DID SOLON ABOLISH DEBT-BONDAGE?

For Sasha

The *Constitution of the Athenians* attributed to Aristotle informs us in several places that Solon abolished the practice of 'lending on the (security of the) body' (δανείζειν ἐπὶ τοῖς σώμασι).[1] Several scholars have recently interpreted this to mean that Solon abolished the practice of debt-bondage. Finley believed that as a result of Solon's reforms 'debt-bondage was abolished *tout court*'.[2] Elsewhere Finley asserted 'The Solonic revolution in Athens brought an end to debt-bondage', and also interpreted a major fragment of Solon's poetry (fr. 36 [West]) as a description of this reform. De Ste. Croix often disagreed with Finley, but on this point he did not differ: in his opinion, Solon 'forbade for the future not merely enslavement for debt but also any kind of debt-bondage by the simple expedient of prohibiting the giving of the body as security'.[3] This view has been accepted without question by several scholars such as Ober[4] and by Patterson.[5]

In this article I will argue that Solon did not abolish debt-bondage, but only enslavement for debt. Section I will analyse the difference between enslavement for debt and debt-bondage. Section II will examine the terminology used by Aristotle to describe Solon's reform, and show that the law concerns enslavement for debt, not debt-bondage. Section III will provide evidence to show that debt-bondage continued to exist in classical Athens long after Solon. Section IV will show that Solon's poetry reveals that the lawgiver was concerned about enslavement resulting from violence and raids for booty, not about debt-bondage that had come about because of a certain system of land tenure. Section V will place Solon's law in the context of class relations in archaic and classical Athens.

I

It is important to preface our discussion by drawing a clear distinction between enslavement for debt and debt-bondage.[6] In enslavement for debt the debtor becomes

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[1] *Ath. Pol.* 2.2, 4.4, 6.1, 9.1. Cf. Pl. *Solon* 13.4, 15.2; *Moralia* 828f.

[2] M. I. Finley, *Economy and Society in Ancient Greece*, ed. B. D. Shaw and R. P. Saller (London, 1981), 166. Cf. 157 ('freeing the debt-bondsmen of his day and abolishing the category from Athens henceforth . . .'), 107 ('The Solonic revolution in Athens brought an end to debt-bondage . . . '). Cf. 117–18, 122. Y. Garlan, *Slavery in Ancient Greece*, trans. Janet Lloyd (Ithaca, 1988), 90–1 appears to follow Finley. Finley (117) believes that Solon fr. 36 [West] refers to this reform but this view is mistaken—see E. M. Harris, 'A new solution to the riddle of *seisachtheia*', in L. Mitchell and P. J. Rhodes (edd.), *The Development of the Polis in the Archaic Period* (London and New York, 1997), 103–12, and below.

[3] G. E. M. de Ste. Croix, *The Class Struggle in the Ancient Greek World* (London, 1981), 282 with note 27. Cf. 137 with note 2. See also N. R. E. Fisher, *Slavery in Classical Greece* (London, 1993), 16: 'both debt-bondage and slavery for debts were abolished'.

[4] J. Ober, *Mass and Elite in Democratic Athens* (Princeton, 1989), 59–63.

[5] O. Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge, MA, 1984), 125. Cf. K. A. Raaflaub, 'Homer to Solon. The rise of the polis. The written sources', in M. H. Hansen (ed.), *The Ancient Greek City State* (= *Historisk-filofiske Meddelelser* 67) (Copenhagen, 1993), 71. B. D. Shaw in M. I. Finley, *Ancient Slavery and Modern Ideology*, expanded edn, ed. B. D. Shaw (Princeton, 1998), 27, 30 refers to Solon's abolition of debt-bondage as if it were an established fact.

[6] Several scholars do not make a clear distinction between the two institutions, and it is

the slave of his creditor, who becomes his master and thus gains all the rights of ownership over the debtor. Different societies may place different restrictions on these rights, but the basic incidents of ownership remain constant from one society to the next. In all societies ownership is 'the greatest possible interest in a thing which a mature system of law recognizes'.[7] The Romans grouped the rights exercised by an owner under three main headings: the right to use (*ius utendi*), the right to enjoy the fruits (*ius fruendi*), and the right to 'use up' (*ius abutendi*), that is, the right to consume or alienate. Modern legal theory breaks these into the following rights and duties: (i) right to possess, (ii) right to use, (iii) right to manage, (iv) right to income, (v) right to capital, (vi) right to security, (vii) transmissibility, (viii) absence of term, (ix) prohibition of harmful use, and (x) liability to execution. The Athenians and the citizens of other Greek *poleis* clearly recognized that owners exercised these powers over objects that belonged to them and that masters possessed all these rights over their slaves.[8] For instance, masters exercised complete physical control over their slaves: they could beat them, chain them up, starve them (Xen. *Mem.* 2.1.16), employ them as prostitutes ([Dem.] 59.18–23), or even castrate them (Hdt. 8.105). All money earned by slaves belonged to the master ([Dem.] 53.20), and likewise all contracts made by the slave were the responsibility of his master (Hyp. *Ath. passim*). If the master fell into debt, he could offer to hand over his slave to the creditor as compensation ([Dem.] 53.20–1), or if the master had his property confiscated by the *polis*, the *poletai* would seize his slaves and sell them.[9]

The most important rights for our purposes are the right to sell and the absence of term. As Aristotle (*Rh.*1.5.7.1361a21) observed, one of the main indications of ownership was the right to alienate by gift or sale. The master as owner had the right to sell his slave to whomever he pleased and take the price offered by the buyer without paying the slave anything. By the terms of the sale, the buyer acquired all the rights of ownership exercised by the former owner, and if he chose to sell, the next buyer acquired these same rights and so on *ad infinitum*. This brings us to the incident called 'absence of term'. The owner does not exercise his rights for a fixed period of time ('term'); his rights are permanent.[10] When he dies, he has the right to transfer his

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therefore difficult to understand how they interpret Solon's law. For instance, A. R. W. Harrison, *Law of Athens*, 1: *Family and Property* (Oxford, 1968), 39 asserts 'Since the time of Solon slavery for debt had disappeared from Athens', but it is not clear whether he is referring to debt-bondage or not. The same is true of S. C. Todd, *The Shape of Athenian Law* (Oxford, 1993), 172. P. J. Rhodes, *A Commentary on the Aristotelian Athenaion Politeia* (Oxford, 1981), 125–6 believes Solon abolished 'enslavement for debt', but then paradoxically states 'although it is generally true that after Solon's reforms debts were not incurred on the security of the body, there are signs that slavery for debt was not entirely impossible in later Athens'. To make matters more confusing, Rhodes then cites passages referring to debt-bondage and outright slavery without clearly distinguishing between the two relationships.

[7] On the concept of ownership in general and the rights of owners, see A. M. Honoré, 'Ownership', in A. G. Guest (ed.), *Oxford Essays in Jurisprudence* (Oxford, 1961), 107–21.

[8] For ownership as the right 'to do whatever one wants' with an object, see Plato, *Euthydemus* 301e–302a. For the rights of ownership in Athens and other Greek *poleis*, see A. Kränzlein, *Eigentum und Besitz im griechischen Recht* (Berlin, 1963), 47–52.

[9] See, for example, R. Meiggs and D. M. Lewis, *Greek Historical Inscriptions* (Oxford, 1969), no. 79A (= *IG* i³.421), lines 26–49.

[10] On slavery as a perpetual relationship see Patterson (n. 5), 9. Cf. J. C. Ballagh, *History of Slavery in Virginia* (Baltimore, 1902), 28: 'The distinguishing mark of the state of slavery is not the loss of liberty, political or civil, but the perpetuity and almost absolute character of that loss, whether voluntary or involuntary.' Patterson (n. 5), 18–27 criticizes efforts to define slavery in terms of ownership, but his criticism rests on several misunderstandings of key legal concepts.

possession to his heirs whether by will or intestate succession. This incident is known as 'transmissibility', and several wills preserved in the Attic orators reveal that masters in Athens enjoyed this right over their slaves (e.g. Dem. 27.9; Aeschin. 1.97). For the slave, this means that his subjection to his master or masters has no limit; he is a slave for life. There is no prospect of release from his status unless the master agrees to emancipate the slave. But nothing compels his master to free him.

Debt-bondage on the other hand is the 'status or condition arising from a pledge by a debtor of his personal services or those of a third person under his control as security for a debt'.[11] Unlike slavery, debt-bondage is not a permanent status: the debt-bonds-man remains under the control of the creditor only until his debt is paid off. The creditor does not have all the rights exercised by an owner, just the right to his services for a certain period of time.[12] There is evidence for debt-bondage in many ancient societies. In early Rome the Twelve Tables (VI.1) contained a clause about *nexum*, the Roman form of debt-bondage: *cum nexum faciet mancipiumve, uti lingua nuncupassit, ita ius est*.[13] Varro (*De Lingua Latina* 7.105) reports there was a dispute between the jurists Manilius and Mucius about how to classify *nexum*. Manilius believed *nexum* referred to all acts conducted by the formal procedure *per aes et libram*, including *mancipatio*. For Mucius *nexum* was different from *mancipatio*. Varro uses a dubious etymology to support Mucius' view: since *nexum* comes from *neque suum*, he reasons that the person subject to *nexum* did not become the property of the creditor, which made it unlike *mancipatio*, a procedure that transferred ownership. Whatever the value of Varro's etymology, his explanation reveals that the debtor in *nexum* did not fall into the position of a slave under the *dominium* of a master. In fact, Varro continues by defining the *nexus* as 'a free man who (gives) his labour into servitude for money which he owes until he pays it off' (*liber qui suas operas in servitutem pro pecunia quam debebat dum solveret*). The status of the *nexus* was thus temporary and granted the creditor only a right to the debtor's labour. It was better than that of the *addictus* and the *iudicatus*, who could be put in chains and, if their obligation was not paid off, sold across the Tiber.[14] Since the *nexus* remained a free citizen, he was still eligible for military service (Livy 2.24.6). Though *nexum* contained several advantages for each party, it was subject to abuse by creditors and was finally abolished by the *lex Poetilia* in 313 B.C.E.[15]

Debt-bondage was not a Roman innovation: it was a common institution in many societies both before and after the classical period in Greece. Several of the law collections from the ancient Near East contain provisions about debt-bondage.[16] Section 117

Besides, his own definition of slavery is not incompatible with defining slavery in terms of ownership. I hope to discuss this issue in the future.

[11] Article I of the Supplementary Convention on Slavery adopted by the United Nations in Geneva, 1956 quoted in de Ste. Croix (n. 3) 136.

[12] Finley (n. 2), 151 claims that '"sale" into bondage and debt-bondage cannot be distin-guished very sharply', but the ancient lawcodes make it clear that different rules applied to each status, making it easy to distinguish them.

[13] The clause is found in Festus s.v. *numerata pecunia*. For an interesting suggestion about the combination of the terms *mancipium* and *nexum* in this clause, see R. Westbrook, 'Restrictions on alienation of property in early Roman law', in P. Birks (ed.), *New Perspectives in the Roman Law of Property: Essays for Barry Nicholas* (Oxford, 1989), 207–13.

[14] See Aulus Gellius *NA* 20.1.45 with A. Watson, *Rome of the XII Tables: Persons and Property* (Princeton, 1975), 110–24.

[15] On this measure, see G. MacCormack, 'The lex Poetilia', *Labeo* 19 (1973), 306ff.

[16] On debt-bondage in ancient Near Eastern law, see R. Westbrook, 'Slave and master in ancient Near Eastern law', *Chicago Kent Law Review* 70.4 (1995), 1631–76, esp. 1656–60 and

of the laws of Hammurabi (reigned 1792–1750 B.C.E.) places a limit of three years for a person given in debt-bondage:

> If an obligation is outstanding against a man and he sells or gives into debt-service his wife, his son or his daughter, they shall perform service in the house of their buyer or of the one who holds them in debt-service for three years; their release shall be secured in the fourth year.

The following provision, section 118, sets forth a different rule for slaves:

> If he should give a male or female slave into debt-service, the merchant may extend the term (beyond three years), he may sell him; there are no grounds for a claim.

Hammurabi makes a strict distinction between the treatment of free persons who are turned over for a debt and slaves in the same position: the latter can be sold, but the former can serve for only three years.

Debt-bondage is also well attested in the Hebrew scriptures. Several laws guarantee that Hebrews can only fall into debt-bondage and must be released after a certain period. According to Deuteronomy 15.12–17 (cf. Exodus 21.2–11), if a Hebrew man or woman is 'sold' to another, he or she can serve only for six years and must go free in the seventh year. Leviticus (25.25–55) states that the Hebrew who is sold must not serve as a slave but like a hired servant and should only serve until the Jubilee. Before the Jubilee, he can be redeemed by a relative or may redeem himself (48–9).

From the Greek world, there is evidence of the practice of debt-bondage in the laws of Gortyn. In an inscription dated to the early fifth century, there are several provisions about the *katakeimenos* or debt-bondsman (*Inscriptiones Creticae* 4.41.v.4–vi.16).[17] The first states that if the debt-bondsman causes damage on the orders of the person with whom he resides, he is not liable (lines 4–7: αἰ δέ κα κελομένο δ|ι κα παρῆι Ϝεργάδδ|ηται ἢ πέρηι, ἄπατον | ἤμην). On the other hand, if his creditor denies the damage was done on his orders, the judge should decide on oath if there is no witness to support his denial (lines 7–11: αἰ δὲ πονίοι μ|ὴ κελομένο, τὸν δικ|ασστὰν ὀμνύντα κ|ρίνεν, αἰ μὴ ἀπον|ιοι μαίτυρς). If a debt-bondsman damages another's property, he should pay the penalty himself (lines 11–14: ἀλλό|τριον δ' αἴ τί κ' ἀδικ|έσει ὁ κατακείμεν|ος, αὐτὸν ἀτῆθαι). The protasis of the next clause and the subjects of the apodosis are preserved, but the rest of the clause is not preserved (lines 14–17: αἰ| δέ κα μὲ ἔκηι ὀπ̂ο κατα|στασεῖ, ὁ νικάσανς| κ' ὁ καταθέμενος). This clause dealt with the eventuality that the debt-bondsman caused damage but did not have enough money to pay the plaintiff. The preserved part of the stone mentions the successful plaintiff and the creditor, and Koerner was probably right to suggest that in such a case the law encouraged the two men to work out an agreement whereby the debt-bondsman could pay off both men either simultaneously or in succession.

The next column (vi) covers the case where someone harms the debt-bondsman (lines 2–12). In this case the creditor will bring the case and collect the payment of damages (αἰ δέ τις| [τ]ὸν κατακείμεν|ον ἀδικήσει ὁ κατ|αθέμενος μολησε|ῖ

M. A. Dandamaev, *Slavery in Babylonia* (Dekalb, 1984), 178–9. For the laws from the ancient Near East I have used the translations and system of reference found in M. T. Roth, *Law Collections from Mesopotamia and Asia Minor* (Atlanta, 1995). The distinction between slavery and debt-bondage is also found in the Middle Assyrian laws, dated to *c.* 1076 B.C.E. (compare the rule in A48 with that in C2–3).

[17] For detailed analysis with references to earlier discussions see R. Koerner, *Inschriftliche Gesetztexte der Frühen Griechischen Polis*, ed. K. Hallof (Cologne, Weimar, and Vienna, 1993), 384–91.

καὶ πρακσῆται τ|ὰς τιμὰνς ἀι ἐλευθέ|ρο), half of which he will retain and half of which will go to the debt-bondsman (κ᾽ ὅτι ἐσπράκσ|εται τὰνν ἡμίναν ἔ|κεν τὸν κατακείμ|ενον, τὰν δὲ τὸν κατα|θέμενον). If the creditor does not wish to bring an action against the defendant, the debt-bondsman may bring an action after he has paid off his debt (lines 12–16: αἰ δὲ κ᾽ ὁ κα|ταθέμενος μὴ λῆι| μολῆν, ἦ κ᾽ ἀποδοῖ τὸ ὀ|πήλομα αὐτὸς μολή|το). These provisions are valuable because they illustrate how the debt-bondsman held a status somewhere between slavery and freedom. The debt-bondsman was unlike a slave in so far as he could be held liable for any damage he caused and could possess his own funds from which he could pay damages. The slave had no money of his own; if he caused damage, his master was liable. But the debt-bondsman was similar to a slave to the extent that he could not bring an action on his own behalf until he paid off his debt. If his creditor brought the action, half of the award went to him and half to the debt-bondsman. If someone harmed a slave, the entire award went to the master; if someone harmed a free man, the victim collected the damages paid.

A provision from the lawcode of Gortyn (*Inscriptiones Creticae* 4.72.i, lines 2–3) also shows how the debt-bondsman was in a special position. The very first clause of the Great Code forbids a plaintiff who brings an action about a free man or a slave to seize him before the trial (ὅς κ᾽ ἐλευθέροι ἒ δόλοι μέλλει ἀν|πιμολῆν, πρὸ δίκας μὲ ἄγεν).[18] The last clause in this section, however, provides an exception to this rule: it allows the creditor to seize the debt-bondsman and the successful plaintiff to seize the defendant, who has presumably failed to pay the amount awarded to the plaintiff (i.56–ii.2: [τ]ὸν δὲ νενικαμένον κα[ὶ τὸν κα]|τακείμενον ἄγοντι ἄπατον | ἔμεν).

The term for debt-bondsman at Gortyn was κατακείμενος. Elsewhere in the Greek world, Pollux (3.82) informs us the term θῆτες was applied to 'free men who because of poverty served for (the repayment of) money' (θῆτες ἐλευθέρων ἐστὶν ὀνόματα διὰ πενίαν ἐπ᾽ ἀργυρίῳ δουλευόντων). Isocrates (14.48) also draws a careful distinction between debt-bondage (θητεία) and outright slavery when describing the fate of the children of the Plataean exiles after the Theban conquest of their city. He says many of their children had fallen into slavery because of small debts (πολλοὺς μὲν μικρῶν ἕνεκα συμβολαίων δουλεύοντας) while others were in a state of debt-bondage (θητεία). Since these exiles went to many different *poleis*, Isocrates clearly implies that debt-bondage was widespread in the Greek world, not a phenomenon confined to a few unusual communities.

II

In the previous section we analysed the difference between outright slavery and debt-bondage. These two institutions existed side by side in many societies in the ancient Near East, in classical Greece, and in Rome during the early Republic. And when Isocrates used the term in his *Plataicus*, he clearly expected his Athenian audience to be familiar with the institution of debt-bondage. But modern scholars believe that debt-bondage no longer existed in Athens at the time since Solon had abolished it over two centuries before. But did Solon really abolish debt-bondage?

The next task is to examine the meaning of the phrase 'lending on (the security of) the body' (δανείζειν ἐπὶ τοῖς σώμασι). The expression δανείζειν ἐπί + a noun in the dative denotes a loan on real security as opposed to the procedure of *engye*, which was

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[18] For the interpretation of the first clause see A. Maffi, *Studi di epigrafia giuridica* (Milan, 1983), 3ff. and M. Gagarin, 'The first law of the Gortyn code', *GRBS* 29 (1988), 335–43.

a form of personal security.[19] In this arrangement the debtor pledges an object in his possession as security for a loan. If the debtor defaults on the loan, the creditor has the right to seize the security, over which he thereby acquires the rights of ownership (see e.g. [Dem.] 35.12; Dem. 37.4–6), which included the right to sell. In fact, the creditor in Athens regarded the pledge of security as a 'sale with right of redemption'. The rights of ownership acquired by the creditor were protected by the *dike exoules* and the law cited at Dem. 41.7–10.[20] Thus a loan on the security of the body would grant the creditor the right to seize the debtor in the event of default, to make him his permanent slave, or, if he wished, to sell him to someone else. For the debtor default would incur a permanent loss of status. Analysis of the phrase δανείζειν ἐπὶ τοῖς σώμασι reveals that Solon must have abolished enslavement for debt.[21] This appears to be the way Plutarch (*Solon* 13.4–5) interpreted the phrase: before Solon's reform men contracted debts on the security of their bodies (χρέα λαμβάνοντες ἐπὶ τοῖς σώμασι) and thus could be seized by their creditors (ἀγώγιμοι τοῖς δανείζουσιν ἦσαν). Some of these became slaves (δουλεύοντες) while others were sold abroad (οἱ δ᾽ ἐπὶ τὴν ξένην πιπρασκόμενοι). This is also consistent with our evidence from the fifth and fourth centuries, which indicates that enslavement of free persons, whether Athenian or non-Athenian, by private individuals was illegal (*Ath. Pol.* 52.1, Dem. 25.55, Din. 1.23). Imprisonment for debt was allowed in mercantile cases (Dem. 33.1, 35.47), but that is a different matter.

III

There are several pieces of evidence that show that debt-bondage continued to exist in classical Athens, but the most extensive one comes from Menander's *Heros*. In this passage the two slaves Daos, the slave of Laches and Myrrhine, and Getas are conversing. Daos tells Getas how he has fallen in love with a young girl named Plangon (18–19). Getas naturally asks if she is a slave (20: δούλη 'στιν;). Daos replies that yes, she is in a certain way (οὕτως ἡσυχῇ τρόπον τινά). He then reveals that

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[19] Scholars such as M. I. Finley, *Studies in Land and Credit in Ancient Athens, 500–200 B.C.*, rev. by P. Millett (New Brunswick, 1985 [1952]) and J. V. A. Fine, *Horoi: Studies in Mortgage, Real Security and Land Tenure in Ancient Athens* (= *Hesperia* Suppl. 9) (Princeton, 1951), followed by Harrison (n. 6), 258, believed there were two or more forms of real security in classical Athens. E. M. Harris, 'When is a sale not a sale? The riddle of Athenian terminology for real security revisited', *CQ* 38 (1988), 351–81 has shown this view is incorrect, and his position has now been confirmed by M. Youni, 'A propos de quatre inscriptions olynthiennes', *Tekmeria* 2 (1996), 135–53, and endorsed by Todd (n. 6), 254–5.

[20] Finley (n. 19) believed that the Athenians had no laws governing real security, but E. M. Harris, '*Apotimema*. Athenian terminology for real security in leases and dowry arrangements', *CQ* 43 (1993), 73–95, esp. 92–5 shows this view is mistaken.

[21] This is the way W. L. Westerman, *The Slave Systems of Greek and Roman Antiquity* (Philadephia, 1955), 4–5 interpreted Solon's reform. Westermann, however, did not discuss the continued existence of debt-bondage in Athens.

Isocrates 14.48 does not provide evidence for the existence of enslavement for debt in Athens. It deals with the fate of Plataean exiles, who found themselves in dire straits and thus unguarded by the legal protections enjoyed by those dwelling in Attica. Nor should one use Lys. 12.98 to show that children could be sold into slavery to pay off debts (οἱ δὲ παῖδες ὑμῶν. ὅσοι μὲν ἐνθάδε ἦσαν, ὑπὸ τούτων ἂν ὑβρίζοντο, οἱ δ᾽ ἐπὶ ξένης μικρῶν ἂν ἕνεκα συμβολαίων ἐδούλευον ἐρηίᾳ τῶν ἐπικουρησόντων.). In this passage Lysias is describing the abnormal conditions of Athens under the rule of the Thirty Tyrants. C. D. Adams, *Lysias: Selected Speeches* (Norman, OK, 1905; repr. 1970), 128 suggested 'Perhaps the term δούλευον is used only for a strong expression as forced labor of a debtor unable to meet his note by money payment', but the fact that these children have been sold abroad indicates Lysias is referring to actual enslavement.

Plangon and her brother Gorgias are the children of a poor shepherd and freedman named Tibeius (21–5: ποιμὴν γὰρ ἦν Τίβειος οἰκῶν ἐνθαδὶ / Πτελέασι, γεγονὼς οἰκέτης νέος ὤν ποτε. / ἐγένετο τούτῳ δίδυμα ταῦτα παιδία). Getas next asks if this Gorgias is the same man who is now looking after their cattle (26–7). Daos says he is and proceeds to explain why Gorgias is working on his master's estate. During a famine, Tibeius borrowed first one *mina*, later another, to feed his children but died before he could pay off the loan (26–30: ὁ Τίβειος ὁ πατὴρ εἰς τροφὴν γε λαμβάνει / τούτοις παρὰ τοὐμοῦ δεσπότου μνᾶν, καὶ πάλιν / (λιμὸς γὰρ ἦν) μνᾶν, εἶτ' ἀπέσκλη). To pay for the expenses of his father's funeral, Gorgias borrowed another *mina*. Since he was unable to repay this loan and the debts he inherited from Tibeius, Gorgias took his sister and is now residing with Daos' master (ἐπιμένει) while working off the debt (36: τὸ χρέος ἀπεργαζόμενος). As part of the arrangement, Plangon too is working with Daos' mistress, making wool and performing other menial tasks (37–8: ἐργάζεται ἔρια διακονεῖ τε).

Gorgias and his sister Plangon are clearly in a relationship of debt-bondage to Daos' master and mistress. They are not slaves in the full sense since they were not sold to Laches nor captured in war. Nor are they like hired labourers since they remain (ἐπιμένει) on Daos' property and are not free to come and go as they please. This is why in response to Getas' question about their status, Daos replies that Plangon is a slave only 'in a certain way'. Plangon and Gorgias are working to pay off their debt to Laches, who has a right to their labour only until the debt is paid off.[22]

One might object that Menander does not depict real life or that Solon's law was abolished during the regime of Demetrius of Phaleron. But the word *apergazomenos* 'working off' used to describe to describe the relationship of debt-bondage is also found in a fragment of Isaeus preserved by Harpocration (s.v. ἀπεργασάμενος), who glosses the term as 'paying back a loan from one's labour' (ἀπεργασάμενος. ἀντὶ τοῦ ἀποδοὺς ἐκ τῶν ἔργων ὧν εἰργάσατο. οὕτως Ἰσαῖος ἐν τῷ Πρὸς Ἀπολλόδωρον), an explanation very close to Varro's definition of *nexum*. This indicates that the institution was familiar to the men who heard the case presented by Isaeus' client in the early fourth century B.C.E., that is, under the democracy.

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[22] De Ste. Croix (n. 3), 163 argues that Solon's law was repealed by the oligarchy. This argument seeks to prove *ignotum per ignotius*. First, we do not know the date of Menander's *Heros* so that there is no reason to assume it was produced during one of the oligarchic regimes after 322. Second, there is no evidence that Solon's law was ever abolished after 322. Despite the devastating implications of this passage for his interpretation of Solon's reform, Finley (n. 2), 141 merely states 'this particular story raises very difficult historical and legal problems. But they need not delay us.' Finley never explains why these problems do not deserve analysis (one suspects this is a rhetorical bluff). On the other hand, if one rejects Finley's view of Solon's reform, the passage creates no problems at all. Like de Ste. Croix, P. Millett, *Lending and Borrowing in Ancient Athens* (Cambridge, 1991), 78–9 also attempts to explain away this passage but with a different argument. Millett claims that Tibeius' children were 'non-citizens, and presumably fell outside the scope of Solon's law.' (There is a similar argument in A. W. Gomme and F. H. Sandbach, *Menander: A Commentary* [Oxford, 1973], 390–1 and Todd [n. 6], 181). But the laws of Athens provided rights and protection to all free residents of Attica—foreigners, metics, and citizens alike—unless they specifically restricted their provisions to citizens. For non-citizens suing in Athenian courts, see Dem. 21.176; [Dem.] 56 *passim*; [Dem.] 59.64–9, and the general statement of [Dem.] 7.13 with the discussion of G. E. M. de Ste. Croix, 'Notes on jurisdiction in the Athenian empire,' *CQ* 11 (1961), 94–112, 268–80. For severe punishment of Athenians who violated the rights of non-citizens, see Dinarchus 1.23. Millett and Gomme and Sandbach also believe that Tibeius was the freedman of Laches and that this may have affected their status. Although Tibeius was formerly a slave (22), there is no evidence at all in the play that he ever belonged to Laches or that Laches freed him.

Another example of debt-bondage comes from Terence's *Heautontimoroumenos*, which is based on an Greek original (4–9) and set in Attica. In the play the slave Syrus tells Chremes how his mistress lent an old woman 1,000 drachmas (600–1). After the old woman died, her daughter was left as a pledge for the debt (603: *ea relicta huic arrabonist pro illo argento*) and cannot be released until the debt is paid (605–6: *Cliniam orat sibi uti id nunc det: illam illi tamen/post daturam: mille nummum poscit.* Cf. 790–6). The depiction of debt-bondage in the play cannot be the result of *contaminatio* since debt-bondage was abolished in Rome by the *lex Poetilia* in the late fourth century B.C.E.

In Attic tragedy there is an allusion to debt-bondage in Euripides' *Alcestis* (1–9). In the prologue to the play, Apollo explains how he came to work for Admetus. After Zeus killed his son Asclepius with his thunderbolt, Apollo grew angry and in retaliation killed the Cyclopes who forged the thunderbolt. In compensation for the murder, Zeus ordered Apollo to work in the house of Admetus (6–7: καί με θητεύειν πατὴρ / θνητῷ παρ' ἀνδρὶ τῶνδ' ἄποιν' ἠνάγκασεν.). Apollo's relationship with Admetus is similar to that of Gorgias with Laches: the god is serving in the house of Admetus on a temporary basis as a means of repayment. Gorgias and his sister are paying off a loan incurred by their father and themselves; Apollo is working to pay off the debt incurred through blood-guilt.[23] The passage from Pollux noted at the end of Section I confirms this interpretation of Apollo's status. In Euripides' play, Apollo refers to his relationship to Admetus with the verb θητεύειν (6; cf. 2: θῆσσαν τράπεζαν). Pollux (3.82) informs us that the word θῆτες was used to refer to 'free men who because of poverty served as slaves for (the repayment of) money' (θῆτες ἐλευθέρων ἐστὶν ὀνόματα διὰ πενίαν ἐπ' ἀργυρίῳ δουλευόντων). Although the passage in the *Alcestis* comes from a play about the mythical past, Euripides clearly assumed his Athenian audience was familiar with the institution of debt-bondage.

The form of servitude imposed on Apollo is similar to the institution of *kishshatum* attested in the lawcode of Hammurabi. In Babylon in the fifteenth century B.C. any victim who suffered an injury had a right to revenge or to payment of ransom. As Westbrook notes, 'If the culprit could not pay the ransom (fixed or negotiated according to the circumstances of the case), the victim was entitled to take the culprit or members of his family or possibly one of his slaves into servitude.' Those given for *kishshatum* had to be released after three years.[24]

Aristophanes appears to allude to debt-bondage at *Ploutos* 147–8, where one of the characters says 'I have become a slave because of a little bit of money since I am not rich' (ἔγωγέ τοι διὰ μικρὸν ἀργυρίδιον / δοῦλος γεγένημαι, διὰ τὸ μὴ πλουτεῖν ἴσως). But these words are spoken by Carion, who throughout the rest of the play is called a slave. In the prologue Carion refers to his master who has acquired him and bought him (4: τῷ κεκτημένῳ. 7: τὸν ἐωνημένον). He does not owe his master only his

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[23] Finley (n. 2), 116–17, 150–51 believed that Heracles of Greek myth was in debt-bondage to Omphale for the murder of Iphitus, but all the versions of this story indicate that Heracles was sold into slavery to Omphale (Aeschylus, *Agamemnon* 1040–1 [πραθέντα τλῆναι, δουλίας μάζης βίᾳ (?)], Sophocles, *Trachiniai* 248–57 [ἐμπoληθείς, πραθείς], 274–6 [πρατόν]) and the price of the sale given to the children of Iphitus (D.S. 1.79.3–5: τὴν μὲν τιμὴν . . . τοῖς 'Ιφίτου παισὶ ἀπέδωκε). This is very different from the arrangement between Apollo and Admetus. Note also that Apollo is said to θητεύειν and is never called a slave, whereas Heracles is called a slave and is never said to θητεύειν. Finally, Omphale is said to have freed Heracles (ἐλεύθερον δ' ἀφεῖσα), an act that applies only to slaves.

[24] See Westbrook (n. 16), 1638. In this case, however, the obligation has arisen from a delict, not from a contract.

labour, but is under his complete control. When he irritates his master, the latter threatens to beat him (21–3). Later he calls him his most trusted slave and his most thievish (26–7). The name Carion also appears to be a foreign name; I have found no case where an Athenian citizen bears this name. The name appears thrice in the building accounts for Eleusis (*IG* ii².1672, lines 59, 67; 1673, line 22), but appears to identify someone who is not an Athenian citizen because he does not have a demotic unlike other men recorded in the inscription. This would seem to indicate that Carion was a foreigner who fell into debt in his own country where there were no laws against enslaving debtors, then sold abroad to his master. Like many other slave names (for example, Thrax, Thrassa, Scythes) it indicates the region from which the slave came. The Athenians and other Greeks no doubt thought that barbarians were capable of such behaviour; Herodotus (5.6.1) believed the Thracians sold their children as slaves for export. The passage is thus not evidence for enslavement for debt in Attica, but a reflection of Athenian attitudes about the barbarian 'Other'.

There is better evidence for debt-bondage in Athens in Aristophanes' *Clouds* (240–1).[25] Strepsiades has borrowed large sums of money to support his son's passion for expensive horses. His debts have grown to the point where he cannot repay his creditors, who are threatening to take him to court and other measures. In one passage Strepsiades describes to Socrates the threat hanging over his head: he is worried about creditors not only distraining on his property ($\tau\grave{\alpha}$ $\chi\rho\acute{\eta}\mu\alpha\tau$' $\acute{\epsilon}\nu\epsilon\chi\nu\rho\acute{\alpha}\zeta\omicron\mu\alpha\iota$), but also seizing him physically and taking him away ($\acute{\alpha}\gamma\omicron\mu\alpha\iota$, $\phi\acute{\epsilon}\rho\omicron\mu\alpha\iota$). Strepsiades' use of the verb $\acute{\alpha}\gamma\omicron\mu\alpha\iota$ is significant: in the Gortyn lawcode (i.56–ii.2), the person who has won a judgment or has accepted a pledge of services in lieu of payment has the right to seize the debtor ($[\tau]\grave{\omicron}\nu$ $\delta\grave{\epsilon}$ $\nu\epsilon\nu\iota\kappa\alpha\mu\acute{\epsilon}\nu\omicron\nu$ $\kappa\alpha[\grave{\iota}$ $\tau\grave{\omicron}\nu$ $\kappa\alpha]\tau\alpha\kappa\epsilon\acute{\iota}\mu\epsilon\nu\omicron\nu$ $\acute{\alpha}\gamma\omicron\nu\tau\iota$ $\acute{\alpha}\pi\alpha\tau\omicron\nu|$ $\acute{\epsilon}\mu\epsilon\nu$) without going to court. One might argue that Strepsiades' creditors intended to drag him off to prison, not take him into debt-bondage. Imprisonment for debt appears to be connnected only with the *dike emporike* or cases involving foreigners, who might try to evade their creditors by escaping abroad (Dem. 33.1, 35.47). But neither of these qualifications applies to Strepsiades, who is not a merchant and has not borrowed money for trade and thus does not fall under the terms of the *dike emporike*. Nor is Strepsiades a foreigner. The best way of explaining the source of Strepsiades' anxiety is that he is afraid his creditors are about to take him into custody as a debt-bondsman.[26]

A passage from Hyperides' speech *Against Athenogenes* also indicates that a creditor could seize a defaulting debtor. Epicrates, the plaintiff in the suit, has bought three slaves from Athenogenes and agreed to assume their debts on the understanding that they were not very large (5–9). When the creditors came forward and demanded payment, it turned out that the debts in fact amounted to five talents (9). Epicrates then confronted Athenogenes, who denied he had any knowledge of these debts (12). Several of the bystanders urged Epicrates to have Athenogenes arrested as an 'enslaver' ($\grave{\alpha}\nu\delta\rho\alpha\pi\omicron\delta\iota\sigma\tau\acute{\eta}\nu$; cf. *Ath. Pol.* 52.1). Epicrates did not follow their advice, and these bystanders were obviously stretching the meaning of the term 'enslaver', but their suggestion only makes sense if Epicrates could have been seized and reduced to debt-bondage, or 'slavery in a way' to use Daos' expression.

[25] K. J. Dover, *Aristophanes: Clouds* (Oxford, 1970), 129 comments only on the meaning of the verbs $\acute{\alpha}\gamma\epsilon\iota\nu$ and $\phi\acute{\epsilon}\rho\epsilon\iota\nu$, but does not observe the connection with debt-bondage.

[26] For a parallel case, see Menander, *Sicyonius* 133–40, where the son of a debtor who has lost a suit about a contract and then died can be seized by his father's creditor ($\grave{\alpha}\gamma\acute{\omega}\gamma\iota\mu\acute{\omicron}\nu$) along with his property ($\tau\acute{\eta}\nu$ τ' $\omicron\grave{\upsilon}\sigma\acute{\iota}\alpha\nu$ $\sigma\omicron\nu$). Gomme and Sandbach (n. 22), ad loc. do not notice the parallel with Gortyn.

Our final example of debt-bondage comes from Plato's *Euthyphro* (4c).[27] In the dialogue Euthyphro tells Socrates how a *pelates* of his, who was serving in debt-bondage (ἐθήτευεν), recently died. The *pelates* had become drunk and angry at one of their slaves and killed him. Note how Euthyphro carefully distinguishes between the status of the *pelates* and the slave, just as Isocrates (14.48) does. Euthyphro's father then bound his hands and feet and threw him in a ditch, where he left him while he waited to hear from the Exegetes how to proceed. While waiting for the answer, the *pelates* died of hunger, the cold, and his bonds.

The ambiguous status of the *pelates* between freedom and slavery would help to explain the bewilderment about how to proceed against him. Euthyphro's father treats him like a slave after the murder by having him bound, which was not appropriate for a free man (see Dem. 53.16; cf. Isaeus 8.41). Instead of going to the King-Archon and bringing a charge against him, the normal procedure against free men in homicide cases (*Ath. Pol.* 57.2–4), the father takes him into private custody. Yet he is genuinely uncertain about what to do since he sends a man to consult the Exegetes. And after the *pelates* dies, Euthyphro's father claims he should not be prosecuted because he acted justly. This explanation only makes sense if he regarded him as a slave. If the *pelates* had been a free man, Euthyphro's father would not have had the right to use self-help since his offence did not fit one of the categories of just killing (or killing according to the laws) listed in Demosthenes 23.53–61: he did not kill him as a result of ignorance in battle (55), in an athletic competition (54), attempting to steal or enslave another (60–1), or while raping or seducing a female relative (55–6).[28] On the other hand, masters had the right to kill their slaves without fear of prosecution (Antiphon 6.4). Yet Euthyphro does not share his point of view and thinks he should prosecute his father for homicide by bringing a charge before the King-Archon as if the victim were a free man. This disagreement could only have occurred if there was some ambiguity about the status of the *pelates*. As a debt-bondsman, the *pelates*, like the *katakeimenos* at Gortyn, was somewhere between slavery and freedom, and this posed a problem for Euthyphro and his father about how to deal with the legal implications of his violent death.

Harrison argued that the law cited about the release of captives taken in war provided for enslavement for debt.[29] This law is known from Demosthenes' speech *Against Nicostratus* (53.11). Nicostratus was taken prisoner by a trireme while pursuing one of his own slaves who had run away. His captors brought him to Aegina and sold him

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[27] My analysis of this passage owes much to I. G. Kidd, 'The case of homicide in Plato's *Euthyphro*', in E. M. Craik (ed.), *Owls to Athens: Essays on Classical Subjects Presented to Sir Kenneth Dover* (Oxford, 1990), 213–21. E. Carawan, *Rhetoric and the Law of Draco* (Oxford, 1998), 311–12 appears to be unaware of Kidd's essay and does not discuss the problems created by the status of the *pelates*. The analysis of A. Tulin, *Dike Phonou: The Right of Prosecution and Attic Homicide Procedure* (Stuttgart and Leipzig, 1996), 55–100 suffers from his assumption that debt-bondage did not exist in classical Athens.

[28] This provision clearly covered cases of rape and seduction. See E. M. Harris, 'Did the Athenians consider seduction a worse crime than rape?', *CQ* 40 (1990), 370–7.

[29] Harrison (n. 6), 165, followed by Todd (n .6), 181, n. 25. For the view that capture in war is equivalent to enslavement, see A. Albertoni, '*Redemptus ab hostibus*', *Riv. Dir. Int.* 17 (1925), 358–78, 500–27, esp. 507–8, who rightly draws attention to *IG* ii².4357, where the terms λυτρωθὲς and ἐλευθερωθὲ[ς are used to describe a liberated captive. Note also that the law uses the genitive, which denotes ownership—see Kränzlein (n. 8), 20–1. Neither Harrison nor Todd appears to be aware of Albertoni's essay. The attempt of A. Bielman, *Retour a la liberté. Libération et sauvetage des prisonniers en Grèce ancienne* (= *Études Épigraphiques* 1) (Athens and Lausanne, 1994), 315–19, esp. 317, n. 337, to explain away this evidence is not convincing.

there. Apollodorus, who delivered the speech, gave Deinon, Nicostratus' brother, money to travel to Aegina and recover his brother. Nicostratus was ransomed for twenty-six *minai* and returned home. He then asked Apollodorus for money to pay those who had ransomed him. Apollodorus borrowed 1,000 drachmas on the security of some personal items and gave this to Nicostratus as a gift. When Nicostratus was unable to come up with the rest of the money, he made another appeal to Apollodorus. If he did not repay those who had ransomed him, he would be liable to seizure (ἀγώγιμος). At this point Nicostratus reminded him that the laws stipulate that the man who has been ransomed from the enemy shall belong to the person who ransomed him if he does not repay the ransom money (11: οἱ νόμοι κελεύουσι τοῦ λυσαμένου ἐκ τῶν πολεμίων εἶναι τὸν λυθέντα, ἐὰν μὴ ἀποδιδῷ τὰ λύτρα). There is a similar provision in the lawcode of Gortyn.[30]

The situation that the law deals with has nothing to do with enslavement for debt. The law pertains only to the prisoner who has been captured by the enemy or by pirates. It was generally recognized since the Homeric period that anything captured in war belonged to the victor. In the *Iliad* (21.34–41, 76–9; 22.45; 24.751–3) Achilles has the right to sell men captured in war. The principle was still recognized in the fourth century: Plato (*Rep.* 5.468a–b) assumes that soldiers captured by the enemy in war were theirs to use as they pleased, and Aristotle (*Pol.* 1.2.16.1255a6–7) states there is general agreement that items captured in war belong to those who take them (ὁ γὰρ νόμος ὁμολογία τις ἐστιν, ἐν ᾗ τὰ κατὰ πόλεμον κρατούμενα τῶν κρατούντων εἶναί φασιν). Xenophon (*Cyr.* 7.5.73) says it is a universal law that when a city is captured, all the persons and the property in it belong to the conquerors (νόμος γὰρ ἐν πᾶσι ἀνθρώποις ἀίδιός ἐστιν, ὅταν πόλις ἁλῷ, τῶν ἑλόντων τὰ σώματα τῶν ἐν τῇ πόλει καὶ τὰ χρήματα). The person who was captured in war therefore became the slave of his captor. If someone paid ransom for the captive, he had two options: either he could release him for free or he could insist that the captive pay him back.[31] If the latter, the former captive remained a slave in the ownership of the man who paid ransom until the ransom was paid. The Athenian law about the repayment of ransom and its counterpart at Gortyn therefore do not relate to enslavement, but to release from slavery. In enslavement for debt, a free person becomes a slave through a failure to pay a debt. But Nicostratus became a slave when he was captured by the enemy. His enslavement was the result of warfare, not debt. The law states that he will remain in the power of those who paid his ransom until he repays the money they spent to buy him from his captors. In other words, it stipulates that the man who has become a slave through capture in war will remain a slave until a certain condition is fulfilled. The law does not authorize a creditor to enslave a free man for failure to pay a debt. It does not therefore form an exception to the rule forbidding loans made on the security of the body.

IV

So far we have found that the wording of Solon's law indicates he outlawed the enslavement of debtors and that the Athenians practised debt-bondage long after

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[30] *I.Cret.* 4.72 vi.46–51 (= Koerner no. 171 = van Effenterre and Ruzé no. 13) αἰ κ' ἐδδυσ[άμενον] πέλρα[νδε] ἐκς ἀλλοπολίας ὑπ' ἀνιάνκας ἐκόμενος κελομένο τιⅠς λύσεται, ἐπὶ τôι ἀλλυσαμένιοι ἔμεν, πρίν κ' ἀποδôι τὸ ἐπιβάλλον.

[31] The honorary decrees collected in Bielman (n. 29) were probably awarded to men who did not ask for repayment of ransom.

Solon's legislation. A careful examination of the fragments of Solon's poetry confirms these conclusions. In his poetry Solon describes in general terms the problems confronting Attica before his reforms, but he clearly pins the blame for contemporary troubles on violence and the breakdown of law and order. The cause of the crisis is *Dysnomia*, the chaos brought about by contempt for law (fr. 4 [West], line 31: κακὰ πλεῖστα πόλει Δυσνομίη παρέχει). The remedy for the situation is *Eunomia*, respect for law and justice, which brings order, makes all things right, and punishes the unjust (fr. 4 [West], line 32: Εὐνομίη δ᾽ εὔκοσμα καὶ ἄρτια πάντ᾽ ἀποφαίνει). The men who have plunged Attica into strife do not honour justice and steal the property belonging to the gods and to the people by their raids for booty (fr. 4 [West], lines 12–14: οὔθ᾽ ἱερῶν κτεάνων οὔτε τι δημοσίων / φειδόμενοι κλέπτουσιν ἐφ᾽ ἁρπαγῇ ἄλλοθεν ἄλλος, / οὐδὲ φυλάσσονται σεμνὰ Δίκης θέμεθλα).[32]

Many scholars have speculated that the main cause of the crisis confronting Solon was economic. For instance, Andrewes believed that the residents of Attica began to reclaim land abandoned in the Dark Age during the ninth century but 'the process was not evenly continued or rapidly completed' until the eighth century B.C.E., when 'the pattern of village settlement characteristic of Classical Athens' came into existence.[33] The wealthy retained control of the reclaimed land, which was worked by the poor who paid one-sixth of the produce to their lords. As overseas trade increased, the wealthy tried to extort a greater percentage from these dependent labourer or sold them abroad. French had a different view of the crisis: he argued that overpopulation in Attica led farmers to shift to cereal production from stockbreeding, to intensify cultivation, and to plant crops in marginal land.[34] All these factors led to declining fertility. Grain imports from abroad caused prices to slide and placed small farmers in a precarious position. 'An economic situation resulting from soil exploitation, decreasing fertility, mounting shortages and rising prices would now be complicated by the strain of foreign competition.'[35] As a result, the impoverished farmers fell into debt and became the serfs of the wealthy. Gallant claims to take an approach different from that of French and Andrewes, but he shares some of their basic assumptions: there was population pressure in early Attica, which caused upper-class farmers to extend their property into uncultivated land.[36] These élite farmers then allowed poor farmers to work in return for a one-sixth payment. When this system broke down, the tensions between rich and poor gave rise to conflict.

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[32] T. Rihll, 'Partners in crime?', *JHS* 111 (1991), 100–20, esp. 104–10 assumes that κτεάνων . . . δημοσίων refers to communal land, which the wealthy were encroaching on, but this interpretation is impossible. Solon says that the wealthy steal these items as booty (κλέπτουσιν ἐφ᾽ ἁρπαγῇ), which must refer to movables, not land. For other telling objections to Rihll's analysis of the Seisachtheia, see L. Foxhall, 'A view from the top: evaluating the Solonian property classes', in L. Mitchell and P. J. Rhodes (edd.), *The Development of the Polis in the Archaic Period* (London and New York, 1997), 113–36, esp. 117. On the status of the *hektemoroi* and the nature of the Seisachtheia, see Harris (n. 2). The conclusions of this article, I believe, strengthen my analysis of Solon's legislation.
[33] A. Andrewes, 'The growth of the Athenian state', in *The Cambridge Ancient History*[2] III.3 (Cambridge, 1982), 360–91.
[34] A. French, 'The economic background to Solon's reforms', *CQ* 50 (1956), 11–25.
[35] Ibid.
[36] T. W. Gallant, 'Agricultural systems, land tenure, and the reforms of Solon', *Annual of the British School at Athens* 77 (1982), 111–24. I. Morris, 'Hard surfaces' in P. Cartledge, E. Cohen and L. Foxhall (edd.), *Money, Labour and Land: Approaches to the Economy of Ancient Greece* (London and New York, 2002), 29–41 uncritically accepts Gallant's view of Solon's reforms, has nothing original to add, and ignores the decisive objections made by Foxhall (n. 32) and the evidence of archaeological surveys.

All these views of the crisis confronting Solon run into two serious objections. First, there is no evidence in Solon's poems that the leaders of the community were exploiting peasants tied to the soil by the peaceful means of laws about land tenure.[37] Second, the archaeological evidence does not support the view that overpopulation in Attica in particular or in Greece in general led to extensification of land as Andrewes, French, Gallant, and others have argued. The recent surveys conducted by Lohmann show that there was no expansion into less-productive areas of Attica during the seventh or sixth centuries; this process occurred in the fifth and fourth centuries.[38] Evidence from field surveys in other parts of Greece reinforce this picture. As Foxhall observes, intensive archaeological surveys in the southern Argolid reveal 'no evidence for dramatic changes in cultivation practices and most sites seem to be situated near areas of best agricultural land'.[39] Surveys in Kea, Methana, and Boeotia have produced similar results. Foxhall rightly concludes 'This pattern hardly suggests over-population or a landscape approaching its carrying capacity in the Archaic period.'[40] Neither the evidence of Solon's poetry nor the results of archaeological surveys support the view that economic factors brought on the *stasis* Solon sought to end.

What Solon (fr. 4 [West], lines 23–5) actually describes is a countryside torn by violence where powerful men seize poor men and sell them abroad.

$$\tau\alpha\hat{\upsilon}\tau\alpha \ \mu\hat{\iota}\nu \ \dot{\epsilon}\nu \ \delta\dot{\eta}\mu\omega \ \sigma\tau\rho\dot{\epsilon}\phi\epsilon\tau\alpha\iota \ \kappa\alpha\kappa\dot{\alpha}. \ \tau\hat{\omega}\nu \ \delta\dot{\epsilon} \ \pi\epsilon\nu\iota\chi\rho\hat{\omega}\nu$$
$$\dot{\iota}\kappa\nu\dot{\epsilon}o\nu\tau\alpha\iota \ \pi o\lambda\lambda o\grave{\iota} \ \gamma\alpha\hat{\iota}\alpha\nu \ \dot{\epsilon}\varsigma \ \dot{\alpha}\lambda\lambda o\delta\alpha\pi\grave{\eta}\nu$$
$$\underline{\pi\rho\alpha\theta\dot{\epsilon}\nu\tau\epsilon\varsigma} \ \delta\epsilon\sigma\mu o\hat{\iota}\sigma\iota \ \tau' \ \dot{\alpha}\epsilon\iota\kappa\epsilon\lambda\dot{\iota}o\iota\sigma\iota \ \delta\epsilon\theta\dot{\epsilon}\nu\tau\epsilon\varsigma \dots$$

The fact that these men are sold abroad demonstrates that Solon is not referring to debt-bondage but outright enslavement. There is no need to invent some elaborate system of land tenure and depdendent labour to understand these verses. Such a system is without parallel in contemporary sources for the Archaic period; to resort to this kind of hypothesis is to explain *ignotum per ignotius*. The threat to the poor resulted from the breakdown of law and order, which led to warfare and the kind of raids for slaves and booty one finds throughout the *Iliad* and the *Odyssey*. There are many examples in each poem. In the story he tells of his travels, Odysseus (*Od.* 9.39–42) recalls how he and his companions stopped on their way back from Troy to plunder the Ciconians, kill their men, and take their women as slaves. When Iasonides comes to sell the Achaians wine, they buy it with bronze, iron, hides, oxen, and the slaves they have taken in raids (*Il.* 7.470–5). Hecuba tells Hector how Achilles sacked her city of Thebe, killed her father, took their cattle, and took her mother—had she not been freed by payment of ransom, Achilles would have sold her. Her husband predicts that she too will become the slave of an Achaian once Troy falls and there is no one to buy her out of slavery (*Il.* 6.414–65). When attempting to convince him to return to battle, Agamemnon promises to give Achilles seven Lesbian women whom he picked out for himself when Achilles captured their city (*Il.* 9.128–31, 270–3). Agamemnon promises another twenty women after they conquer Troy (9.135–40, 277–82). One of Achilles' slaves is called Iphis, whom he acquired during an attack on

[37] One should not confuse Solon's abolition of enslavement for debt with the Seisachtheia. This was a different reform, which liberated the *hektemoroi* from the payments of 'protection money' they had to pay to their lords. See Harris (n. 2).

[38] H. Lohmann, *Atene. Forschungen zur Siedlungs- und Wirtschaftsstruktur des klassischen Attika*, 2 vols (Cologne, 1993).

[39] Foxhall (n. 32), 127.   [40] Ibid.

Skyros, the city of Euenous (*Il.* 9.663–8). In Nestor's household there is slave named Hekamede, whom the old man received as a prize when Achilles sacked Tenedos (*Il.* 11.624–31, 638–41). In fact, one of the most effective ways of male bonding in epic is to join in raids to seize women and take them home: after Patroclus' death, the poet reminds us of happier days when Achilles and his companion went on raids for women together (*Il.* 18.28–31, 18.338–42; happy for the men but not for the women 19.301–2). Achilles captured Briseis in an attack on Lyrnessus (*Il.* 19.56–60) where he slaughtered her husband and three brothers (*Il.* 19.282–302). Achilles captured Lycaon on the battlefield and sold him to Iason on Lemnos (21.35–44, cf. 23.746–9). Both Priam (*Il.* 22.44–5) and Hecuba (*Il.* 24.750–3) complain that Achilles has sold many of their children abroad. These raids for slaves and plunder remained a constant threat in the Greek world right through the classical period. Thucydides (1.5) noted that the kind of raids that occur throughout the Homeric poems were still common in less settled parts of Greece during his own time. Apollodorus tells us that his neighbour Nicostratus was captured while abroad and would have remained a slave if he could not repay his ransom ([Dem.] 53.6–7). And Daos in Menander's *Shield* tells how his master Cleostratus went on a raid to capture barbarians and sell them (Men. *Asp.* 30–3 [Sandbach]).[41] Thus there is no need to invent an economic crisis that led to increased numbers of poor Athenians falling into debt. The situation described by Solon was already familiar to the audience that heard the Homeric poems. It was a constant threat whenever *stasis* plagued a community and turned citizens (*politai*) into enemies (*polemioi*) who could be seized and sold into slavery.

The end of the *stasis* in Attica enabled Solon to free the poor who had been enslaved by violence, not by debt-bondage, during the breakdown of law and order. In fr. 36 [West], lines 8–15, Solon lists his accomplishments.

> πολλοὺς δ᾽ Ἀθήνας πατρίδ᾽ ἐς θεόκτιτον
> ἀνήγαγον <u>πραθέντας</u>, ἄλλον ἐκδίκως,
> ἄλλον δικαίως, τοὺς δ᾽ ἀναγκαίης ὑπὸ
> χρειοῦς φυγόντας, γλῶσσαν οὐκέτ᾽ Ἀττικὴν
> ἱέντας, ὡς δὴ πολλαχῆ πλανωμένους·
> τοὺς δ᾽ ἐνθάδ᾽ αὐτοῦ <u>δουλίην</u> ἀεικέα
> ἔχοντας, ἤθη <u>δεσποτέων</u> τρομεομένους,
> ἐλευθέρους ἔθηκα.

Besides bringing unity to Attica, he

has brought back to Athens, to the city founded by the gods, many men who have been sold, one justly, another justly, men who were in exile because of dire necessity, no longer speaking the Attic language, since they have wandered far and wide. Others, who suffered humiliating slavery here at home, trembling at their masters' whims, I have set free.[42]

Solon must be referring to slaves in these lines, the same slaves whom he described as

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[41] For the connection between piracy and the slave trade in the Hellenistic period, see P. de Souza, *Piracy in the Greco-Roman World* (Cambridge, 1999), 60–8.

[42] One should not translate 'necessity of debt' but 'dire necessity'. Solon is using a Homeric expression (*Il.* 8.57) as is rightly pointed out by D. A. Campbell, *Greek Lyric Poetry: A Selection of Early Greek Lyric, Elegiac and Iambic Poetry* (London, 1967), 252. H. van Effenterre and F. Ruzé, *Nomima: Recueil d'inscriptions politiques et juridiques de l'archaisme grec* I (Paris and Rome, 1994), 66 rightly note the parallel with the phrase ὑπ᾽ ἀν/άνκας ἐκόμενος used to describe someone captured and sold abroad in the the Gortyn code (cited in n. 30 above).

sold abroad in fr. 4 [West], lines 23–5 as a result of raids for plunder. Finley thought that these lines referred to Solon's abolition of debt-bondage, but this is impossible because many of those whom Solon brought back were sold abroad; as we saw before, creditors could not sell debt-bondsmen outside of Attica but only had a right to their labour until they paid back their loans. Second, Solon does not use the noun *thetes* or the verb *theteuein*, the words that denote debt-bondage, to describe their status. Third, he calls the men who have power over them *despotai* (line 14 δεσποτέων), the word for masters of slaves, not *katathemenos* (or some similar expression), the word that designates creditors who have accepted the labour of their debtors in lieu of repayment. Finally, these men have been set free—one releases (λύειν) debt-bonds-men from an obligation (Antiphon 5.63); one does not set them free because they are not completely slaves and have not lost all of their freedom. In short, everything one reads or can infer about the status of the men whom Solon rescued shows they are slaves seized and sold as a result of raids, not debt-bondsmen.[43] *Pace* Finley, Solon fr. 36 [West] has nothing to do with debt-bondage or its abolition.

V

The continued existence of debt-bondage in classical Athens represented a com-promise between two potentially conflicting principles in Athenian law and society.[44] The Athenians believed that their courts should enforce all contracts that parties entered into willingly, provided they did not violate the law (Hyp. *Ath*. 13; Dem. 42.12; [Dem.] 56.2; Din. 3.4). Their belief in the sanctity of contracts and private property was so strong that they made it illegal to propose any redistribution of property (*Ath. Pol.* 56.2). That should come as no surprise in a society where most citizens owned land (Lysias 34 *hypothesis*). On the other hand, the Athenians,

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[43] In a comment on this argument, the anonymous referee exclaims 'But it is POETRY!' The referee appears to assume that Greek poets did not use legal terms with the same accuracy and precision as prose authors did. This assumption is mistaken. For instance, Homer makes a strict distinction between the term ἄποινα, which designates payment to restore the liberty of someone captured in war, and ποινή, which refers to payment for damage or homicide—see the definitive treatment of D. Wilson, *Ransom, Revenge, and Heroic Identity* (Cambridge, 2002). For Euripides' use of the technical terminology of *apokeruxis*, see P. Cobetto Ghiggia, 'Una testimonianza sull'*apokeryxis* nell'*Alcesti* di Euripide', in E. Cantarella and G. Thür (eds), *Symposion 1997: Vorträge zur griechischen und hellenistischen Rechtsgeschichte* (Cologne, Weimar, and Vienna, 2001), 53–60. For Aristophanes' use of the technical term *presbeis autokratores*, see E. M. Harris, 'The authenticity of Andocides' *De Pace*: a subversive essay', in P. Flensted-Jensen, T. Nielsen, and L. Rubinstein (edd.), *Polis and Politics: Studies in Ancient Greek History* (Copenhagen, 2000), 489–90 and for Aristophanes' use of legal terminology, see id., 'Pheidippides the legis-lator: a note on Aristophanes' *Clouds*', *Zeitschrift für Papyrologie und Epigraphik* (forthcoming). Nor do poets and prose authors use the term ἀποκτείνειν, found in homicide statutes, in different ways—see E. M. Harris, 'How to kill in Attic Greek: the semantics of the verb ἀποκτείνειν and their implications for Athenian homicide law', in E. Cantarella and G. Thür (edd.), *Symposion 1997: Vorträge zur griechischen und hellenistischen Rechtsgeschichte* (Cologne, Weimar, and Vienna, 2001), 75–88. Note also how Sophocles appears to draw a careful distinction in *Oedipus the King* between the status of the Corinthian Messenger (1029: ποιμὴν γὰρ ἦσθα κἀπὶ θητείᾳ πλάνης) and that of the Theban shepherd (1123: ἦ, δοῦλος οὐκ ὠνητός, ἀλλ' οἴκοι τραφείς). The list could be lengthened.

[44] Compare Watson (n. 14), 115 on the advantages of *nexum*. For a similar compromise about property ownership between the interests of the wealthy and those of the poor in classical Athens, see Dem. 10.35–42 with E. M. Harris, 'Demosthenes and the Theoric fund', in R. W. Wallace and E. M. Harris (edd.), *Transitions to Empire: Essays in Greco-Roman History, 360–146 B.C. in Honor of E. Badian* (Norman, OK and London, 1996), 70–4.

although they practised slavery without qualms, also recognized the need to protect the liberty of all free men, whether citizens or foreigners. They imposed harsh penalties for criminals who tried to enslave free men (*Ath. Pol.* 52.1). In fact, Dinarchus (1.23) refers to two cases where Athenian courts put citizens to death for attempting to hold foreigners as slaves.

Debt-bondage provided the Athenians with a crude way of way of reconciling the rights of creditors and debtors. The law granted creditors the right to seize borrowers who failed to repay their loans and to hold them until they were able to work off their debts. Yet at the same time, the law protected the freedom of debtors by denying creditors the ability to sell them into slavery as a way of recovering their loans. By providing lenders with a strong form of security, however, debt-bondage also made it easier for borrowers to gain credit. To citizens of modern democracies with liberal laws about bankruptcy, this solution may seem harsh. But the Athenians, like the rest of the Greeks, had very different notions about individual freedom, and their form of government had very little in common with modern democracy.[45]

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