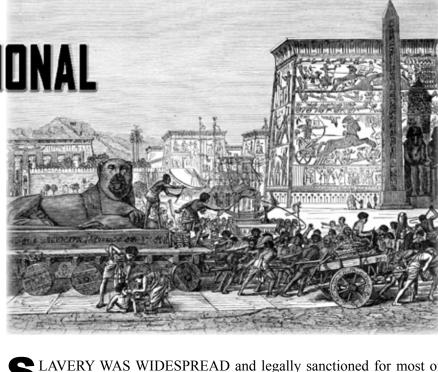
INTERNATIONAL LAW AND SLAVERY

Mark D. Welton, J.D.



LAVERY WAS WIDESPREAD and legally sanctioned for most of human history. Chattel slavery—the legal ownership of one person by another—was its most common form. Gradually, and especially in the 19th century, the growing condemnation of chattel slavery and the slave trade by an increasing number of individuals, groups, and eventually states culminated in widespread legal prohibitions against it. However, non-chattel slavery, including practices such as involuntary child labor and the trafficking of women for prostitution, continued in various places and guises. The persistence of these forms of involuntary servitude into the 20th century led to international agreements and efforts to eradicate them. Nevertheless, human trafficking remains a problem, one that often arises in areas of lawlessness and armed conflict and thus is of concern to military professionals.

A Short History of Slavery

The historian John Keegan notes that no one knows how and when slavery and the slave trade began, but he speculates that it was probably a common part of the social order for early pastoralists and steppe peoples, and it likely intensified with the advent of the war chariot in the second millennium BCE. Slavery was prevalent throughout the ancient world; the Mesopotamian, Egyptian, Chinese, Greek, and Roman civilizations developed laws and customs to legitimize and regulate it. Slavery was also extensively practiced in northern Europe, sub-Saharan Africa, pre-Islamic Arabia, Southeast Asia, and Japan, and it existed, though was not widespread, in the Western Hemisphere until the modern colonial era.

Ancient laws and customs deemed that a slave was the legal property of another person. Identification of the slave as the property of the slave owner is chattel slavery. This characteristic distinguished slaves from other persons whose freedom may have been formally limited, such as prisoners of war or felons. (Through much of this period, however, felons and prisoners of war were sent or sold into slavery.) The power of the owner over chattel slaves was often unlimited; owners of slaves could resell, free, and even kill their slaves without legal restrictions. On the other hand, in some ancient societies

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such as Greece and Rome, slaves did have limited legal rights, including the right to own and transfer property, to marry, and to be protected against unreasonable treatment, although these rights were in all respects inferior to those of free persons.

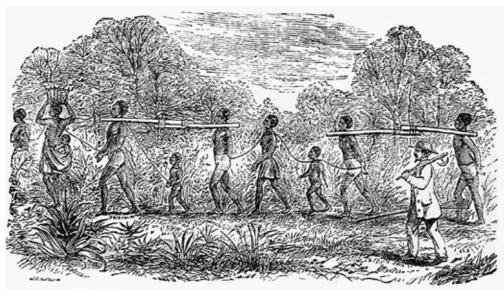
Slavery in the ancient world served primarily military and economic purposes. The military frequently forced individuals into service as soldiers or galley slaves. Slaves also labored in public works construction in ancient Greece or in agricultural or mine work in Mesopotamia and in the Roman Empire. Others were personal and household servants for wealthy families and often provided sexual services to their masters or mistresses.

As Europe transitioned from the Roman Empire to the modern era, slavery persisted. One could become a slave, as before, by being taken prisoner during wars and invasions, or by being born of a slave parent. It became increasingly common for destitute parents to sell their children into slavery and for slavery to be the penalty for committing a crime or failing to pay a debt. The slave trade was a significant economic activity in many towns along the Scandinavian, English, and Italian coasts. During the feudal period, Europe's population was comprised of freemen, serfs, and slaves, and both secular and Church authorities recognized slavery as a natural, if regrettable, institution. They justified this view by quoting Biblical sources and emphasizing humankind's moral sinfulness and slavery's economic benefits.

With the demise of European feudalism, conditions became increasingly unfavorable to the institution of slavery: maintaining slaves was expensive, and a growing population increased the availability of cheap labor, making slavery economically less desirable. Consequently, slavery declined in many parts of the continent during the Renaissance, especially in northern areas, although household slaves worked in

wealthy London and Paris homes as late as the 1700s, and slaves were openly sold in Paris until 1762. In areas near the border with the Islamic world, Muslim captives were household servants or workers on large private estates. The tradition of using prisoners of war as slaves also continued: slaves continued to man naval vessels and work in other military enterprises.

When European states began to explore and colonize areas outside the continent, especially in the Western Hemisphere, they deemed slavery and the slave trade to be especially well-suited to the economic exploitation of these regions, and slavery thrived on plantations and in mines throughout the Americas from the 16th to the 19th centuries. Sub-Saharan African slaves arrived in Europe beginning in the mid-15th century, after European crews seized them, or North African Muslim traders and sub-Saharan African tribal chiefs sold them to European merchant ships. The English, Spanish, Portuguese, Dutch, and French acquired African slaves and transported them across the ocean in ships. They soon regularly sold African and Native American slaves throughout the West Indies and along the North and South American coasts. The export of African slaves rapidly increased as the number of Native American slaves declined because of disease and maltreatment; English ships alone transported two million African slaves to North America between 1680 and 1786.



A 19th century engraving of slaves being transported in Africa.

In the Middle East, the advent of Islam did not abolish the institution of slavery, but it did moderate it, first in Arabia and then in other areas the Arab armies conquered. Like their counterparts in Europe, the Middle East's religious and legal institutions sanctioned slavery.

The Islamic Sharia contains rules governing slavery. The rules stem from two primary sources, the Qur'an and the Sunna. Devout Muslims believe that the Qur'an is the written word of God spoken through the Angel Gabriel to Muhammad and recorded in its final form within a few decades of his death. The Sunna was compiled during the first few centuries after Muhammad's death and contains the reported words and deeds of Muhammad and (for Shi'a Muslims) those of the Imams. Regulations enacted by various Muslim caliphs, sultans, shahs, and other rulers at various times and places were also valid as long as they did not contradict the primary sources, and this is generally the case today.

Muslim culture did not require slavery, but it recognized and regulated it. Slaves could be either the offspring of slaves, or non-Muslim prisoners of war purchased by wealthy individuals or local rulers. Muslims could not enslave other Muslims or non-Muslims living under Muslim governments, and slaves who converted to Islam could eventually gain their freedom. Slaves in the Islamic world were usually either household or military servants, although slavery supported some agricultural and other non-household economic activity. Sharia law contains numerous rules concerning the rights and duties of slaves in such matters as marriage, judicial testimony, property ownership, and criminal punishments. It prohibits mistreatment of slaves and encourages their emancipation. Nevertheless, slavery and the slave trade in Islamic Asia and Africa remained prevalent through the 19th century.

The military use of slaves by various Muslim dynasties increased during the early modern era. "Slave dynasties" on the Indian subcontinent and the Mamluk dynasty in Syria and North Africa organized large slave armies, and the Janissary Corps, an elite slave army established in the 14th century, became the standing army of the Ottoman Empire. The janissaries remained a powerful military force until the early 19th century. Comprised of young non-Muslims taken from areas conquered by the Ottomans and subsequently educated and trained

within the Empire, the janissaries were subject to the unfettered direction and control of the Sultan, who "owned" each soldier; nevertheless, members of this slave army rose to positions of great wealth and power within the Empire.

Slavery was prevalent elsewhere in the world throughout this period. Sub-Saharan Africa, India, and China practiced slavery from ancient times to the modern era. Slavery existed in Japan until the 16th century, when the central government banned both it and the slave trade, deeming the practice of little economic value. Slavery was also common throughout Southeast Asia, which was more ethnically diverse and open to trade (including the slave trade) than Japan.

The Legal Prohibition of Slavery

From this brief review, it is clear that slavery was widespread throughout the world from ancient times until relatively recently, owing to its military and economic benefits. During the 18th century, however, an increasing number of individuals and religious and civic groups in Europe, among the latter the Methodist Church in England, began to call for the elimination of slavery. This effort, reflecting the Western Enlightenment's focus on individual rights, gained momentum during the first half of the 19th century, which saw the first domestic legal limitations on slavery and the slave trade. Multilateral international agreements that addressed persistent forms of slavery more comprehensively followed in the 20th century. Their effectiveness, however, depended on their recognition and the elimination of the economic and military factors that continued to support slavery. Although this developing legal regime gradually resulted in the prohibition of slavery and the slave trade as jus cogens (a preemptory norm of international law from which no state can derogate), it has been only partially successful in eliminating slavery in all its permutations, especially its more modern forms of human trafficking.

Domestic Laws

In Europe and North America, the initial legal measures to abolish slavery were constitutional mandates and statutory legislation arising from the growing moral outrage against slavery, its declining economic advantages to European states, and In Europe and North America, the initial legal measures to abolish slavery [arose] from the growing moral outrage against slavery, its declining economic advantages...and the...states' rejection of their colonial past.

the new Western Hemisphere states' rejection of their colonial past. Portugal abolished slavery in 1773 (but not immediately in its colonies), while Denmark eliminated slavery completely in 1792. France ended slavery both at home and in its colonies in 1794, although provisions of the *Code Napoleon* restored it for a period in the colonies. Spain abolished slavery in its 1812 constitution, and the former Spanish colonies in the Western Hemisphere followed suit when they gained their independence. Sweden abolished slavery in 1813, and the Netherlands did so in 1814.

In England, rising sentiment against slavery resulted in a 1772 judicial decision from the lord chief justice, based on the ancient writ of *habeas corpus*, that any slave who entered England was a free person.² By 1808, Parliament had dictated that no ship could carry slaves to or from any British port, and in 1833, it abolished slavery in all British territories. Slavery became illegal in Russia in 1861 and in Brazil (a former Portuguese colony) in 1888. By the end of the 19th century, most other European states and their former colonies had also banned slavery under their domestic laws.

Although the lawful importation of African slaves ended in the United States in 1808 and slavery was outlawed in a number of states by the beginning of the 19th century, it continued for primarily economic reasons in mostly southern areas until the 1860s, when the 13th Amendment to the Constitution declared that "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." This amendment and the equal-protection clause of the 14th Amendment authorized Congress to pass legislation prohibiting practices that were "incident" to slavery, such as the

incapacity to enter into contracts, although little was done in this area until the mid-20th century.

In the Islamic world, Western (especially British) colonialism and influence created internal and external pressures to eliminate the slave trade and to reduce slavery (as it did in other areas of the European empires). In contrast to Europe, these efforts necessarily combined governmental decrees with the opinions of Islamic legal scholars. Reformers in the Ottoman Empire were successful in closing the Istanbul slave market in 1846, and the government imposed limits on and eventually prohibited the trade in African slaves in 1857, except in some limited areas such as the Hijaz region of Arabia.

Initially, commercial and religious authorities in the Empire strongly resisted efforts to reform slavery, because the practice had a long, profitable pedigree in the Middle East and North Africa. The limits imposed on slavery did not apply at first to the thriving Circassian slave trade in the northern area of the Empire; trade there declined only incrementally during the century. Overall, the 1857 ban was ineffective and had to be renewed in 1877. Gradually, however, these measures were successful in reducing slavery throughout the region.

Since governmental decrees to eliminate slavery in the Muslim world needed to be consistent with Sharia, the opinions of legal scholars were critical to the success or failure of any reforms. In some areas, such as the more conservative Arabian Peninsula, many scholars were reluctant or outright opposed to a reinterpretation of the sources of law that had permitted slavery for many centuries.

In other areas, after reviewing provisions of the Qur'an and Sunna that opposed holding slaves, scholars encouraged their emancipation. For example, the 19th-century Indian Muslim scholar Sayyid Ahmad Kahn advocated reinterpretation of the sources of Islamic law in light of reason and the laws of nature. On this basis, he argued that the verse in the Qur'an dealing with prisoners of war ("So when you meet in battle those who disbelieve, smite their necks; then when you have overcome them, make them prisoners but afterwards set them free, whether as a favor or through ransom, so that the toils of war may be ended") should be read as a mandate to free not just prisoners of war, but all slaves (since most slavery in the early years of Islam originated from wartime capture).3 Most of these reformist scholars thus supported government decrees against slavery, and as a result, the institution of slavery slowly retreated and the official slave trade declined, though not as rapidly as it did in the West.

International Law

Measures to abolish the slave trade in the 19th century were almost exclusively the domain of domestic law. After Napoleon's defeat and the Congress of Vienna, the victorious European powers condemned the slave trade because of moral objections and concerns that the export of slaves would give some regions an unfair economic advantage in cheap agricultural labor. Britain proposed economic sanctions against any state that did not abolish slavery, but this was rejected by other states because they were afraid boycotts against slave traders would strengthen Britain's maritime dominance. Britain did conclude a number of bilateral agreements allowing signatory states to stop and search for slaves aboard other states' private vessels.

After World War I ended, a renewed concern for human rights, exemplified in the League of Nations and Woodrow Wilson's foreign policy, led to international agreements concerning the slave trade and, for the first time, slavery itself. (Slavery had formerly been a domestic issue outside the proper scope of international regulation.) This regime continued after World War II because of the widespread forced (slave) labor conducted by the Nazis, and it has since commanded nearly universal acceptance. Because Islamic law recognizes the validity of international agreements, including those with non-Muslim states, the provisions of international law that prohibit slavery are fully compatible with the principles of Sharia, as reinterpreted by legal scholars.

Universal and regional declarations confirmed slavery's illegal status, helping establish its prohibition as part of customary international law and *jus cogens*. The next set of treaties refined the definition of slavery to address its more modern manifestations. They also specifically outlawed slavery, making it a crime with universal jurisdiction. Thus, any state that obtains custody of a person who has engaged in slavery or slave trading must prosecute that person, regardless of his or her nationality, or turn the person over to the authorities of another state for prosecution.

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Article 4 of the Universal Declaration of Human Rights, passed by the United Nations General Assembly in 1948, states that "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms." Article 8 of the 1966 UN Convention on Civil and Political Rights, signed by 140 states, says that "No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited."

Neither of these documents contains enforcement mechanisms, however. The U.S. Senate gave its advice and consent to ratification of the convention, but stipulated that it required enabling domestic legislation to be enforceable in U.S. courts. Nevertheless, the widespread agreement of the international community to these documents has helped cement a normative prohibition on slavery.

Regional documents affirm this prohibition. Article 6 of the 1969 American Convention on Human Rights (not ratified by the U.S.) states, "No one shall be subject to slavery or to involuntary servitude, which are prohibited in all their forms, as are the slave trade and traffic in women."6 The American Convention takes a slightly broader approach than the UN documents, and by establishing an Inter-American Commission on Human Rights to investigate violations of the convention, as well as an Inter-American Court of Human Rights to impose sanctions on erring states, it has the enforcement mechanisms that the UN approach lacks. In Africa, Article 5 of the 1981 African Charter on Human and Peoples' Rights (the Banjul Charter) declares that "all forms of exploitation and degredation (sic) of man particularly slavery, slave trade, torture, cruel, inhuman, or degrading punishment and treatment shall be prohibited."7 It too allows for the means to prosecute those who violate its provisions. In Europe, the European Convention for the Protection of Human Rights

and Fundamental Freedoms, enacted in 1950 and adhered to by 40 states, stipulates that "No one shall be held in slavery or servitude," and includes forced or compulsory labor within its prohibition.⁸ The convention also established the European Court of Human Rights to prosecute violators. However, unlike the American and African courts and commissions, the European court has been active in hearing and deciding cases brought by individuals against parties to the convention, which binds the parties to the court's decisions.

Aside from UN declarations and regional agreements, a number of multilateral treaties address the subject of slavery. Article 13 of the 1958 Convention on the High Seas, and Article 99 of the 1982 Convention on the Law of the Sea, require that "Every state shall adopt effective measures to prevent and punish the transport of slaves in ships authorized to fly its flag, and to prevent the unlawful use of its flag, for that purpose. Any slave taking refuge on board any ship, whatever its flag, shall *ipso facto* be free." The provisions extended the board-and-search regime to stem slave trafficking begun by Britain and other states in the previous century.

Several international agreements have been more comprehensive. The 1926 Convention to Suppress the Slave Trade and Slavery updated and expanded an earlier effort, the 1919 Convention of St. Germain. The 1953 Protocol Amending the Slavery Convention and the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery followed. The most recent multilateral agreement addressing the subject is the 1998 Statute of the International Criminal Court (Rome Statute). The International Criminal Court (Rome Statute).

Although these agreements include reporting and monitoring requirements, with the exception of the Rome Statute they do not contain robust enforcement authority. Perhaps their most significant provisions are those that expand the definition of slavery. Article 1 of the 1953 Convention defines 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." This reflects the idea of chattel slavery that was dominant through most of history, although it does not require legal recognition of ownership to exist—only some of the attributes of such ownership. The 1956 Supplementary Con-

vention expanded on this concept. It specifically includes within the scope of slavery such situations as "(a) debt bondage; (b) serfdom; (c) any practice whereby a woman is given in marriage without the right to refuse, on payment of consideration, or one whereby her husband or a member of his family has the right to transfer her to another person, or one whereby a woman on the death of her husband is liable to be inherited by another person; or (d) the exploitation of children or their labor." The convention clearly recognized (as noted below) that women and children constituted the preponderance of slavery and human trafficking victims.

More recently, the 1998 Rome Statute makes enslavement and sexual slavery a crime against humanity. Article 7 of the statute states, "Enslavement' means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children." Significantly, Article 8(2)(b) makes it a war crime to engage in sexual slavery. The elements of this offense are that "the perpetrator exercised any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending, or bartering such a person or persons, or by imposing on them a similar deprivation of liberty." The perpetrator's action must have caused the victim or victims to engage in one or more sex acts in the context of an international armed conflict. The article includes trafficking in persons, especially women and children.¹³ Had this law been in force at the time, it would have covered such activities as the alleged enslavement of Chinese and Korean women as sex slaves for the Japanese Imperial Army during World War II, acts for which the women and several governments, including that of the United States, are still seeking an apology from the Japanese Government.

Although the United States is not a party to the Rome Statute, these provisions and the other conventions noted clearly define slavery as a crime against humanity and a grave breach of the law of war. Therefore, acts of enslavement during an international armed conflict are war crimes, which any state with custody of the perpetrator can try. Under the Uniform Code of Military Justice, for example, the United States could prosecute by court-martial any individual in its custody for

the crime of slavery if he or she committed the crime during an international armed conflict. Of course, authorities can prosecute such acts not committed during war, regardless of the offender's nationality, in U.S. courts with jurisdiction over the offender.

The Continuing Problem of Slavery

Concerning slavery today, three facts are particularly pertinent:

- State-sanctioned chattel slavery is virtually nonexistent today.
- No state officially condones slavery or participates in active slave trading.
- Treaty definitions of slavery have evolved to include practices involving slave-like conditions and practices, even without formal (legal) recognition of ownership of the person, especially those involving human trafficking for economic profit (such as the sex trade). The concept of slavery has gradually expanded to recognize these unofficial practices as a form of slavery.

In consonance with these developments and to address the most prevalent current forms of slavery and human trafficking, the United States in 2000 enacted the Trafficking Victims Protection Act. The act established within the State Department the Office to Monitor and Combat Trafficking in Persons (the TIP Office), which publishes an annual report to Congress on the state of human trafficking in the international community and efforts to counter it.14 The act defines human trafficking as "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 an 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."

The act calls on governments to eliminate human trafficking and to punish offenders for severe forms of trafficking or enslavement. The annual TIP Office report lists countries that fail to do so, and those that fail to address especially severe forms of slavery are subject to U.S. sanctions, including limits on foreign aid, reduced funding for cultural

and educational visits by state officials, and U.S. opposition to their continued participation in international financial organizations.

According to the U.S. Office, traffickers use force or fraud to enslave over 800,000 people annually and transport them across international borders; and they enslave many more in their own countries. Of the 800,000, approximately 80 percent are women, and 50 percent are minors. TIP Office and news media reports claim that within the past several years, hundreds of people, mostly children, worked under slave-like conditions in brick factories in Shanxi Province and elsewhere in China. The children were unpaid and prevented from leaving the factory grounds.15 In Brazil, a prominent bean grower was arrested on charges of keeping several hundred slaves; the Brazilian Government estimates that about 25,000 people work as debt slaves on plantations and farms in remote areas of the country, particularly in the Amazon region.¹⁶ In the United Arab Emirates, the camel-racing industry reportedly engages as many as 5,000 children, purchased for between \$300 and \$600, to work unwillingly and without pay as camel jockeys and on camel farms.¹⁷ In the Persian Gulf (and in diplomatic residences in various parts of the world), women have been lured into domestic household service and then forced to work without pay or freedom to leave the house. In 2003, a Macedonian court convicted a man for enslaving young Ukrainian, Romanian, and Moldovian women for purposes of forced prostitution.¹⁸ The Balkan region, especially Bosnia, is a major hub for the trafficking of Eastern European female sex slaves throughout Europe and across the Atlantic. 19 Forced prostitution and sex trafficking is also widespread in Southeast Asia, with Cambodia a noted focal point for the trade.²⁰ Uzbeki men who have migrated to Russia in search of work have

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A family rides past a poster appealing to people to be vigilant and determined in the struggle against human trafficking, Ho Chi Minh City, Vietnam, 24 February 2003. Thousands of Vietnamese women have been sold for prostitution in Cambodia, China, and Taiwan in recent years.

reportedly been captured and sold for slave labor in parts of central Russia.²¹ In the United States, several cases of slave labor on farms have been investigated and tried in courts in Florida.²²

There are numerous problems hindering effective measures to eradicate these modern forms of slavery. Aside from obvious ones, such as the political unwillingness of many states to allocate resources to combat the crime, efforts to expand the meaning of slavery can be problematic. The international agreements all limit the definition of slavery to conditions similar to ownership, although the state does not have to prove such ownership. Even the Trafficking Victims Protection Act requires force, fraud, or coercion for U.S. law to apply to human trafficking.

Some groups seeking to expand the meaning of modern slavery argue that military conscription is a form of slavery and therefore contrary to international law. This argument is addressed in a number of the international agreements (and in reservations to them) that expressly exclude military conscription from the definition and scope of the law. However, the argument that military conscription is a form of slavery does highlight the problem of the forced recruitment of child soldiers, which may fall within the ambit of slavery. A number of documents

address this issue separately. The **United Nations Optional Protocol** on the Use of Children in Armed Conflict establishes a minimum age of 18 for compulsory military service.23 The United States ratified this protocol in 2002. According to the U.S. Office, in early 2006 a national court sentenced a commander of a rebel army in the Congo to five years in prison for war crimes, including the use of child soldiers. In the same year, the Congolese Army apprehended Thomas Lubanga and turned him over to the International Criminal Court for using children under the age of 15 as soldiers.

Other groups argue that all forms of prostitution are essentially slavery because they entail the subordination and oppression

of women; therefore, all forms of prostitution fall within the scope of the Trafficking Victims Protection Act. However, under this definition of slavery, several local governments that currently allow limited forms of prostitution (in Nevada, the Netherlands, and Germany) would violate international law. This argument is unlikely to be widely accepted.

Despite problems enforcing the prohibitions on slavery, one can take measures to reduce this grave crime. Aside from sanctions such as those available under the Trafficking Victims Protection Act, criminalization of slavery can be effective. In the United States, transporting a person across state lines for the purpose of prostitution, even if they acquiesce, is a criminal violation of the Mann Act.²⁴ Other countries have similar laws. Forced prostitution can occur in areas of military conflict or where contingents of armed forces are present. For American military forces, patronizing prostitutes is now an offense chargeable under Article 134 of the Uniform Code of Military Justice. Civilian contractors for the Department of Defense must meet certain requirements to avoid becoming involved in human trafficking of local national personnel, and the contractors must provide training on the subject to employees. According to the TIP



President George W. Bush signs H.R. 972, the Trafficking Victims Protection Reauthorization Act of 2005, in the Dwight D. Eisenhower Executive Office Building, 10 January 2006.

Office, the United Nations is changing its regulations to address sexual exploitation and involvement by peacekeepers in situations of forced labor and prostitution.

The legal regime developed to prohibit chattel slavery and to address more recent forms of human trafficking has attracted nearly universal official adherence, but we should not take past successes in efforts to suppress slavery for granted. For example, Professor Khaled Abou El Fadl notes that during the first Gulf War, in the early 1990s, a Saudi jurist issued a *fatwa* stating that slavery is legal in Islam and should be made lawful in Saudi Arabia. He added that those who state otherwise are both wrong

and heretics.²⁵ While Professor El Fadl asserts that most Muslim legal scholars now believe that slavery is no longer legitimate under Islamic law, he adds that some Muslim fundamentalists view its abolition as a Western imposition on the Muslim world and an attempt to give women more rights. He notes that legalizing slavery would legitimize current widespread exploitation and subjugation of foreign women who work as the Gulf region's domestic servants.

Conclusion

Despite nearly universal moral and legal condemnation of slavery, modern forms of the slave trade persist because they accord with local cultural and religious beliefs and are economically beneficial in certain parts of the world. Although the development of an extensive legal regime consisting of both national and international legal prohibitions has been partly successful in eliminating slavery, enforcement of the laws against human trafficking remains difficult in many places. Relatively recent legal mechanisms cannot displace slavery, which has a long history. Success will require coordinated efforts to identify and suppress the practice wherever it occurs. Understanding slavery's history, its current manifestations, and the legal regimes now in place to combat it will help legal, political, and military leaders move toward that goal. MR

NOTES

- 1. John Keegan, A History of Warfare (New York: Random House, 1993), 166-67. In addition to Keegan, general sources for this and the next section are Russ Versteeg, Law in the Ancient World (Durham, N.C.: Carolina Academic Press, 2002); Will and Ariel Durant, The Story of Civilization (New York: Simon and Schuster, 1935-1975); and David Waines, An Introduction to Islam (Cambridge: Cambridge University Press. 1995).
 - 2. R.V. Knowles, ex parte Sommersett (1772), 20 State Tr 1.
- 3. Bruce Lawrence, *The Qur'an: A Biography* (New York: Atlantic Monthly Press, 2006), 148-49.
 - 4. UN General Assembly Resolution 217 (III 1948).
 - 5. 999 United Nations Treaty Series (UNTS) 171.
 - 6. 9 International Legal Materials (ILM) 673 (1970).
 - 7. 21 ILM 59 (1981).
 - 8. 312 UNTS 221
- 9. 13 United States Treaties and Other International Agreements (UST) 2312; 450 UNTS 82; 21 ILM 1261. The United States has not ratified the latter convention.
 - 10. 60 League of Nations Treaty Series (LNTS) 253.
 - 11. 182 UNTS 51 and 212 UNTS 17; 266 UNTS 3.
 - 12. 37 ILM 999
- 13. See Knut Dörmann, Elements of War Crimes under the Rome Statute of the International Criminal Court: Sources and Commentary (Cambridge: Cambridge University Press and ICRC, 2003).
- 14. Trafficking Victims Protection Act of 2000, Div. A of Pub. L. No. 106-386, as amended. The reader can find information and reports on slavery and human trafficking at the TIP Office's website at <www.state.gov/g/tip>.

- 15. Howard D. French, "Fast-Growing China Says Little of Child Slavery's Role," New York Times, 21 June 2007, 4.
- 16. Larry Rohter, "Brazilian Leader Introduces Program to End Slave Labor," *New York Times*, 14 March 2003, sec. A, 10; "Top Farmer Held in Slavery Case," *New York Times*, 17 August 2004, 9.
- 17. Hassan M. Fattah, "Limits Set for Boy Jockeys in Emirates' Camel Races," New York Times, 3 April 2005, 8.
- 18. "Macedonian Guilty of Slavery Charges," New York Times, 7 December 2003, 24.
- 19. David Binder, "In Europe, Sex Slavery is Thriving Despite Raids," New York Times, 20 October 2002, 8.
- Nicholas Kristof, "Slavery in Our Time," New York Times, 22 January 2006, 17.
 Ilan Greenberg, "Central Asians Chase Jobs, and Endure Exploitation," New York Times, 15 May 2007, 4.
- 22. "First, They Took on Taco Bell. Now, the Fast-Food World," New York Times, 22 May 2005, 25.
- 23. A full discussion of the problem of child soldiers is in P.W. Singer, *Children at War* (Berkeley: University of California Press, 2006).
- 24. 18 U.Ś. Code 2421 (2001). "Whoever knowingly transports any individual in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than 10 years, or both."
- 25. Khaled Abou El Fadl, *The Great Theft: Wrestling Islam from the Extremists* (San Francisco: Harper San Francisco, 2005), 255-56.