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Slavery and "Abuse Regeneration"

Christine Bell

University of Ulster

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Abstract

Skinner's depiction of modern day slavery is graphic and challenging. Anyone viewing prohibitions on slavery, or abolition, as historical anachronism, or requiring reinterpretation for modern-day practices, must think again. Skinner persuades us that slavery in its most old fashioned sense is alive and well and, worse than that—on the rise.

Keywords

Human rights, Slavery, Human trafficking

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Slavery and "Abuse Regeneration"

by Christine Bell

Skinner's depiction of modern day slavery is graphic and challenging. Anyone viewing prohibitions on slavery, or abolition, as historical anachronism, or requiring reinterpretation for modern-day practices, must think again. Skinner persuades us that slavery in its most old fashioned sense is alive and well and, worse than that—on the rise.

In one sense, Skinner's conclusions are profoundly disturbing and depressing. A practice accepted not just for years, or decades, but for over a century, as morally wrong, and which has been extensively codified as legally wrong, can nonetheless regenerate. What hope is there then for less established, more morally ambiguous human rights issues, such as fair trial rights for the nastiest criminals, or abolition of the death penalty?

However, I suggest that the return of slavery is but one example of a common dynamic in human rights struggles – the dynamic of “abuse regeneration” in which the practices of the human rights violations continue in a changed form so as to raise new challenges for an effective response. This response focuses on what I assert are five key dynamics of “abuse regeneration” as they apply to modern slavery, but also more broadly. I suggest that the concept of “abuse regeneration” must be understood as part of the struggle for human rights.

- **Complacent desuetude** . People become complacent about past human rights abuse and moral consensus, and public will to enforce the right is slowly undone.

Human rights abuses often happen under cover of secrecy. The protection of human rights requires ongoing vigilance. Skinner's article demonstrates that human rights battles are seldom won for all time, but require ongoing renegotiation. The vigilance required is two-fold. First, proactive vigilance is required to seek out new cycles of abuse that tend to happen away from the public's glare and Skinner's exposure of modern day slavery is one such attempt. Without investigations such as Skinner's we might never know the full extent of contemporary slavery.

The second type of vigilance required is perhaps more fundamental, and can perhaps best be termed “moral vigilance” as regards to the content of the right itself. Moral vigilance proactively works to safeguard the moral consensus around the right in question. This vigilance is more difficult to achieve and it is also difficult to demonstrate concrete results to funders of human rights work. The right can be protected by brining in new cross-cutting coalitions, but the coalition-building project must sit somehow with the notion that the right has a universal non-negotiable core. Skinner's piece demonstrates the types of counter-intuitive coalitions that can be built, but also the complexity of the negotiating between these coalitions and the right's core essence.

Without moral vigilance to preserve the right, the connection between revealing the rights violation and galvanizing public pressure to end the abuse, is broken. The two go together: without people thinking the right is important and may be at risk, they may be effectively deaf and blind to its presence, under cover, alongside their daily lives. Without an idea that the right is at risk, they may be complacent about supporting those who seek to monitor its enforcement.

2. Performative transformation of wrong into right.

Abusers find ways around the law, and abuses become more subtle so as human rights violators and states can argue that it is beyond the reach of human rights law.

Human rights standards operate in a dialectical relationship with human rights abuses. Rather than stopping human rights abuses, effective enforcement of human rights standards often cause one of two things. First, effective enforcement can prompt little more than new cycles of state and individual denial. As Stan Cohen famously pointed out, as people are confronted with human rights abuses, they often shift from “it is not going on” to more subtle defenses such as “there are reasons why it is difficult to eliminate.” The denial aims to perform a legal evasion: by re-characterizing the problem away from a direct violation which must be stopped, to something less clear, less clear-cut, and with less straightforward means of addressing.

The second result of effective enforcement is mutation of the anti-human rights practice. Soldiers stop blatantly shooting civilians dead, and move to construct elaborate self-defense set piece operations. Or, the state contracts out summary execution to death squads. The state moves torture offshore, and argues that it is beyond the reach of any legal regime, or redefines what torture might be. Skinner provides an example of technical “debt” which slaves work to pay off, which attempt to redefine the relationship as “employer/employee.”

One of the key elements of performative transformation is that it uses law and legal argument to turn non-compliance into possible compliance. Even when this is not fully successful as a technical legal argument, it often succeeds in muddying any clear moral waters (there are not two sides of what the law requires), and so aids and abets “complacent desuetude” to continue.

3. Post-post modern despair.

The above two factors play into a third factor. This is the overwhelming feeling that it is impossible to gain consensus on moral action, that morality is itself an old-fashioned concept and that the world in which we live is so large, with so many problems, so little capacity for political and moral consensus, and so in the grip of structural dynamics of globalization, that we cannot do anything about the most egregious of violations and abuses anyway. Belief in individual agency, and belief in the possibilities and value of collective action, seems out of date and naïve. Post-post modern despair is fuelled by, and fuels, complacent desuetude and performative transformation of wrong into right.

4. Dividing indivisible rights.

Skinner’s article demonstrates the close relationship between abuse of civil and political rights, denial of socio-economic rights, and an ongoing cost to viewing these rights as two separate frameworks. Just as pertinent to ending Skinner’s slavery, are rights 22 -27 of the Universal Declaration of Human Rights, as article 4 that prohibits slavery directly. These rights deal with: social security and economic rights necessary to “the free development of his [or her] personality,” rights to work, rights to rest and leisure time, adequate standard of living, education and a cultural life.

Skinner's example is one of the starkest civil and political rights violations. However, its resurgence owes little to erosion of the concept of civil and political rights, and everything to the global and in-country socio-economic context. A widening gap between rich and poor within and between countries leads to a situation in which low or non-paid "mindless" labor will not be performed by the rich (wherever they are), but is demanded of a poor whose opportunities in life are so limited that slavery becomes possible. Slavery is impossible to sever from the economic factors that propel it, and impossible to address, I would have thought, through criminal measures alone.

5. Recreating the "in"-human.

A crucial dynamic in abuse regeneration is the recreation of categories of people to whom human rights do not apply—those who are somehow less human, less to be protected. In times gone by, this was often done by defining the "other" (women or African Americans) as somehow less than human, and therefore holders of diminished rights. The ambiguous history of human rights shows that often-great leaps forward for human rights were limited by limiting the group to which the new rights were to apply.

In modern times, the paradox of globalization is that while it has freed up lawful international movement of the rich, it has tightened the restrictions on inter-country working by the poor. Slavery, for example, becomes enabled by the illegality of workers, which mean that slaves will not seek the help of law enforcement agents. Even though human rights technically apply to all, for many slaves in developed countries, deportation to a country in which one was enslaved may seem like a poor emancipation.

6. Decoupling domestic and international enforcement.

Human rights were always understood as the primary responsibility of the domestic state, underwritten by international standards and international monitoring bodies. International standards and enforcement must be capable of the same regeneration as human rights abusers achieve. Reiteration as both a repetition and a clarification of time-honored standards must counter new performative legal tricks. State action must be matched with capacity for cooperation.

Depressing as Skinner's article is, we must caution against complacency, post-post modern despair, performative transformation of wrong into right, and recreation of inhumanity. No struggle for justice is ever complete. The vision of the Universal Declaration of Human Rights is still, well, visionary. Neither the U.N., nor the state, nor individuals are utterly ineffective. Agency still matters. Why else are you reading Skinner's piece, and this response? Skinner's agency, research, and writing matters, and so it now matters what you will now look for, what you will now see, what you will then do, and how many people you connect with in pursuit of justice.

Christine Bell was born and brought up in Belfast. She is currently Director of the Transitional Justice Institute, and Professor of Public International Law at University of Ulster (based at Magee Campus). She read law at Selwyn

College, Cambridge, (1988) and gained an LL.M in Law from Harvard Law School (1990), supported by a Harkness Fellowship. She has authored the book Peace Agreements and Human Rights (Oxford University Press 2000), and a report published by the International Council on Human Rights Policy entitled "Negotiating Justice? Human Rights and Peace Agreements" (2006). She has also taken part in various peace negotiations discussions, giving constitutional law and human rights law advice, and also in training for diplomats, mediators and lawyers.