Current efforts to end contemporary slavery represent a fourth wave of social movement activity on the issue. Yet scholars and the movement have yet to settle on a central interpretation of the problem. Six approaches predominate, in particular: a prostitution approach, which sees the issue as related to the sexual exploitation of "women and girls"; a migration approach, which sees the issue as being related to the cross-border flow of migrants; a criminal justice approach which considers the issue to be a matter of law and enforcement; a forced labor approach which considers the issue to be one of unfree labor; a human rights approach, so called because it attempts to emphasize individual rights over cultural or statist demands and requirements, and a slavery approach, which considers trafficking and related practices to be contemporary manifestations of a long-standing issue. Deficiencies in each approach are discussed, and an expanded version of the human rights approach is advanced.

Introduction: The resurgent anti-slavery movement

The past two decades have seen an explosion in interest and advocacy surrounding the issue of human trafficking and contemporary slavery. It has become a touchstone, an object of great fascination, for a very wide range of actors. Everyone wants to get involved in the issue in some way, or so it often seems. Students hold teach-ins, seminars, and conference to educate others. Advocacy groups of all shapes and sizes push the issue from a dizzying number of angles. Consumers ask how slavery can be removed from products and supply chains. Celebrities invest star equity into movies and television shows that highlight the severity and human impact of the problem. Politicians, in turn, want to be seen doing something. International non-governmental agencies add the issue to their development, rights and health portfolios. The United States ranks countries based on their efforts to pass and enforce laws, sending other countries rushing to pass legislation that conforms to this new international norm.

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1 The psychoanalyst David Tuckett (2008) writes about the “fantastic object” – at once immensely attractive and altogether unreal and Ronald Weitzer (2012: 1337) has written about a “robust mythology of trafficking” in which trafficking is real, but many claims about it are unsubstantiated.
In the midst of this activity stands a growing array of scholars who have turned their attention to both the problem of trafficking and slavery, as well as the flurry of activity itself. They have all sorts of questions. Some of them are primary, related to the problem: How big is the problem? How do we know? What can be done? Others are secondary, related to the flurry: Do celebrities help? Do movies and television series accurately portray the issue? Are the benchmarks set by the United States’ State Department self-serving? Is this a moral panic?

Taken together, these social, political, economic, educational, and scholarly activities represent a resurgence and reemergence of the English-speaking world’s oldest social movement—humanity’s first human rights campaign, if you will. There have been four discernible waves to what some have called the Anti-Slavery Project. The first was in England in the 18th century when the first abolitionist group was formed by Quakers and evangelical Anglicans. Several decades later the Anti-Slavery Society, whose successor is Anti-Slavery International, was formed. The social movement mobilization that took place in this first wave of anti-slavery activity pioneered a number of social movement tactics, including the use of the petition and divestment from slaveholding firms, while also introducing two diplomatic devices: peacetime economic sanctions; and the multinational oversight committee. The second social movement against slavery was in the United States in the early to mid-19th century. A vast social debate gripped the nation in a movement wave that continued up through the Civil War, after which a botched emancipation set former-slaves on a track of exploitation and marginalization that would continue unabated for another one hundred years (Blackmon 2009). Together, these two movements triggered a wave of domestic and international anti-slavery activity that saw slavery outlawed in much of the world by the beginning of the 20th century. To these two major movement waves I would add a third smaller, yet salient phase. With a peak period from 1870-1914, and with a lingering resonance into the mid-century, both the United States and Britain witnessed widespread concern over the “White Slave Trade,” a hysteria that used the rhetoric and imagery of slavery to advocate for the protection of female chastity peaking in the United States with the passage of the Mann Act. This initiative is increasingly factored into the literature as part of abolitionist history, but this is sometimes contested based on its

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2 This study focuses on movement cycles in the United Kingdom and United States. While important mobilization efforts certainly led to emancipation in other parts of the world (e.g., Haiti), the emphasis here is on the issue’s unprecedented recurrence. Alternate genealogies include more global assessments of anti-slavery efforts (Quirk 2011), as well as histories of anti-trafficking movement that begin with the first international movements to combat the sexual exploitation of women (e.g., Limoncelli 2010). See Joel Quirk, THE ANTI-SLAVERY PROJECT: FROM THE SLAVE TRADE TO HUMAN TRAFFICKING (2011); Stephanie Limoncelli, THE POLITICS OF TRAFFICKING: THE FIRST INTERNATIONAL MOVEMENT TO COMBAT THE SEXUAL EXPLOITATION OF WOMEN (2010).

3 Adam Hochschild, BURY THE CHAINS: PROPHETS AND REBELS IN THE FIGHT TO FREE AN EMPIRE’S SLAVES (2005).


6 Ernest Albert Bell, FIGHTING THE TRAFFIC IN YOUNG GIRLS: OR WAR ON THE WHITE SLAVE TRADE (1910); Sophie Day, The re-emergence of “trafficking”: sex work between slavery and freedom, 16 J. R. ANTHROPOL. INST. 816–834 (2010).
patriarchal conceptualizations of gender. Despite this critique, this phase is important to emphasize because it laid the groundwork for much of the evangelical language of rescue and rehabilitation that became common in the late 1990s, and is still occasionally used both legally (see Mattar’s review of cases that still use the Mann Act) as well as by movement actors.

This truncated overview brings us to the present outpouring of popular and legislative attention to this issue. The fourth wave of social movement efforts to end slavery that has emerged in the United States and the United Kingdom bears some of the hallmarks of earlier waves, including petitions, economic boycotts, the passage of public policy, a touch of moral panic, and the like. Yet in other ways the current wave is happening under significantly altered circumstances. The roots of this fourth movement lie in the surge of migration that followed the collapse of the Soviet Union in 1989. As the Soviet Union came unmoored, millions were on the move—not only in the former Soviet states and satellites, but also in regions that had previously been frozen in Cold War rivalries. With so much migration, and with the United States and the Soviet Union each reassessing their role in the world, exploitation flourished along migratory routes the world over. Those journalists and activists who first noticed it increasingly applied the term “human trafficking” to this exploitation. It was perhaps Michael Specter’s 1998 article on “Contraband Women” in the New York Times that first lifted this issue from advocacy circles and placed it before the general public in the English-speaking world. As globalization picked up pace, both economically and culturally, new opportunities for migration presented themselves. People were not just being pushed by post-1989 dislocations, they were being pulled by the opportunity to work in new places, some of which appeared considerably better than the place they were leaving. This combination of push factors—fleeing from a failing home or a collapsing economy—with pull factors—the desire for honest work and a better life—was cemented during the 1990s, and has become central to our understanding of trafficking.

These four waves of movement activity have received little attention. The sociologist Verta Taylor has observed that the lulls between movement waves represent critical periods of abeyance—a state of disuse or suspension. Taylor demonstrated that abeyance

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9 Bernstein, supra note 7.
11 Ruud Koopmans, Interpreting Judicial Interpretations of the Criminal Statutes of the Trafficking Victims Protection Act: Ten Years Later, 54 AM. SOCIOl. REV. 761–775 (1989). To date little scholarship has combined these two observations, despite the fact that more than two centuries of anti-slavery efforts spread across four distinct waves were sustained through three troughs by one movement organization that has continued into the present. Such a study would doubtless help movement scholars to move beyond single movements (as argued by Koopmans 2004: 21) and to focus instead on broader waves of contention (Tarrow 2011) and the lulls that separate them (e.g., Taylor 1989). See Ruud Koopmans, Protest in time and space: The evolution of waves of contention, BLACKWELL COMPANION SOC. MOV. 21
structures— institutions or organizations that carried the flame and keep the faith, however quietly, during lulls in the women’s movement— made all the difference in providing a vital spark when the moment was right. It is reasonable to argue that the British organization, Anti-Slavery International (ASI) has served as a critical abeyance structure during multiple eras of issue decline and dormancy. Anti-Slavery Society (as the ASI was then known) was founded by Thomas Clarkson in 1839. Clarkson had previously helped establish the Society for Effecting the Abolition of the Slave Trade in 1787, and his efforts led to the passage of the Slave Trade Act of 1807 in Britain. ASI, which can trace its heritage more than two hundred years in the past, has served as an abeyance structure of unprecedented duration.

While this essay argues that there have been four waves of anti-slavery efforts in the Anglo-Saxon world, it was ASI that remained active throughout the intermovement periods. In 1890 it championed the Brussels Act, which addressed the slave trade in colonies and protectorates around the world. While the Brussels Act was intended to address slavery in the Congo, a campaign from 1904 through 1913 rallied the public against the extractive slavery practiced in the Congo Free State by King Leopold II of Belgium. In the 1920s it advocated for the end of indentured labor in the British colonies, pushed for the end of slave labor in Peruvian rubber production, and lobbied the League of Nations to produce the 1926 Slavery Convention. This work continued into the 1950s (the Supplementary Convention on the Abolition of Slavery), through the 1970s and 1980s, during which it released a series of reports on child and bonded labor, and into the 1990s with the organization of the 1998 Global March against Child Labor and push for the ILO Convention on the Worst Forms of Child Labor and the establishment of the Special Action Programme to Combat Forced Labour in 1999. \(^\text{12}\) ASI’s publication, The Anti-Slavery Reporter, has been in publication from 1840 through the present. \(^\text{13}\) The duration of these efforts— advocating, educating, pressuring, informing, investigating, lobbying, and awareness-raising— is unparalleled in the history of social movements. \(^\text{14}\)

Taylor’s concept of abeyance structure helps us to conceptualize ASI’s role as a movement organization in shepherding the issue through the centuries. There is no similar concept in the social movement lexicon to describe the recurrent nature of this movement activity. Sidney Tarrow’s concept of the “cycle of contention” focuses on the diffusion of collective action as new forms of contention are adopted, new actors emerge, and there is intensified interaction between challengers and authorities. Here the protest cycle ends in reform, repression or revolution. \(^\text{15}\) Cycles have beginning, middles and ends and last for a relatively short period of time. These are short or medium-term cycles in historic terms; the

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\(^\text{14}\) Claude E. Welch, Jr., Defining Contemporary Forms of Slavery: Updating a Venerable NGO, 31 HUMAN RIGHTS QUARTERLY 70-128 (2009).

\(^\text{15}\) Sidney G. Tarrow, POWER IN MOVEMENT: SOCIAL MOVEMENTS AND CONTENTIOUS POLITICS 199-201 (2011).
French Revolution, the first Intifada, and new social movements in Europe are all examples provided by Tarrow. But what of historically recurring protest cycles—cycles of cycles, if you will? In 1925 the Soviet economist Nikolai Kondratieff suggested that the modern world economy cycles in fifty-year phases between eras of higher and slower growth. These hypothesized peaks and troughs can then be mapped as a sine wave. Perhaps there is an analogous phenomena in some interlinked movement waves, something best left to others to determine.

If movement efforts have persisted through abeyance structures and long cycles of contention, the issue itself has persisted with remarkable tenacity. The work of scholars such as Jean Allain and Kevin Bales points to the persistence of slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.” While the world has changed and the style of exploitation has evolved, slavery’s core attributes have remained relatively stable for thousands of years. Human trafficking may have picked up steam after the fall of the Berlin Wall, but the system of slavery has been a key feature of human relations throughout the twentieth century, as well as the many millennia preceding it. Anti-Slavery International’s heritage has served as a movement structure that has allowed the anti-slavery movement to sustain in some fashion between waves of issue-salience and international attention, the peaks and troughs, if you will.

Current debates, interpretations and approaches

The presence of an abeyance structure, even one that lasts an impressive two centuries, does not preclude the dynamic adaptation and issue innovation that has surrounded this issue. What exactly is human trafficking an example of? This is no simple question since

19 Kondratieff cycles are tied to massive investments in new infrastructure, which may be positively correlated with broader economic transformations that also impact migration and labor regimes. This possibility allows us to hypothesize that cycles of exploitation are positively correlated with larger socio-economic transitions. For more on Kondratieff cycles, as well as shorter Kuznet cycles (20-25 years) and even shorter Juglar cycles (7-10 years), see Terry Boswell & Joya Misra, Cycles and Trends in the Early Capitalist World-Economy: An Analysis of Leading Sector Commodity Trades, 1500-1600/50-1750, 18 REV. FERNAND BRAUDEL CENT. 459–485 (1995); Christopher Chase-Dunn & Peter Grimes, World-Systems Analysis, 21 ANNU. REV. SOCIOL. 387–417 (1995); Kathleen C. Schwartzman, Globalization and Democracy, 24 ANNU. REV. SOCIOL. 175 (1998).
21 Here an important question must be asked: are these four distinct movements, or four waves of a single movement. One might argue that the persistence of an abeyance structure such as ASI, and the incorporation of the term “slavery” into the discourse on “white slavery” are evidence of a certain continuity between these periods. An alternative explanation would be that while there might be good reason to link some of these four, they are not all so easily linked together. The first, second and fourth waves, for example, share approaches and organizational contexts. The third and the fourth, too, share certain frames of the issue and parallel movement histories. While I am keen to find it is the former (four waves of a single movement), and fear it is the latter (four individual, or two linked, movements), I will leave it to the historians to determine which of the two it is. I have Kirsten Foot to thank for this quandary.
human trafficking intersects with a host of issues and agendas and answers, however provisionable, drive policies, funding, advocacy, interventions, and numerous debates. In the following section it is suggested that there are presently six dominant perspectives on human trafficking—Prostitution, Migration, Criminal Justice, Forced Labor, Human Rights and Slavery—each with their own legacies, contributions, strengths, and weaknesses. This section concludes with the proposition that the most robust foundation involves a combination of the last two categories: a human rights approach to contemporary slavery.

Prostitution

Perhaps the oldest of these three traditions is an ongoing series of debates related to the role of agency in pornography and prostitution in the 1980s and 1990s. Over the last decade, debate from the “sex wars” has spilled over into conversations about trafficking for sexual exploitation. While this conversation is ongoing, it is possible to sketch a dividing line between women’s rights groups who saw pornography and prostitution as potential sites of cultural subversion and liberation and those groups who saw pornography and prostitution as the unvarnished oppression of women. In this way two schools of thought have developed regarding trafficking for sexual exploitation. The first, comprised of an unprecedented alliance between evangelicals and second-wave feminists, can be thought of as “feminist abolitionists,” since their focus is on abolishing pornography and prostitution. Evangelicals see the problem as an issue of moral purity, while second-wave feminists consider the problem’s source to be patriarchy and a concomitant lack of power. Both see the solution as the immediate abolition of prostitution in all of its forms and the immediate rescue of its victims—what Elizabeth Bernstein has dubbed carceral feminism.

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22 Marjan Wijers & Lin Lap-Chew, Trafficking in Women: Forced Labour and Slavery-like Practices in Marriage 190-209, DOMEST.LABOUR PROSTIT.UTRECHT FOUND. TRAFFICK. WOMEN GLOB. ALLIANCE TRAFFIC WOMEN (1999). This is not the first attempt to bring order to this issue. At a late stage of this essay’s development a kind reviewer recommended a typology developed by Maggie Lee (2011). Her approach includes: slavery; the globalization of crime; transnational organized crime; prostitution; migration; and human rights. With the exception of the broader perspective on crime, her typology seems to confirm my findings. A critical difference, however, lies in our definitions of the problem. Lee roots her typology in a definition of the problem as trafficking and suggests “slavery” is one way to conceptualize trafficking. I will eventually argue that the reality is rather the inverse: trafficking is in fact a subset of slavery. See MAGGY LEE, TRAFFICKING AND GLOBAL CRIME CONTROL (2011).

23 The use of the phrase “trafficking for sexual exploitation” is intentional, as it avoids the sensationalist reification found in alternate usages such as “sex trafficking,” and even worse, “sex slavery.” See Alison Brysk, Sex as Slavery? Understanding Private Wrongs, 12 HUM. RIGHTS REV. 259–270 (2011); Jo Doezema, Who Gets to Choose? Coercion, Consent, and the UN Trafficking Protocol, 10 GEND. DEV. 20–27 (2002); KAMALA KEMPADOO & JOE DOEZEMA, GLOBAL SEX WORKERS: RIGHTS, RESISTANCE, AND REDEFINITION (1998).

24 While some refer to these camps as "neo-abolitionists" and "sex radicals", I have intentionally chosen a term that do not cede the "abolitionist" framing to one camp, nor designate the other as "radical."

25 KATHLEEN BARRY, FEMALE SEXUAL SLAVERY (1979); ALLEN D. HERTZKE, FREEING GOD’S CHILDREN: THE UNLIKELY ALLIANCE FOR GLOBAL HUMAN RIGHTS (2004); Donna M. Hughes, Humanitarian Sexploitation: The world’s sex slaves need liberation, not condoms, 8 Wkly. Stand. 16 (2003); JANICE G. RAYMOND, DONNA M. HUGHES & CAROL J. GOMEZ, SEX TRAFFICKING OF WOMEN IN THE UNITED STATES (2001).


27 Bernstein, supra note 7.
The second school of thought, focused on “risk reduction,” is comprised primarily of third-wave feminists who see the problem as patriarchy and the solution as empowering women to engage in sex-positive forms of resistance. This later approach is also associated with harm reduction strategies from the health community. This approach is fundamentally based on there being a clear and discernable difference between forced and voluntary prostitution. In this reading, some prostitution is indeed exploitative, but the solution is less punitive legal frameworks and/or more legal protection. In the words of one scholar, prostitution is not slavery.

The limitation on either side of this debate is the focus on a particular and narrow slice of the estimated number of cases of trafficking and slavery. The trafficking of men and women for non-sexual purposes is almost completely overlooked. The reason for this is clear; the problem is conceptualized using particular notions of exploitation that are a legacy from earlier debates about sex, gender, and agency that occurred around movements to criminalize prostitution and abolish pornography, rather than trafficking and slavery.

Migration

The second dominant perspective on contemporary slavery comes from advocacy and action around irregular and forced migration. Scholarship on the relationship between trafficking and migration has only grown in the post-1989 era, as larger migration flows increased the need for a better understanding of licit and illicit migration. The International Organization for Migration (IOM) has been central in providing services, gathering data, and generating reports on human trafficking. The migration model’s clear strength is its rooting in well-established international laws and the general coherence generated by the influence of large international nongovernmental organizations. Three central policy disconnects render migration a cauldron for exploitation. Firstly, there is a clear disconnect between the perceived right to migrate by those seeking a better life and the state’s right to protect borders and control the flows of people. Secondly, there is a disconnect between the need for cheap

28 Melinda Chateauvert, Sex Workers Unite: A History of the Movement from Stonewall to SlutWalk (2014); Kamala Kempadoo, Jyoti Sanghera & Bandana Pattanaik, Trafficking and Prostitution Reconsidered (2005); Kempadoo and Doezema, supra note 22; see also Doezema, supra note 22.

29 On this matter too there is considerable intramovement debate.


32 It is important to briefly mention an important difference between the UN Protocol and the US Trafficking Victims Protection Act (TVPA): The TVPA separates prostitution from labor, and thus defines two forms of trafficking, whereas the approach adopted in the UN Protocol addresses multiple forms of exploitation, as does the more recent European Commission


labor in industrialized countries and the unwillingness to care for these laborers once they have arrived. Finally, there is a disconnect between the logic of remittance-based economies and the logic of development, a sector where billions are spent in order to make life more bearable so that people will stay. These tensions are present in all debates on migration.

The limitation of the migration approach is that it deals primarily with the trans-border movement of people and is therefore limited to a focus on domestic and international human trafficking.\textsuperscript{35} This is a problem when one considers the simple fact that the majority of enslaved people in the world are not moved, or the fact that the most robust law against trafficking in the United States, the Trafficking Victims Protection Act, also covers exploitation in which no movement has taken place.

An additional complication steps from the fact that those working within the migration framework often find themselves trapped between the mandate to protecting trafficked persons and the pressure to enforce the domestic labor laws of designation countries. Most labor migrants fall outside of legislation in sending and receiving countries. As a result, groups like the IOM run the risk of being part of a broader set of economic and political considerations between sending, receiving, and transit countries. Resulting criticism of the migration model focuses on its state and citizenship-centricity, pointing out that the risk of trafficking is used as a form of migration control in some regions.\textsuperscript{36} Finally, it is often argued that migration regimes themselves are designed to benefit the state: sending states receive remittances and receiving states secure cheap labor. Trafficking policy is therefore seen as a residual category of this larger economic imperative.

**Criminal Justice**

The third dominant conceptualization to contemporary slavery is the criminal justice model.\textsuperscript{37} This approach perceives the core problem to be criminals and the solution to be police enforcing laws and lawyers taking cases to court. More sophisticated approaches focus on the ways corruption and complicity undermine the rule of law, but even this reading prioritizes court processes and criminal justice efforts. With its focus on the passage and enforcement of laws, this approach relies on arrest to serve as a deterrent for those engaged in slavery and trafficking. This approach has been criticized for placing the survivor at the mercy of the state.\textsuperscript{38} Law enforcement-led interventions, even in cities with anti-trafficking taskforces, have shown themselves to be more focused on booking cases and more accustomed to confrontational approaches to police interventions. Legal protection for undocumented workers often provide immunity from deportation if victims of international trafficking are willing to testify against the trafficker in court. Finally, this approach assumes that the problems and solutions lie in the passage and enforcement of laws. Both are

\textsuperscript{35} It is important to re-iterate here that the United States’ legislative use of the term “trafficking” to include sedentary and \textit{in situ} exploitation (e.g., intergenerational bonded labor) significantly complicates the matter.


\textsuperscript{37} See Mattar, \textit{supra} note 8, for a comprehensive overview of the legal vein of the criminal justice approach.

important, but this approach tends to overlook those issues of power and inequality that give rise to exploitation in the first place.\textsuperscript{39}

While this approach has the distinct advantage of being supported by international law and international non-governmental agencies, especially the IOM, it is hampered by the fact that it is beholden to those states that make international law and INGOs possible. This argument, in sum, aligns closely with Maggy Lee’s argument that the “predominant framing of human trafficking as a transnational organized crime and immigration control problem has brought an unprecedented growth in transnational law enforcement, a meshing of state criminal justice and immigration control functions, and troubling consequences for trafficked persons and other migrants caught up in the ‘war on trafficking’.”\textsuperscript{40} These may be positive outcomes for states struggling to re-assert their sovereignty in uncertain times, but it is imbalanced in favor of the state.

**Forced Labor**

The fourth approach has been pioneered by the International Labour Organization, which has sponsored two critical Conventions against forced labor.\textsuperscript{41} The Forced Labour Convention (no. 29 in 1930) and its supplemental follow up (no. 105 in 1957) are the ILO’s most ratified Conventions.\textsuperscript{42} Though established at the same time as the League of Nations (1919), the ILO’s contribution to contemporary advocacy efforts picked up distinctly in 1999 with the creation of the Special Action Programme to Combat Forced Labor (SAP) and the subsequent release of a major report\textsuperscript{43} that drew on the cooperation of signatory states to establish a global estimate of forced labor.\textsuperscript{44} Recent years have also seen helpful clarification regarding the relationship between human trafficking and forced labor.\textsuperscript{45}

If the Conventions’ broad ratification and clear-sightedness about the subsumed role of trafficking are impressive, the ILO’s reliance on the cooperation of signatory states should give us pause, as states may be reluctant to cooperate fully in the provision of data to the SAP, to say nothing of cooperation. This may be the reason the estimates provided by the ILO’s 2005 report came in at around half of other estimates.\textsuperscript{46} Yet this is not the greatest

\textsuperscript{39} Austin Choi-Fitzpatrick, *In plain sight? Human trafficking and research challenges* 70, 6 HUM. RIGHTS HUM. WELF. 70 (2006).

\textsuperscript{40} LEE, supra note 21, at 36.

\textsuperscript{41} SUZANNE MIERS, SLAVERY IN THE TWENTIETH CENTURY: THE EVOLUTION OF A GLOBAL PROBLEM (2003).

\textsuperscript{42} Susan Zimmermann, “Special Circumstances” in Geneva: The ILO and the World of Non-Metropolitan Labour in the Interwar Years, in ILO HISTORIES ESSAYS ON THE INTERNATIONAL LABOUR ORGANIZATION AND ITS IMPACT ON THE WORLD DURING THE TWENTIETH CENTURY (Jasmien van Daele et al. eds., 2010).


\textsuperscript{44} International Labour Organization (ILO), GLOBAL ESTIMATE OF FORCED LABOR (2005).

\textsuperscript{45} ANNE T. GALLAGHER, THE INTERNATIONAL LAW OF HUMAN TRAFFICKING (2010). In a nutshell, all trafficking ends in forced labor, but not all forced labor originates in trafficking, due to in situ exploitation. This argument from the ILO is in keeping with that made here.

\textsuperscript{46} See, e.g., KEVIN BALES, DISPOSABLE PEOPLE (2012).
cause for concern. Rather, the forced labor model’s clearest strength—the protection of workers—is actually its Achilles Heel. While forced labor may appear to be the strongest candidate for an organizing model for anti-slavery efforts, its focus on dignifying individual efforts with the term “labor” is unacceptable to an important contingent of the movement. Abolitionists who consider prostitution to be fundamentally violating women’s rights and dignity, and to therefore be automatically categorized as trafficking, cannot accept that a lack of visible coercion is what differentiates between acceptable “sex work” and unacceptable “forced prostitution.” To do so within the forced labor framework would be to consider one legitimate labor, while the other is illegitimate, due to force, fraud, threats and coercion.

One final point should give pause, Maul has recently argued that "forced labor in the guise of sexual exploitation and domestic labour ... can no longer be adequately addressed using the resources of the forced labour conventions." In other words, exploitation has innovated faster than policy. Yet, the recent passage of the unprecedented ILO Convention 189, "Concerning Decent Work for Domestic Workers" (2011), may suggest that the ILO is intent on developing a more responsive policy response. Indeed, the Preface to the 2011 Convention claims that the "Convention and Recommendation are historic because, for the first time, international instruments are applied to an essentially informal segment of the global workforce" (1).

Of the approaches discussed thus far, the forced labor approach bears the most in common with the human rights approach advanced in this article. Recent and important work suggests a forced labor approach improves on the human trafficking model. A very plausible augmentation of the framework suggested later in this article would be as follows: a contemporary slavery framing from a social movement perspective, a forced labor approach in terms of international human rights law, and a more rigorous human rights standard applied to the entire enterprise. While this approach may have merit in theory, in practice it doubles down on the forced labor approach and thereby cuts out a significant component of mobilizing activity (through the creation of a rift in the movement, such as it is). Such a solution would doubtless please scholars, but would prove detrimental to hard-won social movement gains and to the pragmatic solidarity between two camps that do not usually work together (evangelicals and second-wave feminists).

**Human Rights**

The fifth approach is the human rights model. This perspective is widely thought to provide a better path forward than the alternatives. The core attributes of the approach can be found in the UN’s Trafficking Protocol. Signed in 2000 and entering into force three years later, the UN Protocol (or Palermo Protocol, as it is often called) focuses on three general

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categories of anti-trafficking activities: “Law enforcement measures to detect, Prosecute, and punish traffickers (and deter others); Preventive measures to reduce the likelihood that trafficking occurs in the first place; and Protection measures, along with various forms of assistance, for individuals who have been trafficked”.49

These activities are guided by a central principle: that trafficked persons, when apprehended, are not treated as criminals, but are instead recognized as victims and survivors. The United Nations’ Office of the High Commission on Human Rights’ recommended principles on human rights and human trafficking argue for the prioritization of the rights of “trafficked persons” as well as holding states responsible for both the “protection and maintenance” of these rights and the “eradication of root causes.” Perpetrators should be held accountable, regardless of whether they are agents of criminal networks, the market, society, or the state.50

In its current configuration the human rights model has a number of weaknesses. While advocating what appears to be a victim-centric approach, it is actually embedded in the United Nations Convention against Transnational Organized Crime, and is therefore linked, at its core, to the criminal justice model. Like each of the three models already discussed, it overlooks the broader context of slavery, a condition that affects far more people than the slave trade (i.e., human trafficking).51 While empirical data is hard to obtain and verify, it is reasonable to say that the majority of people held in slavery might not have ever left their home communities, and if they do, it is likely that they might never leave their country.52 The United States Trafficking Victims Protection Act tries to skirt this fact through the awkward insistence that movement is not necessary to trigger the remedies found in the Act.

The most critical assessment of the human rights model comes from James Hathaway (2008), who argues that signatory states have used the UN Protocol to advance anti-smuggling policies while restricting slavery obligations domestically.53 Nonprofit organizations, in his assessment, allowed this to happen since their priorities lay with rescuing victims rather than enforcing rights. Efforts to ensure services and aftercare for victims ultimately served to distract attention from a host of other issues. The net effect, he argues, is that the human rights model allows signatories to avoid addressing the ninety-seven percent of slavery that does not fit the definition advanced by Palermo. The world’s premiere international legal instrument, in this light, has been devised to serve the state, rather than the survivor.

The UN Protocol’s law enforcement provisions—the detection, prosecution, and punishment of traffickers—are the Protocol’s most robust requirements. The human rights

49 Recent years have seen the addition of the term “Partnership” to this list. MIKE DOTTRIDGE, COLLATERAL DAMAGE: THE IMPACT ON ANTI-TRAFFICKING MEASURES ON HUMAN RIGHTS AROUND THE WORLD (2007).
50 Thanks to Michele Clark for noting that the Council of Europe Action against Trafficking Convention does a much better job detailing the human rights approach, including in defining a victim of trafficking. Some would argue your take here, in that the Protocol, by being housed in the Transnational Crime Convention, advocates at its core a criminal justice approach.
51 LEE, supra note 21.
52 This hypothesis is primarily rooted in the fact that the greatest number of individuals living in contemporary slavery reside in South Asia, where bonded labor predominates. Once again, this is a critical distinction that the TVPA and Palermo erases.
53 Hathaway, supra note 37.
model’s core legal standing in international law is therefore vulnerable to many of the same criticisms leveled against the criminal justice approach, as it has incorporated the criminal justice approach’s core assumptions into its most robust requirements. In sum, with the UN Protocol’s focus on sovereignty and security issues as its starting point, the current human rights model has the unfortunate task of patching a leaky ship. What is needed instead is a more comprehensive human rights approach that takes prevention and protection, slavery and perpetrators, seriously.

**Slavery**

The sixth and final approach to conceptualizing human trafficking is as a form of contemporary slavery. Until 1999 the standard approach to the issue has been to subsume all forms of slavery under the rubric of human trafficking. This approach found a home in marquee international (Palermo) and domestic (TVPA) legislation. In 1999, however, Kevin Bales argued that the rise in human trafficking seen around the world since 1989 was a form of slavery, and that it belonged to the same category of rights abuse as chattel slavery in Mauritania, the Devadasi system in India, the bonded labor system across South Asia, and forced labor in the Gulf states. In this way Bales reconnected contemporary-looking human trafficking with a human rights violation that many assumed had been swept from the earth. Bales argued that twenty-seven million people are held in conditions of slavery worldwide, and that this number is the largest it has ever been. For my purposes here this number is less important than the notion that these activities—temple prostitution, sex trafficking, labor trafficking, and bonded labor—are contemporary forms of the same human rights violation: slavery. It is this categorization that makes contemporary advocacy, even when it is focused more narrowly on “sex trafficking,” part of the fourth wave of the anti-slavery movement.

While the current wave of movement activity came in response to the great post-1989 unraveling of economies and migration of people, a growing number of scholars, Bales included, point to the past as a better explanatory guide. It is illogical to conceptualize all forms of slavery as being a subset of one single form (human trafficking). There are two reasons for this. The first is that human trafficking is often mistakenly invoked to describe voluntary migration that terminates in forced labor. The trafficking designation then covers a period of voluntary mobility and involuntary service, and masks agency in the process.

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55 Bales, supra note 45.

56 Lots of energy has gone into unpacking this issue, though it is not clear that we are any closer to a definitive answer. See Denise Brennan, *Methodological Challenges in Research with Trafficked Persons: Tales from the Field*, 43 Int. Migr. 35–54 (2005); Data and Research on Human Trafficking: A Global Survey, 43 (Frank Laczko & Elżbieta M. Gołdziak eds., 2005). The International Labour Organization has recently estimated that 21 million are held in forced labor globally and suggests that this number is “conservative” (ILO 2012). International Labour Organization, Global Estimate of Forced Labor: Executive Summary (2012), http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_181953.pdf (last visited Jan 8, 2014). Bales is now leading a team that has developed a Global Index, which estimates 29.8 million are living in slavery worldwide. See Walk Free Foundation, Global Slavery Index (2013), www.theglobalslaveryindex.org.

57 See Quirk (forthcoming) for a more thorough treatment of this argument.
second reason human trafficking should be historically and categorically subsumed under the broader phenomena of slavery is that trafficking in plain terms is the movement of a person into conditions of enslavement. Here it is important to note that the United States has generated significant confusion by designating through the Trafficking Victim Protection Act that no movement is necessary for human trafficking to take place. While this tact may have been adopted in order to avoid creating a “contemporary slavery” law, and thus forcing a debate about the difference between traditional (i.e., chattel) and contemporary slavery, it has the effect of subsuming a wide range of exploitation—some involving movement into exploitation and some involving in situ exploitation—under the rubric of “trafficking.”

This broader contemporary slavery perspective is advanced in various ways by a number of scholars generally rooted in comparative and historical sociology. Kevin Bales’ popular work was subtitled “New Slavery” and he went to some effort to delineate the relationship between “new” and “old” slavery. The exercise, however, was intended to emphasize that while the unimportant things had changed (legal ownership, for example), the truly important things (like control) had not. While some scholars are skeptical of this new/old dichotomy, this skepticism is rooted in a sense that significant amounts of slavery persisted between 1865 and 1989. Important work by both Quirk and Suzanne Miers has shed critical light on the persistence of slavery in post-abolition contexts throughout the twentieth century.\(^{58}\) Siddartha Kara’s investigation of bonded labor in India follows the same logic.\(^{59}\) By identifying bonded labor as a form of slavery, and in emphasizing that this form of slavery is quite old, this research further undermines the notion that the problem is predominantly one of the globalization-induced trafficking of women. The slavery perspective has the oldest legal heritage of the six. This is true in terms of both domestic legislation (which stretches back to the Slave Trade Act of 1807 in Britain) and international law (the 1926 Slavery Convention). The Bellagio-Harvard Guidelines on the Legal Parameters of Slavery\(^{60}\) extend the 1926 Slavery Convention’s determination that “slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised” to include debt bondage in those cases where there is control over a person tantamount to possession.\(^{61}\) In sum, the argument here is that "slavery" is a category that covers the movement of people into enslavement (trafficking) quite well.

**A Human Rights Approach to Slavery in All its Forms**

In what follows it is argued that a human rights approach to contemporary slavery is the best framework for addressing this issue, and for formulating strategies for its

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\(^{58}\) MIERS, supra note 40; see also QUIRK, supra note 2.

\(^{59}\) SIDDHARTHI KARA, BONDED LABOR: TACKLING THE SYSTEM OF SLAVERY IN SOUTH ASIA (2012).

\(^{60}\) Allain and Bales, supra note 19.

\(^{61}\) See id. According to the Bellagio-Harvard Guidelines, the following are examples of the powers attaching to the right of ownership: buying, selling or transferring of a person; using a person; managing the use of a person; profiting from the use of a person; transferring a person to an heir or successor; disposal, mistreatment, or neglect of a person.
resolution.\(^{62}\) The more comprehensive approach suggested here builds on several key features of the current models—most notably a determined recognition of the enslaved person as a rights-bearing individual—while addressing a number of concerns advanced by critics of current depictions. The first factor required of a comprehensive human rights framework is related to the nature of the problem itself: it must address slavery. Across each of these six approaches—unfortunately including the human rights approach in its current form—attention is focused almost exclusively on a single aspect of contemporary slavery: human trafficking. This bias persists despite our understanding that the majority of those held in slavery—97 percent if we take Hathaway’s math\(^{63}\)—are never trafficked internationally, but are instead exploited in their home countries or home communities. Even more constricting is the fact that each approach deals with trafficking as if it were the most recent instance of the phenomenon of greatest interest to each community: prostitution, migration, crime, forced labor, and slavery, respectively. While advocates can focus on domestic trafficking and while slavery may take new forms, these must be understood as an “extension and/or reconfiguration of enduring historical themes, rather than as distinctively modern developments”\(^{64}\).

The human rights approach has clear advantages over competing paradigms. It sheds light on the weaknesses inherent in current conceptualizations, which can involve prioritizing rescue over restoration and rehabilitation, emphasizing criminal prosecution over the wishes of the trafficked individual, ignoring the trafficked person’s ability to self-identify as something other than a trafficked person, narrowly targeting actors involved in trans-border criminal activities while ignoring other forms of exploitation, and so forth.\(^{65}\) A human rights approach, when combined with a more coherent and catholic assessment of [contemporary] slavery, lays the groundwork for a broader comparative analysis of various types of slavery and emancipation.

Over the past decade critiques of the existing human rights model\(^{66}\) and pieces of new thinking about what a better model might look like have grown in number and hopefully in sophistication.\(^{67}\) Each of these steps forward builds on the fundamental notion that human rights are provided to, but also held and used by victims and survivors of slavery.


\(^{63}\) Hathaway, supra note 37.


\(^{67}\) FROM HUMAN TRAFFICKING TO HUMAN RIGHTS: RETHINKING CONTEMPORARY SLAVERY, (Alison Brysk & Austin Choi-Fitzpatrick eds., 2012); Anne T. Gallagher, Human Rights and Human Trafficking: A Reflection on the Influence and Evolution of the U.S. Trafficking in Persons Report, in HUMAN TRAFFICKING AND HUMAN
Brysk and Choi-Fitzpatrick suggest that since contemporary victims of slavery are simply the weakest link in larger systems of exploitation, then protecting them requires more robust solutions for *all* women, *all* men, *all* workers, *all* migrants. Rights-based protection and empowerment should be the norm, regardless of citizenship, gender, type of labor and legal status. Policy approaches, then, “must be a situated form of broader human rights policy, not an episodic campaign or intervention”. This shift from episodic intervention to prolonged empowerment will be the hallmark of an anti-slavery approach that has sustainable emancipation as its goal. It is clear that emancipations are not created equal, as botched emancipations make painfully clear. A human rights approach to sustainable emancipation requires access to paid work, savings, access to basic services, the option of continuing to work the earth (necessitating land reform), and active integration into development projects. A commitment to empowering and organizing workers before exploitation can begin, and empowering and organizing workers in those cases where slavery and trafficking have already occurred, is central to any attempt at sustainable emancipation.

A human rights framework must address the prevalence of non-sexual exploitation present in contemporary slavery. Through the 1990s and 2000s most popular attention has focused on instances of sexual exploitation. This imbalanced attention can also be found in more scholarly work, though there are promising signs that this imbalance is slowly being rectified. Trafficking for sexual exploitation is an important issue deserving of more attention and resources, but anti-slavery efforts are better served by a comprehensive approach than they are by partial attention and patchwork solutions. Only once slavery is understood as the far end of a continuum of exploitation can interventions be tailored to meet the actual needs of the powerless. The discourse around trafficking may be constructing a robust mythology about a fantastical object, but the reality of exploitation at the farther ends of the spectrum cannot be denied.

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**Rights: Rethinking Contemporary Slavery (Alison Brysk & Austin Choi-Fitzpatrick eds., 2012).**

Groundwork for this approach has been laid by a number of scholars, including Alison Brysk, Kevin Bales, Anne T. Gallagher, and Austin Choi-Fitzpatrick, see BALES supra note 45; ALISON BRYSK, HUMAN RIGHTS AND PRIVATE WRONGS: CONSTRUCTING GLOBAL CIVIL SOCIETY (2005); Brysk, supra note 22; Brysk, supra note 29; Austin Choi-Fitzpatrick, Rethinking Trafficking: Contemporary Slavery, in HUMAN TRAFFICKING AND HUMAN RIGHTS: RETHINKING CONTEMPORARY SLAVERY (Alison Brysk & Austin Choi-Fitzpatrick eds., 2012); FROM HUMAN TRAFFICKING TO HUMAN RIGHTS, supra note 65; Bales and Choi-Fitzpatrick, supra note 12; Gallagher, supra note 64; Anne T. Gallagher, Human Rights and Human Trafficking: A Reflection on the Influence and Evolution of the U.S. Trafficking in Persons Report, in HUMAN TRAFFICKING AND HUMAN RIGHTS: RETHINKING CONTEMPORARY SLAVERY (Alison Brysk & Austin Choi-Fitzpatrick eds., 2012); Christien van den Anker, Making Human Rights Accessible: The Role of Governments in Trafficking and Migrant Labor Exploitation, in HUMAN TRAFFICKING AND HUMAN RIGHTS: RETHINKING CONTEMPORARY SLAVERY (Alison Brysk & Austin Choi-Fitzpatrick eds., 2012).

68 **Alison Brysk & Austin Choi-Fitzpatrick, Rethinking Trafficking and Slavery, in HUMAN TRAFFICKING AND HUMAN RIGHTS: RETHINKING CONTEMPORARY SLAVERY 12 (Alison Brysk & Austin Choi-Fitzpatrick eds., 2012).**

69 **Blackmon, supra note 5; see also Quirk, supra note 2.**

70 **Bales and Choi-Fitzpatrick, supra note 12.**

Finally, a human rights approach must focus on survivors’ empowerment, representation, and collective mobilization as well as integration. While rescues and rehabilitation have their place, this protection must be balanced with empowerment. Poverty is a necessary but insufficient condition for enslavement; it must first be combined with a lack of personal or structural power. Slavery and re-enslavement can be prevented through the empowerment of survivors and the mobilization of their communities. Current approaches focus on the provision of comprehensive services for survivors of trafficking. These are often important for the short-term recuperation from exploitation and medium-term efforts at reintegration, but more must be done to prepare trafficked persons to integrate into the political and economic systems that will serve not only as bulwarks against re-exploitation, but also as foundations for a stronger society. To put this into the language of the United States Trafficking in Persons office, the three P’s of prevention, protection, and prosecution are important, but survivors must be trained in politics, profit and power as well. Rescue, rehabilitation and reintegration are critical, but so is representation in political, economic and cultural spaces. Taking this kind of representation seriously will require much more ambitious conceptualizations of the state’s role in addressing contemporary slavery. It is not enough to pass laws, patrol borders, and prosecute perpetrators.

A comprehensive human rights approach to contemporary slavery requires the state to prioritize the individual rights of the survivor over a host of other factors, including national security, immigration regimes, exploitative cultural and gender norms, criminal codes, and economic prerogatives. This framework recognizes all forms of contemporary slavery and takes seriously the complex social relations, cultural conditions and political context that both perpetrators and enslaved persons are embedded in. A human rights approach focuses on the empowerment of enslaved persons in economic, political, and social and cultural systems. This empowerment occurs through access to the political process and representation, economic opportunity and livelihood, and the recognition of individual dignity, regardless of sociocultural background or status. This more comprehensive representation should push both scholars and practitioners in fresh directions.

One of the fresh directions I hope this approach pushes us in is in regard to emancipation, an under-emphasized area of inquiry. Current scholarship suggests a number of paths out of slavery. Some are based in particular interventions that draw on the action and agency of an outside actor: rescue, community mobilization, and rebellion. Far more is known about this category, as it is comprised of activities that are more likely to involve outside actors such as NGOs, police and attorneys. These actors gather practical experience while also generating case studies, legal cases, newspaper reports and other artifacts amenable to empirical research. Other, less visible, paths out of slavery include voluntary manumission, escape and self-emancipation, the discharging of debt, being discarded, and death. Here perpetrators and victims are the key actor, and as a result there are fewer opportunities for advocates, scholars, legal professionals, and law enforcement officials to obtain information about slavery and emancipation. For example, it is altogether likely that those trafficked into the agricultural sector in Southern California would rather leave an abusive situation and then quickly find a new, less exploitative employer, than work with local officials to slowly build a case against exploitative employers and their middlemen.

While the human rights approach has weaknesses, it represents the most solid foundation
upon which to build a fresh wave of scholarship and activism. With the survivors’ needs at the center of analysis, focus can shift to a broader range of perpetrators (not only criminal networks, but also governments, corporations, and civil society) and solutions (not only rescue, but also community mobilization, unionization and political representation).

**Bringing it all together**

At this point we can ask whether there is any relationship between these (four) movement waves, and the (six) approaches. First, while abolitionist movements in both the first and second waves were often divided about whether emancipation should happen gradually or immediately, the overarching objective remained the abolition of the slave trade and slavery itself. Prostitution, migration, and forced labor did not enter into the equation. A central call of the anti-slavery movement in both countries was the passage of laws banning the trade and ownership of slaves. This legislative activity clearly falls within the remit of the criminal justice approach. These debates, then, only partially map onto the debates and competing perspectives advanced in this essay. With a certain degree of interpretive liberty it could be argued that both the human rights perspective—at least an early and imperfect version of the human rights perspective—and these abolitionist movements emerged hand-in-hand from the Enlightenment.72

The third wave, involving a mass mobilization around "white slavery," explicitly linked the prostitution and criminal justice frameworks. The racialized narratives of purity and the other that were mobilized by this wave serve as the historical reference point for current discourse and debate around the more problematic aspects of current approaches, in particular related to "carceral feminism" and "the rescue industry." These parallel weaknesses have caused many astute contemporary critics to exert tremendous amounts of energy critiquing these flaws, rather than creating and constructing more modest, less popular but more realistic frameworks.

The fourth wave has fanned out to a dozen tributaries where one can travel for quite some time without crossing into another stream. This wasn't always the case. Interest in the issue, as measured by scholarly publications, has exploded a thousand-fold over the past decade (Table 1).

<< Table 1 about here >>

While it may have been possible follow the literature on “contemporary slavery” and “human trafficking” up through 2000, it has since become nearly impossible to keep up with the torrent of academic and near-academic output. This pace shows no sign of slowing. There is no reason to be surprised if within the next few years scholars, activists, survivors or slaveholders create or discover additional categories or concepts. It may also be that some currently popular frameworks fall into disuse. In the midst of this explosive growth, and in the face of inevitable issue decline, it is important to identify historic commonalities in the

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72 Nadelmann, *supra* note 4, at 493.
framing of the problem (slavery) and the solution (human rights). If this essay attempts anything, then, it is to reconnect two often-neglected strands from this earlier era: the focus on slavery, and the call for human rights.73

Finally, what this discussion points to, then, is a certain level of stability and flux across the four waves of movement activity. While recognizing that these concepts are not invariant, and that such comparisons remove significant levels of detail and nuance, Table 2 suggests a number of general patterns across these three movement waves. This ahistorical exercise emphasizes the extent to which the slavery frame has predominated across waves, while the concept of human rights was present in some form in the first two waves, generally missing from the third wave, and back with force in the most recent round of movement activity.

<< Table 2 about here >>

It should be left to those better versed in comparative historical analysis to more thoroughly explore the relationship between these movement waves and movement frames. On a closing note, there is reason to believe another promising avenue of inquiry involves a closer look at the varieties of emancipation and the relationship between these six approaches and various emancipation strategies.

This essay has stepped into two apparently separate conversations, observed similarities and complementarities across these conversations, and proposed a particular synthesis. Into the debate, if such a term is appropriate, between those advocating the term “contemporary slavery” and those preferring “human trafficking,” this essay has advocated for the continued use of the term slavery (whether new, modern or contemporary), on the grounds that the term is both legally applicable to the largest variety of cases (per the 1926 Slavery Convention) and is conceptually preferred as it maintains an important continuity across more than two centuries of movement activity. This essay has advocated for a broad human rights approach, on the grounds that it would highlight the importance of serving victim/survivors while challenging the role of states, markets and civil society in the creation of illegality and insecurity. A holistic human rights approach places the individual at the center of consideration. Yet rights are not just provided to victims, they are also held and used by victims and survivors alike. A human rights approach to contemporary slavery should do just that.

73 Several scholars have called for a "human rights approach," the mostly from within one of the four narrower perspectives: trafficking, prostitution, migration, and criminal justice.