

## I

## Introduction

*Fighting Modern Slavery from Past to Present*

Genevieve LeBaron and Jessica R. Pliley

Over the last two decades, fighting modern slavery and human trafficking has become a cause célèbre. Policies to fight modern slavery are championed by right- and left-wing governments. Multinational corporations host panels about fighting modern slavery at the World Economic Forum, United Nations (UN) summits, and rock music festivals. A motley civil society coalition of antislavery activists, students, churches, and conservative anti-feminist organizations have banded together to eradicate slavery with an arsenal ranging from “slave raids” to awareness-raising campaigns. This coalition has spent billions of dollars on projects that promise to end slavery in our lifetime.

But for just as long as there has been a movement to fight modern slavery and human trafficking, others have struggled with and against these efforts. Rarely do workers themselves, nor the migrants’ rights organizations, trade unions, and legal empowerment organizations who have long advocated for them sit on modern slavery panels at Davos or celebrate antislavery day. Researchers and scholars are often hesitant to position themselves as part of the modern slavery and trafficking cause, given concerns about the lack of rigor that often characterizes scholarship in this field or worries that governments will use their data for devious political purposes. Even some victims of human trafficking and modern slavery staunchly refuse to be identified with these designations. While corporations and big foundations hold award ceremonies to celebrate antislavery crusaders, the “modern abolitionist movement” has been met with concern and suspicion from some of the very people who would seem to be its most natural champions.

Sceptics caution that not only does the antislavery movement distort the nature of the problem, its causes, and effective solutions, but also that efforts to fight human trafficking and modern slavery can create “collateral damage,” harming and endangering the very people that the movement claims to save.<sup>1</sup> They caution that: governments are disguising restrictive immigration policies and border tightening as anti-trafficking efforts, and waging trade wars where they claim to be fighting modern slavery; corporations are using antislavery efforts as a fig leaf to cover up endemic labor exploitation in global supply chains; and antislavery and anti-trafficking efforts impose faulty solutions and create new obstacles for vulnerable workers, who are rarely consulted about plans to “rescue” them and intervene in their lives and are sometimes left worse off because of these well-intentioned efforts. In addition to these real-world problems, sceptics have raised alarm bells about the research and scholarship attached to the antislavery movement, which they see as relying on poor quality estimates and data that value awareness-raising potential over scholarly integrity – ultimately, many scholars see large swathes of anti-slavery research as an obstacle to develop accurate understandings of the problem and evidence-based policy to combat it.

Some antislavery sceptics are no doubt politicians, businesses, and others who have a vested interest in downplaying the problem and discrediting the movement. But others are scholars, activists, advocates, and other people who care profoundly about migrant, worker, and human rights, equality and justice, and worry that modern slavery and human trafficking framings of the problem won’t deliver the solutions that are so badly needed.<sup>2</sup> This latter group of antislavery sceptics has spent the last two decades fighting modern slavery and human trafficking in two senses. First, they have continued to research and fight for better social protections, mobility, remuneration, and rights for workers at the bottom end of the labor market, who have become increasingly vulnerable to forced labor, human trafficking, and overlapping forms of exploitation amidst globalization. And second, sceptics have in parallel contested antislavery

<sup>1</sup> GAATW, *Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights Around the World* (Bangkok: GAATW, 2007), [www.gaatw.org/Collateral%20Damage\\_Final/CollateralDamage\\_Frontpageswithcover.pdf](http://www.gaatw.org/Collateral%20Damage_Final/CollateralDamage_Frontpageswithcover.pdf); Julia O’Connell Davidson, *Modern Slavery: The Margins of Freedom* (London: Palgrave, 2015); see also chapters in this volume by Shih, Rosenbaum, & Kyritsis.

<sup>2</sup> The uncomfortable alignment between these two groups of sceptics (who are radically opposed in political terms, but cross over on their resistance to ‘modern day slavery’ framings) is something that deserves further consideration.

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and anti-trafficking politics, activism, and framings of the problem, which they generally see as doing more harm than good when it comes to advancing the causes they hold dear.

We have gathered together antislavery champions and sceptics within this book to explore the fissures and fault-lines that surround efforts to fight modern slavery and human trafficking in the contemporary economy. The social scientists, historians, and humanities and legal scholars assembled here benchmark and reflect on what is working in contemporary struggles to fight modern slavery and human trafficking. They reflect on government, business, and activist initiatives, combining contemporary empirics and analysis with rich historical insights to explore the fight against slavery and trafficking, bridging the past and present. Contributors also consider what *isn't* working, shining a spotlight on the ineffectiveness, unintended consequences, and perverse effects of efforts to fight modern slavery and human trafficking, and linking these to historical tensions and dynamics surrounding abolitionism and struggles to end slavery.

The contributors to our book have vastly different understandings of modern slavery and human trafficking, academic disciplinary orientations, theoretical frames and politics. Too often, these differences impede interaction amongst scholars; debates remain siloed in separate academic journals and corners of the internet, with little to no engagement between those who see things differently. The lead authors of this book's chapters have spent the last four years together as members of the Gilder Lehrman Center's Modern Slavery Working Group at Yale University,<sup>3</sup> engaging in conversations about key controversies in the field, amongst other things. This book draws together their disparate views, tackling the controversies in our field head on, with the hope that this volume will move the literature forward by consolidating and illuminating key fault-lines and debates within our field.

Countless controversies surfaced within our group, including how to define modern slavery, human trafficking, and forced labor; whether and how we should seek to count and measure their prevalence; the effectiveness of prevailing solutions to modern slavery, from law-and-order policing and criminalization to corporate social responsibility (CSR); whether or not historic comparisons made by contemporary activists and scholars are appropriate and accurate; and the agency and appropriate role for workers, migrants, survivors, non-governmental organizations (NGOs), businesses, and the state in combatting slavery and

<sup>3</sup> See description in the Acknowledgments.

trafficking. Several of these controversies are explored in this introduction and throughout the book. Three stand out.

The first is whether efforts to fight modern slavery and human trafficking displace or crowd out support for labor rights and migrant rights, and undermine the funding, political traction, and legitimacy of organizations that have long advocated for them – like trade unions and worker-driven movements. Sceptics claim that antislavery and anti-trafficking politics rarely give workers a meaningful role in articulating the nature of the problem and devising solutions, but rather patronize these workers by imposing solutions without their consultation or consent – solutions which do not always lead to improvements for victims and can cutoff crucial sources of income without adequate alternatives.<sup>4</sup> Further, they point out that anti-trafficking and antislavery policy has long been tightly intertwined with restrictive mobility regimes, migration control, and harsh forms of policing and incarceration.<sup>5</sup> Nevertheless, those fighting modern slavery and human trafficking see an urgent need to rescue workers who are tricked and trapped, and have defended sensationalism as an important means of elevating antislavery efforts in a competitive marketplace of causes.<sup>6</sup> Questions arise within this context about the appropriate role for governments, activists, businesses, and citizens in fighting modern slavery and human trafficking and bringing about better lives and livelihoods for victims.

The second key controversy is whether and to what extent efforts to fight modern slavery and human trafficking mask, naturalize, and distract from the unequal fabric of our global economy along lines of race, gender, and wealth. Sceptics claim that contemporary antislavery and anti-trafficking projects and political forces can give cover to racist, colonial, anti-immigrant, anti-sex, and misogynist politics and policies that can

<sup>4</sup> See chapters by Shih, Rosenbaum, & Kyritsis; Peña Delgado, this volume; Giulia Garofalo Geymonat and P. G. Macioti, eds. *Sex Workers Speak: Who Listens?* (London: openDemocracy, 2016); Elena Shih, “The Anti-trafficking Rehabilitation Complex: Commodity Activism and Slave-free Goods,” *Beyond Trafficking and Slavery*, openDemocracy, August 19, 2015, accessed May 18, 2020, [www.opendemocracy.net/en/beyond-trafficking-and-slavery/antitrafficking-rehabilitation-complex-commodity-activism-and-slavefree-goods/](http://www.opendemocracy.net/en/beyond-trafficking-and-slavery/antitrafficking-rehabilitation-complex-commodity-activism-and-slavefree-goods/).

<sup>5</sup> See chapters by Peña Delgado; Chuang, this volume.

<sup>6</sup> See, for instance, the openDemocracy debate on awareness campaigns convened by Elena Shih and Joel Quirk, “Introduction: Do the Hidden Costs Outweigh the Practical Benefits of Human Trafficking Awareness Campaigns?,” *Beyond Trafficking and Slavery*, openDemocracy, June 20, 2019, accessed May 18, 2020, [www.opendemocracy.net/en/beyond-trafficking-and-slavery/introduction-do-hidden-costs-outweigh-practical-benefits-of-human/](http://www.opendemocracy.net/en/beyond-trafficking-and-slavery/introduction-do-hidden-costs-outweigh-practical-benefits-of-human/).

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make life worse for already vulnerable people.<sup>7</sup> However, antislavery scholars and activists frequently claim that race and gender are no longer relevant when it comes to contemporary forms of slavery compared to historic slave systems. As Kevin Bales put it, “In the past, ethnic and racial differences were used to explain and excuse slavery” but “in the new slavery race means little.”<sup>8</sup> Several chapters in this volume argue that antislavery scholars and activists can profoundly misunderstand the role of race, colonialism, and patriarchy in shaping slavery and trafficking, both historically and today. They see a tendency within antislavery scholarship and movements to overlook how racism, western superiority, and anti-feminist politics intertwine with abolitionism. Sceptics claim that this controversy isn’t simply academic; rather, these blind spots cause scholars and activists to overlook key causes and sites of vulnerability to unfreedom in contemporary society – from carceral facilities to borders and deportation facilities – and elide the suffering of women, people of color, indigenous peoples, and migrants. These blind spots weaken the solutions proposed to fight modern slavery and mean antislavery efforts rarely recognize the need to tackle root causes, like inequalities along racial and gendered lines, or between the global North and South, as a key part of ending forced labor.<sup>9</sup>

The final controversy, which interlocks with the previous two, surrounds the use and understanding of history by contemporary abolitionists. Contemporary antislavery and anti-trafficking crusaders – from Ivanka Trump to Boris Johnson – frequently invoke histories of slavery and the heroic efforts to combat it led by powerful white men like William Wilberforce and Abraham Lincoln. No doubt, these invocations aim to inspire and ignite antislavery efforts by positioning contemporary activism as part of a valiant multi-century struggle for freedom. But historians within this book raise alarm bells about the misuse of history and how it can be distorted by contemporary antislavery efforts.<sup>10</sup> In their view, not only are many historical claims made by the new abolitionist movement partial and inaccurate, but they also tend to gloss over the historic dynamics of racism, colonialism, and patriarchy that shaped the classification

<sup>7</sup> See chapters by Pliley; Peck; Duane & Meiners, this volume.

<sup>8</sup> Kevin Bales, *Disposable People: New Slavery in the Global Economy* (Berkeley: University of California Press, 2004), 10.

<sup>9</sup> For analysis of the tendency to overlook root causes, see Genevieve LeBaron, Neil Howard, Cameron Thibos, and Penelope Kyritsis, *Confronting Root Causes: Forced Labour in Global Supply Chains* (Sheffield: SPERI & University of Sheffield, 2018).

<sup>10</sup> See chapters by Pliley; Duane & Meiners; Peck, this volume.

and representation of enslaved peoples and quests to liberate them. Contributors identify a linked tendency to overstate the heroisms of western democracy and white abolitionists and understate the agency of enslaved peoples, giving rise to considerable blind spots and misplaced credit and blame in the use of historical narrative and metaphors.<sup>11</sup> Contributors also stress the importance of social forces – from community activists to labor organizers to survivors – who made important contributions to historic antislavery movements but are often glossed over by contemporary abolitionists.<sup>12</sup>

As we explore within this introduction and book, these controversies are important for scholarly reasons, but also because they shape people's lives in the real world. At the heart of the book, and a core challenge confronting contemporary abolitionist movements, lies the question of whose interests are being served by contemporary antislavery and anti-trafficking struggles. Are efforts to fight modern slavery and human trafficking genuinely creating better lives and fairer and more equitable economy for millions of people vulnerable to forced labor, for victims, and for survivors? Or are antislavery and anti-trafficking struggles rather enriching NGOs, bolstering the credibility and legitimacy of already rich corporations, assuaging the guilt of consumers, and providing a useful cause for governments to champion as they seek to distract voters from the soaring inequality and exploitation within their labor markets and coercive immigration policies?

#### I.1 DEFINITIONS AND POLITICS: WHO IS FIGHTING FOR WHAT? AND WHY DOES IT MATTER?

In 2000, the issue of human trafficking and modern slavery was legislated at the international level as the United Nations adopted the 2000 Convention Against Transnational Crime to include the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN Trafficking Protocol). That same year the United States (US) Congress passed the Trafficking Victims Protection Act (TVPA) to address trafficking within the US and establish a global system of benchmarking on anti-slavery progress led by the US State Department through its annual Trafficking in Persons Report (TIP Reports). The definition offered for trafficking in the UN Trafficking Protocol and the TVPA illuminates the varied and vexed nature of definitions of trafficking and slavery.

<sup>11</sup> See chapters by Peck; Pliley; Shih, Rosenbaum, & Kyritsis, this volume.

<sup>12</sup> See chapters by Bales & Gardner; Trodd, Nicholson, & Eglén; Peck, this volume.

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The UN Trafficking Protocol considers “trafficking in persons” to mean the “recruitment, transportation, transfer, harboring or receipt of persons,” by means of threats, force, fraud, coercion, “for the purposes of exploitation. Exploitation shall include, at minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery,” including the prostitution of anyone under the age of eighteen.<sup>13</sup> This unwieldy definition emphasizes trafficking as a process that combines acts, means, and purpose.<sup>14</sup> As a process, trafficking in this understanding encompasses a huge variety of circumstances that may or may not be comparable. As a product of intense international negotiation, aspects of the Protocol were left intentionally vague or undefined (such as, what constitutes sexual exploitation). The Protocol has come to embrace the idea of “trafficking as modern slavery” even as it papered over significant political and epistemic divisions among activists concerned with forced vs. voluntary prostitution, confusions about the distinction between smuggling and trafficking, and conflicts between the human rights approach and criminal justice approach.<sup>15</sup> The UN trafficking protocol’s definition of trafficking is summarized in Table 1.1.

Forced labor is defined through the International Labour Organization’s (ILO) 1930 Forced Labor Convention, which reads: “‘Forced or compulsory labor’ shall mean all work or service which is exacted under menace of any penalty for its non-performance and for which the worker concerned does not offer himself voluntarily.” This definition is widely recognized to encompass practices like debt bondage, serfdom, human trafficking, and slavery. But it excludes certain forms of state-imposed forced labor, such as some forms of prison labor and military conscription.<sup>16</sup>

<sup>13</sup> See Article 3, “Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplement in the United Nations Convention against Transnational Organized Crime,” accessed October 13, 2017, [www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx).

<sup>14</sup> Jo Doezeema, *Sex Slaves and Discourse Masters: The Construction of Trafficking* (London: Zed Books, 2010); Gillian Wylie, *The International Politics of Human Trafficking* (London: Palgrave MacMillan, 2016); Jennifer K. Lobasz, *Constructing Human Trafficking: Evangelicals, Feminists, and an Unexpected Alliance* (Switzerland: Palgrave MacMillan, 2019).

<sup>15</sup> Prabha Kotiswaran, *Revisiting the Law and Governance of Trafficking, Forced Labor and Modern Slavery* (New York: Cambridge University Press, 2017).

<sup>16</sup> See ILO 1930 Forced Labour Convention (No. 29); ILO, *ILO Global Estimate of Forced Labour: Results and Methodology* (Geneva: International Labour Organization, 2012), 19–22.

TABLE 1.1 *Overview of UN trafficking protocol*

Act	Means	Purpose	
Recruitment	Threat or use of force	Exploitation, including	
Transport	Coercion	Prostitution of others	
Harboring	Abduction	Sexual exploitation	
Receipt of persons	Fraud	Forced labor	Trafficking
	Deception	Slavery or similar practices	
	Abuse of power or vulnerability	Removal of organs	
	Giving payments or benefits	Other types of exploitation	

Source: The authors.

The contributions to this book use – and are informed by – different terminology and definitions, which relate to and reflect the variegated ways that authors approach and view the subject matter. We welcome this diversity, since it helps to illustrate different viewpoints and positions within the debates we explore within the book.

1.1.1 The Politics of Definitions

While such definitions may seem straightforward, their interpretation and application have been contentious; tugs-of-war over trafficking and slavery terminology reflect fundamental political differences. For instance, debates over the how far the concept of forced labor should extend reveal fundamentally different conceptions of capitalism and freedom. Though the ILO definition of forced labor stresses that financial, physical, and psychological coercion can cause involuntary labor, the ILO’s Committee of Experts have made it clear that economic coercion – including the threat of immanent destitution or starvation – is not a valid form of compulsion rendering labor involuntary.<sup>17</sup> Several scholars have claimed that this interpretation excludes a profoundly important – if not the most

<sup>17</sup> Committee of Experts on the Application of Conventions and Recommendations, “General Survey concerning the Forced Labour Convention, 1930 (No. 29),” and “The Abolition of Forced Labour Convention 1957 (No. 105),” (Geneva: International Labour Organization, 2007), 20–21.



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important – source of compulsion into involuntary labor in contemporary capitalism, which is the lack of viable economic alternatives. As scholars like Jens Lerche have argued, those who exclude the role of economic coercion from definitions of forced labor overlook the profound unfreedom that characterizes capitalist labor markets, and reinforce fanciful ideological suppositions that capitalism offers opportunities and freedom to everyone living within it.<sup>18</sup>

Another important example of the political differences anchoring definitional debates are how the divisive politics of prostitution that had split feminists in the Global North since the 1980s shaped discussions of trafficking. Historically, and in many parts of the contemporary world, prostitution has been a legal if disreputable form of labor. In the 1990s, anti-prostitution abolitionists argued that prostitution constituted a form of violence against women that within patriarchal societies illustrated women's enslaved status.<sup>19</sup> "The sex trade is a form of contemporary slavery and all indication predict its growth and expansion into the twenty-first century," proclaimed American anti-prostitution abolitionist Donna Hughes in 1999.<sup>20</sup> In this view, all prostitution is slavery. Countering such a position stood many sex workers' rights organizations that sought to distinguish between voluntary and forced prostitution. Typical of this position was the Global Alliance Against the Traffic in Women (GAATW) that in 1994 warned against "disregarding the will of adult persons engaged in prostitution" and called for anti-trafficking policies to be "based on respect for human rights, specifically the right of all persons to self-determination."<sup>21</sup> Yet, sex workers' rights activists could not marshal the levels of international influence as anti-prostitution abolitionists, who by the 1995 Beijing World Conference on Women could take credit for Hillary Clinton declaring that sex trafficking is "a violation of human rights when women and girls are sold into the slavery

<sup>18</sup> Jens Lerche, "A Global Alliance Against Forced Labour? Unfree Labour, Neoliberal Globalization, and the International Labour Organization," *Journal of Agrarian Change* 7, no. 4 (2007): 425–452.

<sup>19</sup> Alice M. Miller, "Sexuality, Violence against Women, and Human Rights: Women Make Demands and Ladies Get Protection," *Health and Human Rights* 7, no. 2 (2004): 16–47.

<sup>20</sup> Quoted in Sanja Milivojevic and Sharon Pickering, "Trafficking In People, 20 Years On: Sex, Migration and Crime in the Global Anti-Trafficking Discourse and the Rise of the 'Global Trafficking Complex'," *Current Issues in Criminal Justice* 25, no. 2 (2018): 585–604, 587.

<sup>21</sup> Quoted in Jo Doezema, "Forced to Choose: Beyond the Voluntary v. Forced Prostitution Dichotomy," in *Global Sex Workers: Rights, Resistance, and Redefinition*, eds. Kamala Kempadoo and Jo Doezema (New York: Routledge, 1998), 37.

of prostitution for human greed.”<sup>22</sup> Activists from both camps met at Vienna to negotiate the UN Trafficking Protocol’s definition of trafficking, and the ultimate definition attempts to take a neutral stance in the fight about prostitution. It offers no clarity over the meaning of “the exploitation of the prostitution of others or other forms of sexual exploitation” because as the GAATW noted “the government delegates to the negotiations could not agree on a common meaning.”<sup>23</sup> Consequently the question of whether all prostitution is a form of modern slavery, or just forced prostitution, continues to divide antislavery activists today.<sup>24</sup>

Also passed in 2000, the US Trafficking Victims Protection Act (TVPA) complements the UN Trafficking Protocol by establishing US domestic policy. But it also establishes a sanctions regime authorizing the US to withdraw financial assistance from countries the US deems as falling behind in the fight against slavery.<sup>25</sup> The TVPA offered this definition for “severe forms of trafficking in persons”: “(a) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (b) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”<sup>26</sup> The TVPA echoes the UN Protocol’s emphasis on trafficking as a process and it sought to balance the demands of anti-prostitution abolitionists and activists who worried about extreme labor exploitation. Yet, as law professor Janie Chuang has noted, both of these definitions opened the door to “exploitation creep” wherein all labor exploitation is “recast as trafficking” and “all trafficking is labeled as slavery.”<sup>27</sup>

<sup>22</sup> Quoted in Elizabeth Bernstein, *Brokered Subjects: Sex, Trafficking & the Politics of Freedom* (Chicago: University of Chicago Press, 2018), 10.

<sup>23</sup> Quoted in Julia O’Connell Davidson and Bridget Anderson, “The Trouble with ‘Trafficking’,” in *Trafficking and Women’s Rights*, ed. Christien L. van den Anker and Jeroen Doomernik (New York: Palgrave MacMillan, 2006), 11–26, 14.

<sup>24</sup> Emily Bazelon, “Why Amnesty International is Calling for Decriminalizing Sex Work,” *New York Times* May 25, 2016; Letters to the Editor, “Re: Prostitution,” *New York Times*, May 20, 2016.

<sup>25</sup> Janie A. Chuang, “The United States as Global Sheriff: Using Unilateral Sanctions to Combat Human Trafficking,” *Michigan Journal of International Law* 27, no. 2 (2006): 437–494.

<sup>26</sup> US Department of State, *Trafficking in Persons Report* (Washington, DC: Government Printing Office, July 2001), 2.

<sup>27</sup> Janie A. Chuang, “Exploitation Creep and the Unmaking of Human Trafficking Law,” *The American Journal of International Law* 108 (2014): 609–649, 611.