an assertive effort to curtail the trade in people between Europeans and Japanese. However, due to doubts concerning the ability of the bishop of Japan to excommunicate merchants who were not under his jurisdiction, the measure created a jurisdictional dispute between different bishoprics of the Portuguese Padroado in Asia that may have effectively hindered its impact on the trade.⁴³ It was against this troubled background that theologians and casuists of the Jesuit College of São Paulo of Goa, the capital of the Portuguese in India, gathered to discuss the problem of Christians in Japan claiming ownership over Japanese individuals.

The minutes of the meeting are undated, but it is clear by the structure of the document, with its short introduction and the issues it raises, that the Jesuits in India were responding to a questionnaire from Japan to Rome sent in 1592.⁴⁴ Discussing matrimony, usury, idolatry, and other topics, the debate deals with slavery in its third section, under the category of *cativeiros*, or captivities. In highly sophisticated legal texts of the time, the term was used as a cover-all to assess various forms of bondage, while slavery itself (*escravidão*, in Portuguese) was reserved for specific situations accommodated to the tenets of theology and the *ius commune*.⁴⁵ Following the scholastic tradition, the debate scrutinises ten legal titles (*títulos*) introduced as distinct forms of bondage which, as stated by the text, were selected according to the worldview of the Japanese on the subject. This is, effectively, a summary of information obtained from various reports sent from Japan regarding the many forms of *geninka*. Perusing the chosen categories, it is clear that Jesuit missionaries had established a correspondence between the general idea of Japanese people of lower social strata, the *genin*, and the Portuguese label *cativo*, in an attempt to

⁴² For more on the impact of the arrival of mendicant orders on the monopoly over the declaration of positive law enjoyed by Jesuits in Japan up to the 1580s, see Rômulo da Silva Ehalt, "Ignorance Lost: The Arrival of Franciscan Missionaries and the Jesuit Normative Discourse in Japan (16th–17th c.)," in *Change Over Time in the Iberian Worlds: Stabilizing Regimes of Normativity*, ed. Luisa Stella Coutinho (Leiden: Brill, forthcoming).

⁴³ A copy of the original text of the excommunication, as well as a complex discussion on the limits of the authority of the bishop of Japan, can be found in Gomes Vaz, *Disputationum moralium Indicarum*, Biblioteca Nazionale Centrale "Vittorio Emanuele II," Ges. 1441, 67. The minutes of the meeting that led to the second letter of excommunication in 4 September 1598 have been known since the nineteenth century and served as the basis for multiple studies: Léon Pagès, *Histoire de la religion chrétienne au Japon* (Paris: Charles Douniol, 1869), 132–3; Anesaki Masaharu, *Kirishitan dendō no kōhai* [Rise and fall of the Christian missions] (Tokyo: Dōbunkan, 1930), 316–22; Okamoto Yoshitomo, *Jūroku seiki nichijō kōtsūshi no kenkyū* [Research on the history of the trade between Japan and Europe in the sixteenth century] (Tokyo: Kōbunshō, 1936), 733–40; Nelson, "Slavery in Medieval Japan," 466–9; Sousa, *The Portuguese Slave Trade in Early Modern Japan*, 510–22.

⁴⁴ See also Rômulo da Silva Ehalt, "Jesuit Arguments for Voluntary Slavery in Japan and Brazil," *Revista Brasileira de História* 39:80 (2019), 87–107; Rômulo da Silva Ehalt, "Goa no Iezusukai shingakusha to Nihon no doreika" [Jesuit theologians of Goa and enslavement in Japan], *Bulletin of the Association for the Study of Kirishitan Culture* 154 (2019), 1–14.

⁴⁵ Here I disagree with Sousa in his assessment of the use of terms such as *moços*, *mozos*, *bichos*, and *jonge* by early modern Europeans in Asia to refer to enslaved people. Sousa suggests these terms were used as decoys to avoid illegalities concerning the ownership of enslaved individuals. I agree in part with Alberts, though, who affirms that these terms reflected the childlike treatment dispensed to enslaved people. Sousa, *The Portuguese Slave Trade in Early Modern Japan*, 5–8; Tara Alberts, *Conflict & Conversion: Catholicism in Southeast Asia* (Oxford: Oxford University Press, 2013), 195.

overcome the epistemological tensions between the two sides. The next step was to analyse the conditions of subjugation to each situation against the fundamental legal principles regulating slavery as found in canon law, Roman law, *summas*, and manuals of casuistry in general. The debate aimed at gathering legal prerequisites that would allow a confessor to tolerate the situation of a bonded person in Japan according to the tenets of slavery as found in the tradition of the *ius commune*. The forms of *geninka* analysed in Goa included: sale by father or mother; self-alienation, or voluntary bondage; bondage by birth; bondage by mercy; bondage as a legal punishment; bondage of a daughter or wife who had fled her father or husband to the local lord's manor; bondage in exchange for food during a famine; peonage; conscription by local lord; and, finally, war captivity.

The problem for the Goa Jesuits was that there was no way that these situations could be clearly distinguished as slavery and non-slavery. This was due not to theoretical or legal reasons, but to the lack of authoritative power held by Jesuits in Japan. As argued numerous times by the visitor of the vice-province, Valignano, missionaries could not expect positive outcomes from their reprimands and admonitions because of their limited capacity to alter or influence the courses of action taken by Japanese Christians, particularly powerful individuals, when facing moral doubts.⁴⁶ Because of this disadvantage, there was the need to create grey areas where missionaries could let go of otherwise inadmissible situations. Hence, from the get-go, the debate envisioned three outcomes: forms of Japanese bondage equal to slavery; situations that were not the same as slavery but could be tolerated by the missionaries; and intolerable cases. After all, the purpose of the debate was not to condemn Christians who claimed ownership over Japanese people, but rather to compile general guidelines that would allow Japan Jesuits to overlook legal issues and to tolerate, that is to say, to ignore, illicit courses of action in order to avoid greater illegalities.⁴⁷ Tolerance was a rhetorical device closely related to dissimulation, a legal strategy tacitly approved by canon law that authorised missionaries to conform to local practices while adhering to established theological and legal principles, a much-needed rhetorical device for those attempting to accommodate the Christian dogma to local social dynamics.⁴⁸

⁴⁶ Valignano's warnings concerning the limited authority enjoyed by the missionaries in Japan are repeated throughout his texts. See, for instance, Jesús López Gay, "Un Documento Inédito del P. G. Vázquez sobre los problemas morales del Japón," *Monumenta Nipponica* 16:1/2 (1960), 136; Alejandro Valignano, *Apología de la Compañía de Jesús en Japón y China*, ed. José Luis Alvarez-Taladriz (Osaka: private edition, 1998), 497. Writing on the China mission, Erik Zürcher attributes to the weak authority of the missionaries the need for the "method of accommodation" as "the only viable way." Erik Zürcher, "Jesuit Accommodation and the Chinese Cultural Imperative," in *The Chinese Rites Controversy: Its History and Meaning*, ed. David E. Mungello (Nettetal: Steyler Verlag, 1994), 40–1.

⁴⁷ On the legal meaning of tolerance, see: Paolo Grossi, *L'Ordine Giuridico Medievale* (Rome: Editori Laterza, 1995), 214–6; María José Roca-Fernández, "El concepto de tolerancia en el derecho canónico," *Ius Canonicum* 41:82 (2001), 455–73, 461–63; Giuseppe Olivero, *Dissimulatio e tolerantia nell'ordinamento canonico* (Milan: Giuffrè, 1953). Similar strategies included also mental reservation or amphibology, the rhetorical tool devised by Martín de Azpilcueta that allowed one to avoid telling the truth when justified. See Perez Zagorin, *Ways of Lying: Dissimulation, Persecution, and Conformity in Early Modern Europe* (Cambridge, Mass.: Harvard University Press, 1990), 170–5; Johann P. Sommerville, "The 'New Art of Lying': Equivocation, Mental Reservation and Casuistry" in *Conscience and Casuistry in Early Modern Europe*, ed. Edmund Leites (Cambridge: Cambridge University Press, 1988), 159–85, 172–4; Harro Höpfl, *Jesuit Political Thought: The Society of Jesus and the State, c. 1540–1640* (Cambridge: Cambridge University Press, 2004), 143–5; Pío Fedele, "Consideraciones sobre la dispensa y sobre otras instituciones en la ordenación canónica," *Revista Española de Derecho Canónico* 2:5 (1947), 393–437; Jose Maldonado, "La significación histórica del derecho canónico," *Ius Canonicum* 9:17 (1969), 5–99.

⁴⁸ Defined as a form of "deliberate looking away" (*bewußte Hinwegsehen*), dissimulation lacked regulation but enjoyed tacit acceptance by canon lawyers. Joseph Lederer, "Dissimulation," in *Lexikon für Theologie und Kirche III*, ed. Michael Buchberger (Freiburg: Verlag Herder, 1986), 426.

The resolution of legal and moral issues in Japan depended on skilful interpretations of natural law. The need to resort to *ius naturale* came from the position of Japan in early modern Christianity: the archipelago was considered a part of the Christian orb beyond the secular authority of any colonial empire—in the words of the Jesuits themselves, it was a land beyond the jurisdiction of “imperial law,” that is, Roman law. This special circumstance is made clear in their interpretation of Japanese voluntary bondage. Invoking Francisco de Vitoria, the debaters in India highlighted that the acceptance of this form of bondage as voluntary slavery depended on the criteria defended by the manual of Domingo de Soto, the widely established norms of Silvestro Mazzolini’s *summa*, as well as other authors as far as they conformed to the circumstances established by natural law.⁴⁹ Besides these guidelines, Jesuit theologians also employed the determinations of the First Provincial Council of Goa. Celebrated by prelates and vicars of the city in 1567, the synod had established the legal precedents for the identification of *servitus* in Asia. In its decrees, the council had set five titles of enslavement that could be accepted by ecclesiastical authorities: heredity, just war, voluntary slavery, sale by parent, and punishment according to local, just laws.⁵⁰ This was a much-needed starting point for the Jesuits of São Paulo of Goa to adapt legal and theological authoritative texts from Europe to the realities of Japan.

Some of the forms of *geninka* analysed were immediately associated with the titles accepted by the synod. For instance, Japanese children born from enslaved mothers were to be readily accepted as enslaved individuals. That followed not only the first title of the provincial council but, foremost, the Roman maxim *Partus sequitur ventrem*.⁵¹ Yet, the correspondence with the Japanese form of bondage was not as immediate. According to the *Ritsuryō*, the perennial historical Japanese code compiled between the seventh and the eighth centuries that had served as jurisprudential basis since its promulgation, the ownership over children of *genin* couples was to be handed over to the person claiming ownership over each parent according to their gender—sons to the owner of the father, daughters to the owner of the mother. In the case of couples of *genin* and non-*genin*, the child would assume the status of the parent who had the same gender as them.⁵² This principle was not limited to the case of *genin*—social status in general was also often transmitted according to the same gender-based rule: sons taking on that of their fathers, daughters of their mothers.⁵³ In practice, though, there are not many references to the transmission of the *genin* status through birth in Jesuit sources referring to

⁴⁹ Ehalt, “Jesuit Arguments for Voluntary Slavery in Japan and Brazil,” 14–5.

⁵⁰ Particularly relevant is the acceptance of enslavement through punishment according to local laws that could be deemed just. In practice, this decision opened a can of worms, since any merchant could argue that an individual had been fairly enslaved by some local law. See Rômulo da Silva Ehalt, “O Primeiro Concílio de Goa e a releitura da escravidão na Ásia (1567),” *Lusitania Sacra* 38 (2018), 49–78.

⁵¹ “According to the condition of the mother.” For a study on the use of these laws in Asia, see Stuart M. McManus, “*Partus Sequitur Ventrem* in Theory and Practice: Slavery and Reproduction in Early Modern Portuguese Asia,” *Gender & History* 32:3 (2020), 542–61.

⁵² Isogai, *Nihon chūsei doreisei ron*, 154, 175, 187–90; Maki and Fujiwara, *Nihon hōseishi*, 124.

⁵³ Isogai, *Nihon chūsei doreisei ron*, 497. However, this principle varied widely with time. Although the rules of social status transmission were first codified in ancient Japan, these principles involved the transmission of other elements such as material inheritance, profession, and court title, a system that was simplified by the fourteenth century. Takahashi Noriyuki, “Sōzoku (Nihon no)” [Inheritance (Japan)], in *Rekishigaku jiten dai 10 kan mibun to kyōdōtai* [Encyclopaedia of historiography vol. 10, status and communities], ed. Ogata Isamu (Tokyo: Kōbundō, 2003), 377–8. Also, marriages between individuals of different social status were not always possible. In the eighteenth century, for instance, marriages between *hyakushō* and outcasts (*eta* or *hinin*) were hardly accepted. Hatanaka Toshiyuki, “Kawata” mibun toha nanika [What is the “kawata” status?], in *Nihon no kinsei dai 7 kan mibun to kakushiki* [Japan’s early modern period vol. 7, status and social standing], ed. Asao Naohiro (Tokyo: Chūō kōron, 1992), 307–44, 333–8.

everyday practices, which leads to the conclusion that there was quite some leeway in negotiating these decisions. Nevertheless, the authority of the *Ritsuryō* was always on the minds of early modern Japanese. In 1587, when a group of Japanese visiting Manila was questioned on bondage practices in their country, their response to the fate of *genin* children replicated the model established by the code.⁵⁴

Jesuit theologians in Goa also dissected the legal conditions behind internal wars waged in Japan and razzias promoted by pirates on the Chinese coast following criteria long established by the doctrine of just war. Analysing the arguments for these attacks, the conclusion was that it would be impossible to define the justice of said wars in Japan, as well as the attacks against Chinese coastal populations by pirates. Hence, prisoners from these conflicts were not considered slaves. However, due to their lack of authority, Jesuits were told to advise local Christians that prisoners were not to be subjected to perpetual but rather to limited-time forms of bondage.⁵⁵

Another group of terms designated individuals exchanged for a price in money. In fact, almost half of the Japanese *títulos* discussed could be grouped under this heading: children sold by their parents, people who sold themselves, those who were purchased by a merciful individual before being executed, and people who were held to work off a debt. All these instances of *geninka* could be accepted as slavery according to the European model, but only when a fair price was negotiated by both parties, including when the seller was the person being subjected to bondage. Based on this general acceptance, specific conditions for each case were defined. For example, a person trying to sell a child had to prove they were indeed the parent, and that they were facing extreme necessity—two requisites taken from Domingo de Soto's discussion on the title.⁵⁶ Rescuing people condemned to death could result in tolerable slavery, but the condemnation had to be unjust—a conclusion evocative of the Mediterranean and Atlantic doctrine of *rescate*. In that case, a Christian could offer a fair ransom and, since no one should be forced to give his or her money for free, the benefactor could hold the rescued person in exchange as their servant, especially when some spiritual good came as a result of such transaction. Finally, the illicit nature of peonage in the islands, in which people were subjected to bondage for very low prices, could also be seen as a tolerable form of slavery. The condition was that missionaries were to advise both parties to reach a fair price for the person held as collateral.⁵⁷

The most challenging point, however, was that of *geninka* as a form of legal punishment. On this fifth title of the list, the crux of the debate was whether Japanese rulers had the legitimate authority needed to subject someone to *geninka* as a punishment. Evocative of the acceptance by the 1567 synod of Goa of the authority of local laws when these were deemed just, the Goa theologians listed two cases that could be equated to slavery: when one committed a serious offence (*delictos facinorosos y graves*) and when a man took part in a revolt that threatened the integrity of the republic. Both were justified with reference to examples from Europe: the punishment of heretics and apostates to the galleys, and the enslavement of Grenadine *moriscos* by Phillip II.⁵⁸ There remained, however, a problem: Japanese rulers often extended the punishment to the perpetrator's wife

⁵⁴ Johannes Laures, "An Ancient Document of the Early Intercourse between Japan and the Philippine Islands," *Cultura Social* 29:337/338 (1941), 1–15, 9.

⁵⁵ University of Santo Tomás, Manila, Archivo de la Provincia del Santo Rosário [hereafter APSR], *Consultas* 2, *Japón* 2, *Miscelanea*, vol. 1, 323v–4, 325.

⁵⁶ Ehalt, "Jesuit Arguments for Voluntary Slavery in Japan and Brazil," 16.

⁵⁷ APSR, *Consultas* 2, *Japón* 2, *Miscelanea*, vol. 1, 323–5.

⁵⁸ Given the context, one may wonder if the phrase *delictos facinorosos y graves* is not a reference to a similar phrase included in one of Bishop of Mondoñedo Antonio de Guevara's letters on the *moriscos* of Granada. Antonio de Guevara, *Segunda Parte de las Epistolas Familiares* (Salamanca: Jean Perrier, 1575), 184.

and children. The advice given to the confessors in Japan was that they should admonish local warlords and their administrators that even when a man could be punished with *geninka*, that did not necessarily mean that his wife and children should be subjected to the same fate. The Goa theologians accepted, though, the *geninka* of wives of those participating in a rebellion, because of legal precedents determining the enslavement of wives and children of priests in Europe. The Jesuits in Goa also referred to a key text by Martín de Azpilcueta, the *Relectio capitulo Ita quorundam de Iudaeis*. Commissioned by the Portuguese king João III (1502–57, r. 1521–57), the treatise organised arguments in favour of the enslavement of those who aided the “enemies of Christ.”⁵⁹ Citing Antonino of Florence and Silvestro Mazzolini’s summas, the resolution reiterated that the enslavement was not ipso facto, that is, men and women could only be considered enslaved when punishing authorities clearly determined so. With these arguments, the theologians accepted the authority of Japanese rulers to enslave criminals. The recognition showed that Japanese laws were being evaluated against not only conditions determined by theology and the *ius commune* but also historical precedents. Similar argument was made in the discussion of the case of women who had fled their fathers or husbands and sought shelter in the local lord’s house. While Japanese custom accepted that these women could be transformed into *genin* by the lord, the Goa theologians established that they could be considered enslaved only when they had been accused of and condemned for a crime. Otherwise, missionaries should campaign for their liberation in advising Japanese Christians through confession. The same suggestion was repeated in other cases. For instance, those who offered themselves to work in exchange for protection during events like famines and natural disasters were often considered *genin* in Japanese society, but confessors were to admonish penitents that they should free these *genin* upon the completion of enough labour to pay for the amount of food, clothing, and shelter provided.⁶⁰

From the ten titles analysed in Goa, the only case of *geninka* considered unjustifiable was that of Japanese lords who called upon their retainers to relinquish their daughters to serve in their manors. The lack of historical precedents and legal criteria regarding this practice prevented its approval. In the end, the debate compiled a list of conditions necessary to tolerate most instances of *geninka*. Out of the ten cases put forward by the Japan mission, seven were conditionally accepted as cases of slavery: four cases of commodification, in which the individual could be enslaved in exchange for money, two cases accepted as enslavement by punishment, and one regarding the passing of the bonded status from the mother to the child. Additionally, the subjugation of individuals in exchange for food and shelter and servitude as a result of captivity in war, were to be considered temporary situations of bondage, although they should not be equated to slavery. In the end, missionaries resorted to great sophistication in their arguments out of concern with the religious and legal implications for Christians declaring ownership of enslaved people in Asia and, foremost, with the political and economic consequences missionaries in Japan could face if they decided to condemn these practices. Arguably, the debate revealed how theology and the *ius commune* were used in casuistical analysis to overcome issues of incommensurability regarding the use of slavery as a legal category in areas where its assessment was considered challenging, such as Japan.

⁵⁹ The *relectio* responded to growing concerns regarding the morality of the trade between Portuguese and Muslims overseas. Manuela Bragagnolo, “Managing Legal Knowledge in Early Modern Times: Martín de Azpilcueta’s Manual for Confessors and the Phenomenon of Epitomisation,” in *Knowledge of the Pragmatici: Legal and Moral Theological Literature and the Formation of Early Modern Ibero-America*, ed. Thomas Duve and Otto Danwerth (Leiden: Brill, Neijhoff, 2020), 187–242, 195–7; Giuseppe Marocci, *A Consciência de um Império: Portugal e o seu mundo (sécs. XV–XVII)* (Coimbra: Imprensa da Universidade de Coimbra, 2012), 302–7.

⁶⁰ APSR, *Consultas 2, Japón 2, Miscelanea*, vol. 1, 324.

Conclusion

The Jesuit discussion in Goa of the 1590s and the Tokugawa laws of the 1610s were products of fundamentally distinct agendas, which dealt with parts and pieces of various forms of bondage. That said, they offer two unique glimpses of how Japanese traffickers operated, as well as how *geninka* worked on the ground and related to the practice of colonial enslavement. If the Tokugawa legislation exposed the methods and actors involved in local human trafficking networks, the Jesuit debate shed light on the pervasiveness of the multiple shapes taken by *geninka* in Japan.

In the aftermath of the debate, the practices adopted in Japan seemingly influenced colonial slave practices in the region. Although it is difficult to trace a direct connection, the insistent calls for the adoption of temporary bondage as a model for slave ownership in East Asia made by the debate in Goa could have influenced the embracing of this model elsewhere. In Manila, for instance, Dominican theologians debated the various circumstances surrounding contracts and periods of labour related to these arrangements, evidencing how it had been already appropriated by the local society in the early seventeenth century.⁶¹ Hence, while Jesuit analysis of Japanese *geninka* searched for practices that could be tolerated as slavery, the various forms of colonial slavery in East and Southeast Asia were already changing and adopting these local forms of bondage.

The crossing of both perspectives here sheds light on the wide array of bondage practices in Japan that were adopted by foreigners. Previous scholarship has shown how Dutchmen, Englishmen, Spaniards, and the Portuguese acquired kidnapped individuals, children sold by their parents, war prisoners, people subjected to bondage by crimes committed by their relatives, women who fled their husbands, children given as debt collateral, and various peoples deceived by traffickers in Nagasaki and Hirado.⁶² However, as shown here, Japanese legislation and the 1590s Jesuit debate highlight not only the penetration of the global slave trade in local networks of bondage, but also how foreign slavers depended on the various strategies put in place by local defrauders, professional kidnapers, brokers, and distressed parents.

Unambiguously, the slave trade between Europeans and the Japanese declined following the curbing of internal networks of professional human traffickers in the 1610s. As the Tokugawa laws highlighted the importance of intermediary brokers as fundamental parts in the process, bondage was curtailed not by freeing those subjected to it, but rather by squashing those most important cogs of the trade. If local forms of bondage managed to adapt to the emergence of new forms of hired labour prompted by social changes in the Japanese rural and urban environments, the enslavement of people in Japan by Europeans was not able to adjust as successfully due to increasing legal and political pressure put in place by the regional powers.

As has been made clear in recent studies of slavery in Asia, not all scholars share the same level of enthusiasm for or concern with the definitional question.⁶³ That said, the perspective adopted in this paper is intended as a methodological strategy of conceptual provincialisation that addresses said issue from a distinct perspective. By decentering slavery, that is to say, by turning it into a European form of bondage, one can appreciate the encounter of this specific practice with other worldviews as a story of violent transcultural communication. In this context, the European concept of slavery was quite specific

⁶¹ McManus, “*Servitutum Levem et Modici Temporis Esse Arbitrantes*,” 92–7; Juan de Paz, *Consultas y Resoluciones Varias, Theologicas, Juridicas, Regulares, y Morales* (Sevilla: Tomás Lopez de Haro, 1687), 78–9.

⁶² Isogai, *Nihon chūsei doreisei ron*, 578–84; Sousa, *The Portuguese Slave Trade in Early Modern Japan*, 260–9.

⁶³ I discuss the current state of the question and the provincialisation of slavery in a different paper: Rômulo da Silva Ehalt, “Whither Slavery? Decentering and Conceptual Asymmetries in the Study of Dependencies in Early Modern Asia,” *Rechtsgeschichte*, forthcoming.

and possibly not universally embraced by all colonial players in Asia. That is because, by employing the particular legal notion of *servitus*, Jesuits worked with a view of the phenomenon that aimed at answering very specific questions. It is obvious that *servitus* was one among many legal notions used to address the issue of bondage. Despite that, a fully decentred history of slavery as a European practice transported overseas, which analyses how this particular practice changed and developed in tandem with colonialism, necessarily needs to go through discussions about definitions such as the one worked here. The various encounters between European and Asian forms of bondage are just one example among the many found in the complex history of colonialism that ultimately resulted in the paradigmatic enslavement of Black Africans in the colonial world, particularly in the Americas. I only hope that the example presented here instigates similar inquiries elsewhere.

Acknowledgements. I would like to thank Stuart M. McManus (Chinese University of Hong Kong), Norah L. A. Gharala (University of Houston), Indrani Chatterjee (University of Texas, Austin), James Fujitani (University of Nottingham, Ningbo, China), Manuel Bastias Saavedra (Leibniz University, Hannover), Ulrike Schmieder (Leibniz University, Hannover), Richard B. Allen (Framingham State University), Alessandro Stanziani (École des hautes études en sciences sociales), Shimizu Yūko (Meiji University), Yonetani Hitoshi (Waseda University), and Ōhashi Yukihiro (Waseda University) for indispensable feedback and insights offered during various stages of writing this article. I also extend my gratitude to the staff of the Sophia University Central Library and the amazing support they offered their researchers during the height of the COVID-19 pandemic in 2020.

Funding statement. The research behind this article was made possible by financing received from the Japan Society for the Promotion of Science between 2019 and 2020, when I worked as a post-doctoral researcher at the Sophia University (Tokyo, Japan), as well as the support offered by the Max Planck Institute for Legal History and Legal Theory (Frankfurt, Germany).

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