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The Problem of State Intervention in Post-Abolition Slavery: A Critique of Consensus

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David Watkins, University of Dayton


Oct 10, 2014—UN-L

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- Scholar-Advocate
 - Political Theorist

 - Slavery is reprehensible
 - Strong support
 - Bi-partisan (nonpartisan)
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- 2000 TVPA passed
 - 371 to 1 in House | 95 to 0 in Senate
 - Ohio
 - First criminalization statute in 2010
 - Unanimous support
 - 2 subsequent bills
 - Unanimous support
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- Consensus is good, right?
 - Support = eventual success
 - We can end slavery in our lifetimes
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- But
 - Why aren't we winning—it's been almost 20 years?
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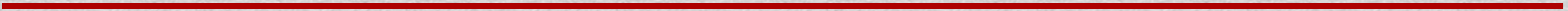
- Data?
 - 27 million?
 - 20.9 million?
 - Still growing?
 - Few arrests, convictions, victims identified
 - Uncertainty


 - How can true consensus not lead to success?
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- We argue the very consensus we all tout may be the cause of failing policy response.
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- Democracy and (Anti) Slavery
 - Ancient Athens


The presence of slaves “obviated any need...to exploit the demos” (Patterson)




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- Rise of liberalism
 - Tension between slavery and democracy
 - 2 most successful cross-national movements of 19th C.
 - Spread of democracy
 - Abolition of slavery
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- Now an essential, obvious relationship
 - Real democracy requires political equality & liberty
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- Anti-slavery has 2 phases (Quirk)
 - Legal abolition
 - Effective emancipation
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- Legal abolition—accomplished
 - Clear legislative goal
 - Accomplished with clear political action
 - Strong moral component
 - Not a consensus
 - Real political (and other) battles took place
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- Effective Emancipation—still ongoing
 - Legal abolition’s “losers” were still politically/economically powerful
 - (freed) slaves are politically weak
 - Legal abolition is about the “state”
 - Effective emancipation is about the “slaves”
 - Difficult problem—not just a problem of consensus
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- Consensus and Democracy
 - Initially seen as an ideal goal
 - Voting = failure (Rousseau)
 - Many still consider consensus superior to majoritarian decision-making
 - Deliberative democracy
 - Deliberation > consensus > common good
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- Consensus means “no losers”
 - “a rational discussion would tend to produce unanimous preferences” (Elster)
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- 2 main critiques of consensus
 - Ignores unequal social power dynamic (feminism)
 - Already privileged perspectives will dominate
 - Ignores legitimate disagreements (pluralism)
 - Plural society is made up of groups
 - Often with conflicting values
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- Valid critiques, but
 - No critiques of a “true, democratic consensus”
 - Anti-slavery is a “true consensus”
 - At least a “meta-consensus” (Dryzek)
 - or “overlapping consensus” (Rawls)
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- Anti-slavery as consensus
 - All countries have abolished
 - All ideologies agree
 - Illegal in national and international law
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- Moral consensus—slavery is wrong
 - Even though no consensus on policy responses
 - Look at 2 cases—early and late 20th C.
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- Early 20th C. responses to slavery
 - Peonage trials
 - Roosevelt (1901)
 - “square deal for the negro” speech (1903)
 - By 1905 was over. A failure
 - Peonage continued until ended by
 - Great Depression & WWII
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- White slavery (1909-1914)
 - Built on growing racial anxieties, nativism
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Unless we make energetic and successful war upon the red light districts and all that pertains to them, we shall have Oriental brothel slavery thrust upon us from China and Japan, and Parisian white slavery, with all its unnatural and abominable practices, established among us by French traders. Jew traders, too, will people our “levees” with Polish Jewesses and any others who make money for them. Shall we defend our American civilization, or lower our flag to the most despicable foreigners—French, Irish, Italians, Jews and Mongolians?


Ernest Bell, Illinois Vigilance Assoc. (Bell 2009: 260)

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- Now recognized as a moral panic
 - Then significant political action taken
 - “White Slave Traffic Act” (the Mann Act—1910)
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- Peonage response—wholly ineffective
 - White Slavery response
 - Did not end “largely fictional” white slave trade
 - But—very useful for other state objectives
 - mainly paternalistic, puritanical aims
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- Late 20th C.
 - Anti-Human Trafficking
 - Similarities to moral panic of early 20th C.
 - But, the epidemic is much more real
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- Growing realization of migrant trafficking & sexual servitude in 1990s
 - Growing need for US and international response
 - Co-development of TVPA and Palermo
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- Strong coalition emerges
 - International and domestic
 - US and Argentina, East and West and South
 - Liberals, Conservatives, Evangelicals, Radical Feminists
 - Paul Wellstone & Chris Smith
 - True/Overlapping Consensus
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The United States is committed to the eradication of human trafficking both domestically and abroad. It is a crime that is an affront to human dignity


President George W. Bush, 2003


It [human trafficking] ought to concern every nation because it endangers public health and fuels violence and organized crime.... It is barbaric and it is evil, and it has no place in a civilized world.


President Barrack Obama, 2013


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- Originally concerned with migrant trafficking
 - Became, increasingly, anti-prostitution policy—increasingly domestic focused
 - “Sex trafficking had become the main reference point for policy discussions and debates about human trafficking in general” (DeStefano)
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- Also immigration control
 - “Government agents looking to crack down on illegal immigration could use human trafficking laws as an excuse for taking actions they otherwise may be prohibited from doing—such as using racial profiling to question people about their immigration status.” (Loftus)
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- Or both
 - “Tracing back the goals and objectives of anti-trafficking protocols, against the outcome of enforcement of local laws supporting those objectives, these paint a shocking picture of injustice and further victimization of trafficking victims in some of the primary destinations for sex trafficking like Nevada....The aftermath of the TVPA has been devastating for many illegal immigrant women as the mission of anti-trafficking efforts seems to have focused much more on cracking down on prostitution and illegal immigrants than really protecting innocent women from getting sucked into the organized crime of trafficking.” (Jani, 2010, pp. 36-37).
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- Hidden agendas
 - “Anti human trafficking policy frameworks in the United States of America and the Federal Republic of Germany are robust, yet they exhibit policy gaps. Furthermore, these policies have in part been distorted to advance hidden policy agendas under the auspices of combating human trafficking. Both these deficits have reduced the potency of government efforts in the US and Germany to combat human trafficking. In the context of this analysis ‘hidden policy agendas’ describe a situation in which governments use human trafficking policy to achieve related policy goals that impact the main policy objective negatively.” (Morehouse 2009, pp. 17-18)
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- Failing response is partly caused by:
 - Consensus is “hijacked” by groups within the coalition who use it to attempt to enact radical policy agendas.
 - Unimpeachability of the cause due to consensus and moral nature, lends itself to misuse. Criticism is muted, public acceptance is high.
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- Has the anti-slavery consensus turned the cause into a convenient tool to be exploited by those pursuing other, less uncontroversial causes?
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