Contents

1
Contemporary Slavery, Global Justice and Globalization

Christien van den Anker

Introduction

Slavery has been illegal for over a century. Freedom from slavery is an international norm, well established in international law. Yet, it is still not implemented worldwide. Contemporary forms of slavery exist in all regions of the world, in the form of dangerous and exploitative types of child labour, trafficking, bonded labour and chattel slavery. Usually, theories of justice, whether concerned with domestic arrangements or with the global context, propose answers to the question: what does justice require? However, in the context of thinking about contemporary slavery, the answer to this question is clear and widely shared already. This chapter is therefore concerned with the lack of implementation of the specific international norm of freedom from slavery and not with its justification in theories of justice. However, principles of justice and a cosmopolitan perspective of justice, including responsibilities towards people outside one's national borders are used to propose effective and just remedies against contemporary slavery. Two different questions will be asked: 1) what are the structural causes for the lack of implementation of this international norm? And 2) what does justice require when developing adequate policies to combat contemporary slavery? Effective implementation of human rights norms is hindered not only by lack of political will, but by several structural factors. In this chapter I assess the complex ways in which globalization affects the realization of the human right not to be enslaved. On the one hand, globalization contributes to exacerbated poverty which leaves more people vulnerable to contemporary slavery, such as chattel slavery, child labour, trafficking, bonded labour and abuse of domestic workers. On the other hand, globalization contributes to more effective campaigns to raise awareness and

to create better international legal mechanisms to combat contemporary slavery. The proposed understanding of globalization as a political project whose content can be determined (instead of as a law of nature or an economic 'invisible hand' which cannot be halted) makes it possible and necessary to reflect on international measures to combat slavery, in addition to suggesting ways to improve the implementation of existing international law.

The way in which globalization affects particular forms of contemporary slavery influences which types of action may be most successful in combating the practice. For example, forms of slavery directly linked to export products or multinational companies may be combated by increased consumer action, yet other forms such as bonded labour in local agriculture and industries and religious-based slavery may need local awareness-raising and educational campaigns as well as pressure to develop and implement national and international law.

The policy recommendations in this chapter are based on an evaluation of recent initiatives to combat specific forms of slavery such as increased international standard-setting (trafficking and child labour) and fair, as well as ethical, trade (child labour and chattel slavery). The chapter ends with the recommendation of a wider perspective, taking into account recent proposals for global redistribution via taxation and more extensive development aid. In assessing ways forward, I propose to use five principles of justice:

1. respect for the rights of victims;
2. cosmopolitan impartiality (justice for all);
3. respect for the agency of victims;
4. commitment to long-term structural change of the global economy;
5. provision of support to develop viable alternative livelihoods.

Adherence to these principles implies that the presently called for rights-based approach to trafficking, for example, is better than a restrictive approach to immigration. Yet the cosmopolitan perspective argued for in this chapter advocates a wider conception of justice, creating obligations to contribute to the implementation of human rights across borders as well as a commitment to campaigning for the final two principles, which take us beyond the minimum provision of an adequate standard of living towards a more robust conception of global equality.

The concept of contemporary slavery

Theorizing about global justice is usually concerned with what justice is and with what it requires. Looking at the subject of contemporary slavery, however, there is a historic consensus that justice requires the end of slavery. Yet, despite near-universal moral and legal condemnation, slavery still exists and is on many accounts even increasing. Slavery was abolished in Britain in 1807 and throughout the British colonies in 1833. The League of Nations Slavery Convention outlawed slavery in 1926 and the United Nations Universal Declaration of Human Rights adopted in 1948 makes slavery and inhumane treatment a human rights violation in Article 4. According to Lillich (in Meron, 1984), the importance of a human right can be deduced from its status (determined by whether or not the article belongs to customary law under contemporary international law) and the restrictions on the specific article allowed for in the relevant treaty or convention. The Universal Declaration is widely considered a part of customary law and even more widespread consensus supports the position that the slavery article (along with the right to life, freedom from torture, freedom from genocide, freedom from retroactive legislation, equality before the law and arbitrary detention) forms part of customary law (Meron, 1989). Freedom from slavery is also non-derogable in times of war (along with the right to life, freedom from torture and the prohibition of retroactive legislation, being a person before the law and freedom of religion). This means that freedom from slavery is an important human right if we take the status/restriction test Lillich introduces seriously.

Other evidence for the widespread consensus on the importance of freedom from slavery is found in the support of countries for the relevant instruments outlawing slavery. The International Covenant on Civil and Political Rights of 1966 has been ratified by 149 countries (UNHCHR, 2002), which means that they are bound by its articles on the prohibition of slavery (Article 8[1]), the slave trade (Article 8[2]) and forced labour (Article 8[3]). In addition, the Supplementary Convention on the Abolition of Slavery, the Slave trade, and Institutions and Practices Similar to Slavery (1956) adds debt-bondage, serfdom, forced marriage, dowry and the inheritance of a widow to a male family member to the list of human rights violations illegal under international law. The recent Convention on the Rights of the Child specifically mentions child labour and has been ratified by a record 191 countries (UNHCHR, 2002). Most recently two optional protocols to the child rights convention were ratified by 48 state parties, outlawing the use of children in armed

conflict and the sale of children, child prostitution and child pornography. For details on international law on trafficking, see chapters 3 and 4 in this volume.

Yet, despite international law and many national constitutions outlawing slavery, the practice has never been ended. Although the traditional form of slavery, with kidnapping, slave trading and people forced to work in chains, no longer serves as an accurate picture of contemporary slavery, slavery still exists in several modern guises. According to Anti-Slavery International, the following common characteristics distinguish slavery from other human rights violations. A slave is:

- forced to work – through mental or physical threat;
- owned or controlled by an 'employer', usually through mental or physical abuse or threatened abuse;
- dehumanized, treated as a commodity or bought and sold as 'property';
- physically constrained or has restrictions placed on his/her freedom of movement.

Anti-Slavery International

New slavery is also defined as 'work for no pay and under the threat of violence' (Bales, 1999). This definition excludes bad forms of servitude and people pushed into bad labour conditions by poverty. However, the element of being paid or not is probably less important than the elements of being forced to work against one's will and under threat of violence, often with restrictions on freedom of movement through either physical ties or by withholding of passport or identity papers. In its contemporary form, slavery violates many other rights over and above the right not to be enslaved, such as the rights to freedom, property and fair remuneration for labour. The violence and the mental degradation that come with most forms of slavery are violations of the internationally protected right to be free from torture and inhumane and degrading treatment. Contemporary forms of slavery include bonded labour, trafficking, the worst forms of child labour, forced marriage and the abuse of domestic migrant workers. These now involve many times the number of people the transatlantic slave trade ever involved. Although reliable statistics on contemporary slavery are hard to come by due to its illegal nature, Kevin Bales estimates that 27 million people are contemporary slaves (Bales, 1999). Some international NGOs have put the number as high as 200 million. Since most work on contemporary slavery looks at one particular form of slavery at a time, there are more

estimates of, for example, child labour or bonded labour than of the total number of people trapped in contemporary forms of slavery. For recent figures, see chapters 7, 8, 9 and 12 in this volume. Here, contemporary slavery is analyzed as an overall category, since it is important to bring out the parallels in root causes as well as the differences in circumstances that are influential. These may in turn be important in finding a balance between policies that could be generalized over different forms of slavery and in different parts of the world on the one hand and policies that are specific to one type of slavery or to one region on the other hand.

The use of the term slavery is contested by some representatives of African states who argue that the term slavery ought to be reserved for the transatlantic slave trade. Although this is understandable, as is the campaigning for recognition of the harm done to people then and to communities in Africa as a continent, the parallels with contemporary slavery are stark enough to use the term in this way. Present injustice needs to be addressed and using the term slavery guarantees a wider audience. However, the term needs to be used cautiously and in clearly defined ways. Advocates of the rights of contemporary slaves need to avoid sensationalism and need to avoid focusing only on the 'most deserving cases'. Looking at different forms of abuse under the term slavery allows the possibility of identifying some common factors between them. Structural factors, or what are commonly termed root causes (in the trafficking and migration debates), are some of the elements contemporary slavery may have in common. Using the perspective of root causes, however, does not mean to say that there is one cause that determines all current forms of contemporary slavery. Still, there are a few common factors that have at least some influence, even though local factors play a role, too. According to Kevin Bales, it is poverty that makes people vulnerable to being enslaved in present times. Although there are many places where ethnicity or caste play a role, according to Bales the common denominator is poverty (Bales, 1999). I would argue that we need to take one step further and look at who is poor and therefore vulnerable to exploitation and slavery. Then it becomes clear that, although Bales is right that there is no racial justification for slavery any more as there was in the transatlantic slave trade, discrimination based on gender, race, ethnicity, religion or oppression of indigenous peoples contributes to specific groups being poor and is therefore a factor in making people more vulnerable to all forms of exploitation and thus to contemporary forms of slavery. In this chapter, I will focus on one particular root cause – increased poverty

through globalization. Although I do not develop the other root causes, in two instances I will comment on gender and ethnic/racial discrimination. First, when discussing domestic violence as a contributing factor to women searching for work abroad and therefore becoming vulnerable to traffickers and, second, in the case of domestic migrant workers, where the cultural stereotypes of which women are especially good at what types of work are widespread (Anderson, 1993; and Chapter 6 in this volume).

In the remainder of this chapter, I argue that the complex process of globalization has provided a context in which new forms of slavery flourish. Even though not all forms of contemporary slavery are directly affected by globalization, indirectly they are linked through the increased poverty economic transition has brought and therefore responses should be internationally co-ordinated. The chapter argues further that policy-making should be based on certain specific principles of justice, in addition to the wrongness of slavery, in order to actually benefit the victims of contemporary slavery.

Finally, the chapter provides a focus on structural factors as well as agency, which, through actual examples, aims to show that people make the choices they can within certain parameters; it does not make sense to put easy moral blame on the people directly involved without holding responsible the people involved through longer causal chains. For example, it is easy to blame Bangladeshi employers for employing children. Yet, for the 14-year-old girl from the slum, it may be the best available option under the circumstances that she is employed in the garment industry. The political rhetoric in the West blaming local producers for exploiting child labour, masks the economic benefit that Western consumers get from cheap clothes and from keeping the economic rules of the game in place so that the majority of the world has hardly any chance of developing a mixed-base economy, without widespread poverty, with a decent living standard and adequate working conditions for all. On the other hand, the governments of, say, India and Nepal could do a lot more to implement international human rights law regarding bonded labour and forced marriages by enforcing the legislation in place in their own countries. In West Africa there is a lively trade in children from poor countries such as Benin, Togo and Mali into richer countries such as the Ivory Coast and Gabon. Parents sell their children in hope of a better future and traffickers need the children to make a living. A way forward suggested by UNICEF, which avoids the easy blame of the parents, is to make sure adults earn a wage that can support their families without having to sell their children into work.

Globalization as a political project

Kevin Bales argues that the world's slave trade has seen a rapid escalation since 1945 and a dramatic change in character. According to Bales the three factors sparking this change are:

> Firstly, the world's population has tripled since 1945 with the bulk of the growth in the Majority World. Secondly, economic change and globalization have driven rural people in poor countries to the cities and into debt. These impoverished and vulnerable people are a bumper crop of potential slaves. Finally government corruption is essential. When those responsible for law and order can be made to turn a blind eye through bribes, the slave-takers can operate unchecked.
>
> Bales, 2001

Bales' argument clearly supports the argument presented in this chapter that, at least to some extent, globalization is affecting new forms of slavery negatively. This does not mean to say that globalization is the only cause of new forms of slavery; if that were the case, any example of slavery existing before globalization or in areas less affected by globalization would be an argument against the thesis. The relationship between globalization and new forms of slavery is complex and in need of careful treatment.

Not all forms of contemporary slavery are affected in the same ways; some depend more on local practices and traditions than on the changing international economy. Both the position that globalization is the cause of all misery in the world and the view that globalization is the motor for growth and therefore brings prosperity to all are too simplistic. The role of globalization in the increase in contemporary slavery can only be analyzed by looking at different forms of slavery in different parts of the world and assessing to what extent local factors and global factors play a role.

First of all, in order to show how globalization is implicated with regard to increased slavery, the term itself needs to be discussed. Globalization consists of a complex set of processes in various spheres. Most observers would agree that globalization includes economic processes such as increases in international trade, deregulation of financial markets and the resulting flows of investments and currency speculation around the world. In addition, some have argued that globalization has several political components (Shaw, 1999). These are

partly a result of economic globalization and partly an independent phenomenon. Increased international co-operation evidenced through the creation of multinational agencies and the codification of international norms in international law started as a response to human rights violations that threatened world peace. Increasingly, globalization of capitalism highlights issues to which an international political response is required. Patenting laws keeping cheap medicine unavailable in Africa have resulted in a huge death toll to AIDS/HIV and the widening gap between rich and poor with the deregulation of foreign investment worldwide has resulted in huge flows of people migrating to where they think they can find work. These issues strengthen the need for international institution-building. They also supported a tremendous growth in international NGOs. Developments in communications and travel have resulted in cultural globalization – partly top-down through multinational corporations, but partly bottom-up at alternative summits and forums, through tourism and via the internet.

The distinction between economic, political and cultural globalization is useful to make some sense of what we mean by the term globalization. Yet, there is a further point to make about the political elements of globalization. The perspective on globalization I use in this chapter in order to assess how globalization affects contemporary slavery holds that the present political and economic world order is the result of specific policy choices. Globalization in its present form and shape is the outcome of a political project aiming at universalizing global capitalism and neo-liberal principles. Economic globalization in the form of a sudden change of development strategy towards full incorporation into the world market, as part of structural adjustment programmes implemented by the IMF and the World Bank, does contribute to contemporary forms of slavery by increasing poverty and therefore vulnerability for specific groups of people. Although globalization has also provided opportunities for others, the view that globalization provides a motor for growth leaves out the difficult questions of distribution (who benefits?) and the cost of modernization to people's livelihoods. Political globalization – such as the growth of a global civil society with NGOs supporting people all over the world to get justice from their own government, from big companies and from overseas governments – can be of help to the victims of contemporary slavery. The changing conception of sovereignty and the development of international standards of human rights law and labour law are also working towards better protection of people from slavery and exploitation. On the other hand, components of globalization that contribute to contemporary slavery are: decreased border controls and cheaper

international travel; increased information (or misinformation) about life in the West being affluent (through the globalization of the media); an increased demand for the cheapest products and a lack of regulation so that flows of goods are determined by worldwide competition and labour is forced to be sold at the lowest price and under worsening conditions; increased travel and tourism, which adds to sex tourism (although the new middle classes in Asia make up the majority of clients demanding services of child prostitutes); and the use of child servants in the wider tourist industry.

Examples of effects of globalization on contemporary forms of slavery

To substantiate that globalization contributes to increasing numbers of people being enslaved, I will present examples of different types of contemporary slavery to illustrate the argument. In this section I discuss male adult slavery, child labour, bonded labour, trafficking and domestic migrant workers.

Adult male slavery

The cocoa industry in Africa has started to make use of slave labour because the world price for cocoa beans has plummeted. The lack of a worldwide fund to handle such substantial market price fluctuations leads to the local producers bearing the brunt of the economic shock. The owners of plantations can no longer afford to pay labour costs, so the use of slave labour becomes their only option other than going out of business. Eighty per cent of cocoa comes from the Ivory Coast and 95 per cent of the Ivory Coast's cocoa is tainted by slave labour (Channel 4, 2000). The economic policies required by the multilateral financial institutions such as the focus on export – usually of one primary resource – contribute to the price for these raw material exports plummeting. In this way the increasing use of slaves in the cocoa industry is an example of the effect of globalization, in particular the economic policies pursued in its name: deregulation, free trade, export-oriented growth and restructuring of local subsidies.

Child slavery

Another example of globalization affecting contemporary slavery negatively is the slave trade in children in West Africa. It is well known that in West Africa – on what was once called the slave coast – the trade in people continues.

> Increasingly, children are bought and sold within and across national borders, forced into domestic work, work in markets or as cheap farm labour. UNICEF estimates there are more than 200,000 children trafficked in West and Central Africa each year. Child slavery is a significant money-maker in countries like Benin and Togo. Destitute parents are tricked into giving their children to slave-traders. A local UNICEF worker explains: 'People come and offer the families money and say that their children will work on plantations and send money home. They give the family a little money, from $15 to $30 – and then they never see their children again.
>
> Bales, 2001

The BBC's *Correspondent* (2001) shows that the old custom of sending children to a wealthier relative to have better chances of education and of making a living has become perverted by the increased need for money, due to the globalization of the economy. Instead of sending them to relatives, children are now being sold to work for strangers in the cities or to go abroad. Parents want to believe in some El Dorado where their children will strike it lucky and be able to send money back to their families. Although the practice of sending children to relatives already existed traditionally, globalization exacerbates suffering, since being sold to strangers often leads to violence or the threat of violence. Children trafficked abroad or made to work in the city are more vulnerable to abuse and will often lose touch with their family. Latin American working children have also been affected negatively by globalization. In this case the link with globalization is that the Latin American economies have been very unstable as a result of financial crises. With the increasingly free flow of capital, speculation can harm currencies overnight. The ILO estimates that in 1995 at least 120 million of the world's children between the ages of five and 14 did full-time paid work (ILO, 1996). Many of them worked under hazardous and unhygienic conditions and for more than ten hours a day (Basu, 1999, p. 1083). However, the worldwide trend is that child labour is decreasing. In no continental region in the world is the participation rate of children as high as it was in nineteenth-century Britain, although some individual nation-states, such as Ethiopia, have a much higher rate (Basu, 1999, p. 1088). A problem with the statistical evidence is that child labour is likely to be underreported due to its illegal status and figures vary significantly depending on the definition one uses.

Some see child labour as part of a tradition or part of a culture whereas others argue that it is linked to a phase in economic development. After

all, child labour was widespread in Western Europe from the age of the Industrial Revolution and in the USA from the mid-nineteenth century (Basu, 1999, p. 1083).

Existing forms of child labour vary from country to country and from situation to situation. In some cases a child may be involved in working on the family farm or in selling produce on the market. In other cases, there may be industrial labour involved. There is always an issue of children's rights at stake, since children have a universal right to free primary education according to Article 26 of the Universal Declaration of Human Rights. Their involvement in work often (although not always, as is shown in Chapter 9 in this volume) takes them away from school and therefore violates their right to an education. The lighter forms of child labour such as working on the family farm could be combined with education if there was access to proper schools (Bhatty, 1997). However the worst cases of child labour violate many other fundamental human rights. There is a widespread consensus that poverty is the main cause of child labour in developing countries (Johnson, Hill and Ivan-Smith, 1995). However, in addition to poverty, there is a complex of factors at work in the causation of child labour. Save the Children lists the interaction of micro- and macro-economic, environmental, social, cultural and political factors. On the macro-economic level they emphasize the role of adjustment and transition programmes, the decline in social sector spending and the internationalization of production (Marcus and Harper, 1996). This supports my argument.

Bonded labour

Another example to illustrate the relationship between globalization and the increase in contemporary forms of slavery is the case of bonded labour. Bonded labour has existed for centuries in countries like India, Pakistan and Nepal. Although national legislation (often even at the level of the constitution) outlaws it, many families are indebted for huge sums of money and pass on the debt from generation to generation. The system has feudal connotations in that the landowners take on a paternalistic role towards their bonded labourers. They will provide food and some form of security. In one case, a debt-bonded labourer was able to buy himself free, but returned into bondage out of choice. The reason for preferring to belong to the landowner was the safety of living according to the same rules as he had always lived. This example is not an isolated case; regularly freed bonded labourers return to their previous conditions of bondage. The deeply rooted practices need to be combatted not only through government policies to abolish

them, but through measures of support and aid in finding alternative livelihoods. This implies the need for support beyond legal and economic measures, for example through projects providing emotional and educational support (Bales, 2002).

The way in which globalization has affected bonded labour is again complex. Bonded labour existed before globalization and is linked to the caste system in some of the countries concerned. However, the increased poverty as a result of the economic transitions due to globalization leaves people once again vulnerable to debt-bondage and being owned by landowners. With increased price levels for necessities such as medication, families may need to borrow money to survive. As Upadhyaya argues in Chapter 7 of this volume, new forms of bonded labour are developing as a result of globalization.

Trafficking

An example of contemporary slavery that has increased exponentially recently is trafficking. Women from Central and Eastern Europe and from the former Soviet Union, including the Central Asian republics, are being trafficked into Western Europe and the Far East. Many governments still conflate trafficking with undocumented migration, particularly into prostitution. Part of the problem is the definition of trafficking. The definition of trafficking used here is based on definitions used by the UN, UNICEF and the International Organization for Migration (IOM). Forced migration or forced work after consented migration counts as trafficking, whereas consented legal travel is called migration and consented but illegal travel is smuggling. However, the notion of consent is highly contested, with some feminist lobby groups arguing that all prostitution should be considered trafficking, whereas others, like Doezema (2002), hold that coercion is a necessary element of the definition of trafficking. The former position views trafficking as merely linked to prostitution; the type of work trafficked people end up doing is often in the sex industry but not always. Research needs to look into traffickers forcing people to work in agricultural and other industries, too. In addition, by linking trafficking to the sex industry only, the movement for sex workers' rights has to deal with the problem of sex work attracting the connotation of illegality and immorality.

The immediate link between globalization and trafficking is, once again, increased poverty during economic transition towards capitalism. Whereas work was guaranteed under socialism, after the collapse of the Soviet Union, unemployment has risen enormously and the majority of the unemployed are female (Einhorn, 1996). Even people

in work often do not receive their wages, thus poverty has increased dramatically in the former communist countries. Another link between trafficking and the globalization of capitalism is that the increasingly free flow of capital is not accompanied by the free flow of people. On the contrary, immigration rules are becoming more and more restrictive, so poor people hardly ever have the option of becoming legal economic migrants. Many give their life savings to mafia-like networks to travel into Western Europe. The third link with globalization is that these networks are also growing, due to the economic chaos of transition, and they benefit from globalization in that they, too, can send capital around the world and launder money in a deregulated global economy.

Domestic migrant workers

Finally, a more hidden form of slavery takes place right under the noses of Western citizens. Domestic migrant workers regularly suffer abuse by their employers, often without having access to remedies. The law in Britain and in many other European countries and the US, allowed diplomats to bring a servant if that was part of their culture. Servants were allowed into the country on the passport of their employer, so they did not have a visa to stay in the country legally if they left this employer. This made it especially hard for them to escape from an abusive situation. As a result of campaigning by Kalayaan (see Chapter 6 in this volume) this legal practice has now changed. However, evidence shows that many domestic migrant workers are still prevented from leaving the house; they have to work all hours and suffer violence and lack of food or a warm place to sleep. Their mental well-being is completely disregarded; they are treated as less than human. In one case in France, the woman domestic migrant worker could not read or write and did not have a sense of time or seasons once she was freed (Anderson, 1993).

Again, in this case as in the previous cases, there are several links with processes of globalization. First, poverty makes people more vulnerable and induces them to leave their home community due to lack of an alternative livelihood. Second, the increasing division between rich and poor is not only visible between countries but within countries, too. Those who have the means, can employ the poor without providing proper care through contractual obligations. Third, women's participation in the labour market has increased everywhere since the 1950s. This is partly due to independent patterns of change in social arrangements campaigned for by the women's movement and partly due to the

globalization of capitalism as women are now brought in as a flexible workforce. Those women who can afford it will therefore increasingly hire help with domestic tasks. Domestic migrant workers undertake labour-related tasks in the household and also work in home-based child care. Fourth, the increase in immigration due to increased opportunities for travel and communication bring women who see an opportunity to earn money abroad to send back to their families at home. The gender and racial discrimination in the labour markets will force them into domestic work, even if they have been educated for different careers. On the other hand, as in other examples, globalization has also raised awareness of injustice in different parts of the world and brought about an increasing sense of global citizenship and responsibility for suffering across borders.

In conclusion, these examples show that globalization plays a role in all of the forms of contemporary slavery discussed. Some have existed for longer and are ingrained parts of a culture. Others, like trafficking, are relatively new and are more directly a result of an economic transition to global capitalism. It is important to characterize globalization as a political project which can be influenced by policy decisions and campaigns. In other words, the future of the people suffering from slavery depends on the design of a global system that neither exacerbates poverty nor opens the door to networks of traffickers by restrictive immigration policies. I therefore now look at existing remedies and potential ways forward.

Remedies: principles of justice, structural change and pragmatic ways forward

What does justice require? Justice requires an end to slavery in all its forms. There is global consensus on this between governments who have ratified the necessary international conventions, activists lobbying governments to implement these obligations and victims organizing in many parts of the world. Yet the struggle to end slavery runs into many obstacles. In the first part of this chapter, I argued that the globalization of capitalism, the resulting poverty, unemployment and increased migration, as well as more, generally easier opportunities for travel and communication, were contributing factors to the rise of contemporary slavery. In this second part of the chapter I identify some of the implications of this analysis for policy-making and campaigns in the struggle against slavery. At the start of this chapter, I explained that the question of what justice requires is no longer relevant when looking

at the issue of slavery, as there is broad agreement on the moral wrong of slavery and the practice is outlawed in international law. However, governments are not legislating even though they are required to implement international law at home. For example in Gabon, where many children from poorer West African countries end up working in foreign and Gabonese homes, trafficking is not illegal. In Benin, a major source of trafficked children, selling children is not illegal – it is only illegal to smuggle them across borders. Many governments see trafficking as a matter of immigration, as the Gabonese minister explains in *Correspondent* (BBC, 2001). The response is to implement immigration procedures more strictly. This is harmful to trafficked persons. According to the UN Special Rapporteur on Violence Against Women, responses to trafficking must be based on the needs of trafficked persons, and they must be tailored to protect their rights with an emphasis on gender-specific violations (GAATW, 2001, p. 27).

Sometimes governments legislate, such as in India where bonded labour is illegal in the constitution. However, this right is not being implemented. In many cases officials are implicated in slavery practices. In West Africa mayors, chiefs of villages and others take part in falsifying documents for trafficked children; in Western European countries the adult women victims of trafficking often do not get the support from the police they need; and in Benin there are examples of slave owners who bribe police to get runaway girls back (BBC, 2001). In some cases existing international norms may not be adequately phrased to include the contemporary versions of slavery. Therefore some initiatives have focused on developing new international instruments. The ILO Convention 182 on the worst forms of child labour and the recent UN trafficking protocol are examples of this approach. In Convention 182, the ILO lists the worst forms of child labour as:

- all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt-bondage, serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- the use, procurement or offering of a child for prostitution, production of pornography or pornographic performances;
- the use, procurement or offering of a child for illicit activities, in particular for the production and trafficking of drugs;
- work which, by its nature, or the circumstances in which it is carried out, is likely to harm the health and safety or morals of children.

The Convention states that each country must decide which types of work are harmful and need to be targeted as a matter of urgency. This should be done after consulting employers' and workers' organizations and other interested parties. This means special attention should be paid to:

> Work which exposes children to physical, psychological or sexual abuse;
>
> Work underground, underwater, at dangerous heights or in confined spaces;
>
> Work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;
>
> Work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;
>
> Work under particularly difficult conditions, such as work for long hours or during the night or work where the child is unreasonably confined to the premises.
>
> ILO, 1999, pp. 8–9

To make international law more useful in combating trafficking of human beings, the UN adopted two protocols related to trafficking: the *Protocol Against the Smuggling of Migrants by Land, Sea and Air*, and the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, both supplementing the *United Nations Convention against Transnational Organized Crime* (UN, 2000). The latter provides the first international definition of trafficking in persons. This definition has gathered the greatest international consensus since it does not take sides in the prostitution debate. The definition used is as follows:

> (a) The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.
>
> Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or removal of organs.

> (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.
>
> O'Connell Davidson, 2002, pp. 2–3

For a more detailed discussion of the new trafficking protocol see Chapter 3 in this volume.

These new instruments still leave governments the space to approach slavery from a law and order perspective, which may harm the victims even further. Therefore, principles of justice would still be helpful to guide practice when aiming to overcome barriers to effective implementation of international law.

Broadly speaking the implications of the argument in the first part of this chapter can be summarized into five principles that should guide policy-making in combating contemporary forms of slavery:

1. respect for the rights of victims as starting point;
2. cosmopolitan impartiality (justice for all) as the basis for policies/laws;
3. respect for the agency of victims;
4. the long-term goal of structural change to global capitalism;
5. the provision of support to develop viable alternative livelihoods.

The human rights approach defended by, among others, the United Nations High Commissioner of Human Rights (UNHCHR) (Jordan, 2002) would satisfy the first three of these principles, but not necessarily the last two. The perspective of long-term structural change in the global economic system is not part of the human rights doctrine as it stands. The provision of support to develop viable alternative livelihoods is part of NGO practice and campaigns, for example for bonded and child labourers, yet is not fully part of the agenda on trafficking.

I would like to use the remainder of this section, to outline some of the implications of holding these principles when working towards policies and action to end the practices of contemporary slavery. The first principle (respecting the rights of victims) would, for example, require governments to provide assistance for victims of trafficking who are now being deported without help to re-establish themselves at home, not taking into account the threat of violence in the home country by networks of traffickers. By withholding victim support,

governments sending people home violate their rights for a second time. The second principle (cosmopolitan impartiality) would require that the strategies to combat contemporary slavery must not be based on crude self-interest of the powerful parts of the international community, such as protection of their national industries from cheap imports or their societies from immigrants suspected of using welfare benefits without contributing (Doomernik, this volume, Chapter 2). Instead, the rights and interests of all people would need to guide policy-making. This means that the contributing factors of poverty and globalization are targeted in policy-making, which includes reviewing trade regimes and supporting poor people wherever they live. The third principle, to respect agency and therefore to avoid paternalism, would require strategies to combat contemporary forms of slavery aimed at the empowerment of the potential victims. This means governments and NGOs need to recognize the agency of (potential) victims, rather than portraying them as helpless victims from the outset. The fourth principle, the longer-term goal of structural change of the global economy, is very important. The Fair Trade movement has done invaluable work in supporting poor producers. Their aim is to create alternative livelihoods, which contribute to ending slavery as well as other exploitative forms of labour (see Chapter 12 in this volume). Yet the transition of the present unjust global economy towards one based on Fair Trade will require more far-reaching measures, if it is feasible at all. However, the Fair Trade movement has made an inroad into neo-liberal economic thinking, by introducing justice and responsibility for the well-being of poor producers into trade relations. Another proposal that may prove fruitful in this respect is the Tobin tax. This is a proposed tax on financial currency speculation with the revenue being used for development goals (see Chapter 11 in this volume). This tax may be the first step towards more far-reaching proposals for global taxation such as those discussed in Pogge (1998) and Beitz (1979 and 1983). Global redistribution rather than development aid will provide structural change, although eventually the capitalist system itself needs to end in order for structural change to have the effect of ending slavery and creating meaningful work for everyone. The fifth principle, of providing alternative livelihoods, requires strategies to assist people who have been enslaved or who are potential victims of slavery, to develop livelihoods that safeguard them against being enslaved (again). This would include programmes to develop alternative means of existence for freed bonded labourers and for children who are doing the worst forms of child labour. Only programmes that provide realistic alternatives will help.

Examples of good practice are the projects implemented by the UK Department for International Development (DfID) and Save the Children, which address the underlying cause of child labour – poverty – and work towards improving working conditions and regulation (Marcus and Harper, 1996).

In the meantime, campaigners ask consumers and citizens to use their consumer power not to buy products tainted with slave labour, to demand from suppliers that they make sure labour is properly treated and to lobby their MPs to set up campaigns against wide-ranging issues, from apartheid to landmines. Governments can put pressure on international organizations and individual governments to stick with ILO core labour standards and international human rights law. International organizations need to develop standards and enforce them more effectively.

These more pragmatic approaches are responses to the recent awareness of the practical barriers to eliminating slavery. For example, in the case of child labour, it has been shown that consumer boycotts or outlawing products made by children can lead to a worse existence for the child in question, with the child forced to earn money by alternative means, probably in prostitution or the drugs trade. This was the case in Bangladesh, where it was observed that attempts to bar children from working in the manufacturing industry led to some of them being pushed into prostitution (Bachman, 1995, p. 3). Yet, even if legislation is unsatisfactory, there are other measures governments and supranational organizations can take. Basu suggests that, 'Government can intervene in the market to create a variety of incentives, such as providing better and more schools, giving school meals, and improving conditions in the adult labor market, which result in a reduction of child labor' (Basu, 1999, p. 1093). Another strategy aimed at eliminating child labour is to encourage children to go to school. Making primary education compulsory has been more effective than legal bans on child labour or products made by children. It is easier to check whether a child turns up in school than whether they are absent from work (Basu, 1999, p. 1090). Some studies have suggested that child labour may sometimes make it possible for children to go to school, for example in the case of part-time labour. Generally speaking, compulsory education can play a role in limiting child labour and, even if education is not compulsory, the mere availability of good schools can do a lot to divert children away from long hours in the workplace (Drèze and Gazdar, 1996).

An additional strategy to combat new forms of slavery is to set up information campaigns and invest in education to empower those

people making the choices. This is currently part of the EU strategy to combat trafficking, although, in most countries, trafficking is still considered a problem of illegal migration, and many countries use the practice of deporting victims of trafficking since they are illegal immigrants. However, Spain, the Netherlands and Belgium now have policies in place where victims of trafficking are offered legal means to stay and work in the country if they are prepared to give evidence against traffickers. Nowhere in Europe are victims of trafficking supported to return home or to make a proper living in their country of immigration.

Other existing strategies to combat new forms of slavery are also contested and so far only partly successful. Ethical trade has made a lot of progress in getting supermarkets to sign up to codes of conduct and has been successful partly because of growing consumer pressure and awareness. However, supermarkets are still one step ahead of the game and exploit people in ways that are not against the code of conduct. For example, farmers are told exactly what the product should look like even before it is planted and the price is only agreed at the point of sale.

Conclusion

Globalization influences all contemporary forms of slavery negatively, even if they existed previously in a traditional form. However, the way in which globalization plays a role differs between forms of slavery. This implies, too, that the ways to combat contemporary forms of slavery existing in different parts of the world vary, at least to some degree. However, there are some common ways forward for all types of contemporary slavery, for example lobbying for the ratification and implementation of international law and for the introduction and implementation of national laws to punish and prevent slavery. Recently, new international law has been developed to combat new forms of slavery and the worst forms of child labour. But its enforcement is still a huge challenge and, ironically, just as with codes of conduct, new standard-setting can actually work out as a form of protectionism by the US and Europe. Campaigns to raise awareness in the affected countries, as well as in the countries that profit from the cheap labour of slaves, are also useful in all types of contemporary slavery, as are campaigns to provide alternative livelihoods for slaves and ex-slaves (and also for slaveholders in cases where their original

livelihood 'forces' them to 'employ' slave labour). In all cases of contemporary slavery, provisions need to be established for ex-slaves to overcome the trauma of slavery and to be educated and reintegrated into society on a basis of equality. Finally, all current slaves and future potential slaves would benefit from lobbying for global taxation such as the Tobin tax, increased funding of development projects, growing networks of Fair Trade and exposing the poverty-increasing effects of globalization and its existence as a political project, not a law of nature.

Globalization has also contributed to the culture of opposition to injustice, by facilitating easier networking between NGOs, the growth of international organizations and international law in areas of human rights and labour conditions and, more generally, increased collaboration between states due to a changing conception of sovereignty. Some specific ways forward for different types of contemporary slavery are, for example, campaigns to show governments that the focus on immigration in order to combat trafficking results in more hassle for the victims. Governments need to be shown that the rights and interests of the victims of trafficking should come first. Other specific ways forward would be the organizing of bonded labourers into savings unions to buy themselves free one by one and awareness-raising on the issue of domestic migrant workers. Cosmopolitanism usually argues in quite abstract ways about duties and rights across boundaries. The goal of eliminating contemporary slavery raises the prospect of strengthening the cosmopolitan approach since it shows that injustice is already widely perceived as a matter of responsibility across boundaries. Consumer actions against products made by slaves show motivation to end injustice no matter where it takes place. It may be argued that the ongoing support for unjust practices is due more to lack of information than to lack of motivation to be just to people across national borders. In this chapter I proposed to use five principles as a guideline for policy-making and campaigns in the struggle to eliminate contemporary slavery:

respect for the rights of victims as starting point;
cosmopolitan impartiality (justice for all) as the basis for policies/laws;
respect for the agency of victims;
the long-term goal of structural change to the 'rules of the game' of global capitalism;
the provision of support to develop viable alternative livelihoods.

These principles would help us to go beyond present approaches and they would provide a perspective which would designate responsibility for contemporary forms of slavery no longer simply at the door of the immediate perpetrators, but more widely in the overall international system and its present inequality. They need to form the basis for national policies as well as for global initiatives.

Index