Slavery and Its Definition*

Jean Allain and Kevin Bales

Had the abolitionists of the past, the likes of Abraham Lincoln or William Wilberforce been able to see into the Twenty-First Century, what might have struck them as very strange was that while we had come far in ending slavery and suppressing human exploitation, we seem to have lost sight of what the term ‘slavery’ means. This, despite the fact that for more than eighty-five years there has been a consensus in international law as to the legal definition of slavery. Likewise, despite having an established definition of slavery in law at the international level and the majority of States having constitutional or legislative provisions prohibiting slavery in their domestic legal order, very little action has been taken to prosecute individuals for enslaving another person – until recently. We say ‘until recently’, as it can be said that we are currently living through a ‘neo-abolition era’, one that goes beyond its historical predecessor which focused on ending legal slavery; to a contemporary movement meant to end slavery in fact. Distinctive parallels between abolition of old and the current, neo-abolitionist, movement exist. Just as Quaker social activism and Anglican evangelicalism laid the foundation for the British abolitionist campaign which ultimately lead to the abolition of legal slavery; so too should we acknowledge the parallel roles of human rights activism (still including Quakers) on one hand and the ‘Religious Right’ in the United States of America on the other hand and their joint influence on the American Congress in passing the 2000 Victims of Trafficking and Violence Protection Act.1 Likewise, just as British dominance of the seas during the Nineteenth Century allowed it to end the slave trade; so too has the current dominance of the United States allowed it, through legislation dealing with trafficking, to force other countries to get serious about prosecuting cases of slavery.2


The dominant position which the United States of America holds in both soft and hard power has allowed it, through informal empire, to require States to pass legislation that criminalises the movement of persons through coercion, fraud, or deceit, with the intent of exploiting them. In the most recent manifestation of the 2000 Victims of Trafficking Act, the *William Wilberforce Trafficking Victims Protection Re-authorization Act of 2008* makes it “the policy of the United States not to provide non-humanitarian, non-trade related foreign assistance to any government that (1) does not comply with minimum standards for the elimination of trafficking; and (2) is not making significant efforts to bring itself into compliance with such standards.” These minimum standards relate to legislating criminal liability for those involved in trafficking in persons and require that the State “should make serious and sustained efforts to eliminate severe forms of trafficking in persons.” Thus, in the case of trafficking, the United States is requiring other countries to go beyond legislation to actual suppression.

Before continuing, it should be made plain that trafficking is not in itself slavery, but a process by which slavery can be achieved. However, the moves of the United States to suppress trafficking have a knock-on effect which touches on slavery. This is so because the trafficking legislation which has emanated from the US Congress is modelled upon, and an off-shoot of, the United Nations’ 2000 Palermo Protocol – the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. The Palermo Protocol, Chapter 2 of this volume.]; and Section 110, United States, Department of State, *Victims of Trafficking and Violence Protection Act*, 28 October 2000.

3 Section 110, United States, Department of State, *Victims of Trafficking and Violence Protection Act*, 28 October 2000.

4 Section 108(a), United States, Department of State, *Victims of Trafficking and Violence Protection Act* spells out those minimum standards for the elimination of trafficking as follows:

1. The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.

2. For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.

3. For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.

4. The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.