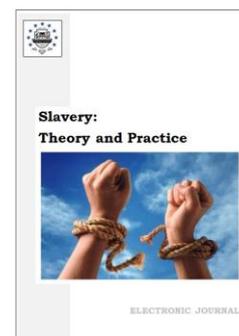


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## Modern Slavery: The Concept and Evolving Challenges for International Law

Vladyslava M. Zavhorodnia <sup>a, \*</sup>

<sup>a</sup> Sumy State University, Ukraine

### Abstract

Slavery in the fact of reality, as modern forms of slavery exist in our time, such as sexual exploitation, human trafficking, bride selling, forced marriages, many forms of child labor, forced recruitment of children for use in armed conflicts, the enslavement of other groups of vulnerable populations, debt bondage, etc. Modern slavery (or neo-slavery) is a grave and pervasive human rights violation characterized by the exploitation and abuse of individuals. The purpose of the study is to characterize the concept and forms of modern slavery, analyze the theoretical background of the issue and international courts' jurisprudence concerning slavery, and identify problems facing the international community and legal systems in this context.

The author sums up the characteristics of slavery as a social phenomenon involving the exercising by one person of control and actual possession of another; treating as a property, in some cases transferability and inheritance; deprivation of freedom; forced labor or services; coercion, threats, violence, or other forms of intimidation. In a legal sense, the main features of modern slavery can be designated: 1) deprivation or significant limitation of legal personality, 2) artificially created, as a rule, with the help of violence or psychological pressure, the inability to exercise human rights at the same level as other members of society; 3) the duration of the state and the inability for the victim to change the situation in principle. In cases where these signs are not observed (for example, when a person realizes that he is being exploited and violated, he can stop this condition but does not do this for economic reasons), other offenses could be identified, but not slavery or servitude in legal terms. The primary task of international law at the present stage is the prevention of local and global wars, the termination of armed conflicts that have already arisen, and, apparently, the construction of a new system of international immunity. Only the achievement of this goal can ensure the sustainable development of humanity, which means that slavery in its various manifestations will be eradicated.

**Keywords:** modern slavery, forced labour, forced marriage, human trafficking, servitude, ECtHR.

### 1. Introduction

Slavery in the present is not a myth, as modern forms of slavery exist in our time, such as sexual exploitation, human trafficking, bride selling, forced marriages, many forms of child labor, forced recruitment of children for use in armed conflicts, the enslavement of other groups of vulnerable populations, debt bondage, etc. Modern slavery (or neo-slavery) is a grave and pervasive human rights violation characterized by the exploitation and abuse of individuals.

\* Corresponding author

E-mail addresses: [v.zavhorodnia@uabs.sumdu.edu.ua](mailto:v.zavhorodnia@uabs.sumdu.edu.ua) (V.M. Zavhorodnia)

Modern slavery exists in various forms, including forced labor, human trafficking, debt bondage, and the enslavement of vulnerable populations, often involving physical and psychological coercion, restrictions on movement, and the deprivation of basic human needs, all to extract labor or services without fair compensation or consent. It represents a significant challenge to the principles of freedom, equality, and human rights, and it remains a global concern that necessitates concerted efforts to eradicate it.

Despite the efforts of many international organizations and national law enforcement systems, the global situation in the context of modern slavery tends to worsen. As per the most recent *Global Estimates of Modern Slavery (2022)* released by Walk Free, the International Labor Organization (ILO), and the International Organization for Migration (IOM), 49.6 million individuals worldwide are enduring modern slavery, encompassing forced labor and forced marriage. Approximately one-fourth of all modern slavery victims are children. Forced marriages affect 22 million people, with two out of five being children. Out of the 27.6 million individuals trapped in forced labor, 17.3 million are subjected to forced labor in the private economy, 6.3 million experience commercial sexual exploitation, and nearly 4 million face forced labor imposed by public authorities. The Covid-19 pandemic and the increase in the number of forced and labor migrants in different parts of the world have also exacerbated modern slavery ([Global Estimates, 2022: 2-5](#)). The study provides estimates as of 2021. That is, it does not take into account the consequences of a full-scale invasion of Ukraine and the displacement of millions of people forced to flee the war. But even without taking into account the war factor, in the five years that have passed since the previous study, the number of victims of modern slavery has grown noticeably. In 2021, there were 10 million more of them than according to global estimates in 2016. Women and children remain disproportionately vulnerable in this respect. Modern slavery is found in almost all countries of the world, affecting the most diverse ethnic, cultural, and religious groups. More than half (52 percent) of cases of forced labor and a quarter of all forced marriages occur in countries with an income level above the middle or high income level.

Unfortunately, we can find many examples of modern slavery, both in traditional and modified forms. For instance, Mauritania has a deeply entrenched system of traditional slavery, where some communities practice hereditary slavery. In this system, individuals from marginalized ethnic groups, such as Haratins (also called “Black Moors” make up approximately 40 % of the Mauritanian population but are mostly slaves or descendants of slaves) and Afro-Mauritanians (can be born into servitude and are considered the property of their masters). This traditional form of slavery, rooted in social and economic factors, has been a long-standing issue in the country. Mostly, we know about these practices from the testimonies of people who were enslaved but managed to escape from the country ([Harter, 2004](#)).

Slavery in Mauritania was officially abolished in 1981, but till 2007, there was no law to provide the liability for slave-owning practices. Mauritania criminalized slavery only in 2007 and passed legislation aimed at eradicating slavery. These legal reforms made slavery and related practices illegal, including forced labor and human trafficking. Nevertheless, there was no real progress in combating slavery for years. In 2010, the UN’s official mission to Mauritania, headed by Gulnara Shahinian, fixed that ‘de facto slavery in Mauritania continues to be a slow, invisible process which results in the “social death” of many thousands of women and men’ ([Report..., 2010: 2](#)). Despite the following legal reforms in 2012-2015, the enforcement of anti-slavery laws remains a challenge. Social norms, limited resources, and the reluctance of some authorities to prosecute cases have hindered efforts to eradicate the practice ([Ghazal, 2022](#)).

It is essential to understand that practices associated with enslaving people and treating them as things are not exclusively inherent in traditional societies. They can also be observed in Europe and other parts of the Western world. Outbreaks of exploitation of enslaved people occur in conditions of war, natural disasters, mass migration, etc. In such situations, the vulnerability and insecurity, especially of women and children, increase significantly. In 2022-2023, due to a full-scale invasion, thousands of Ukrainians (mostly forced migrants) found themselves in situations related to human trafficking. Labor and sexual exploitation led to the fact that Ukrainians ended up in modern slavery in Poland, Ukraine, and Russia, as well as in many other countries of the world ([Chygryn, 2023](#)).

The International Organization for Migration conducted a study of the vulnerability of Ukrainians to situations of human trafficking in the conditions of the war in Ukraine. According to

it, every fourth Ukrainian is ready to accept a risky job offer abroad or in another settlement. 27 % of respondents would agree to accept at least one dangerous offer to work abroad, including:

17 % are ready to work without formal employment;

13 % abroad and 9 % in Ukraine are ready to work in closed rooms without being able to leave the workplace freely;

2 % abroad and 2 % in Ukraine are ready to give the employer a mobile phone or other personal items for the period of employment;

1 % abroad and 3 % in Ukraine are ready to give their passport to the employer for the period of employment ([National study, 2022](#)). Therefore, the risks of falling into labor or sexual slavery for such people are very high.

It became clear that it is currently impossible to reveal the exact scale and specific forms of enslavement of Ukrainians who were forced to leave their places of permanent residence due to the war. However, specific facts are already becoming known. There is a recorded story of a Ukrainian migrant woman with a child who escaped from the occupied territories to a European country. There, she was offered shelter by a local couple - the woman had housing and food. However, the owner of the house issued the documents of the Ukrainian woman himself and kept them. Instead, the couple asked the woman to do the housework, not to go out too often, not to take the child for a walk, etc. After some time, the woman turned to the local authorities, realizing she was being exploited and her rights were limited. Other examples are even more severe, as they involve physical and sexual violence ([Chygryn, 2023](#)).

The deterioration of the economic situation and the increase in poverty due to the war created risks not only for refugees abroad but also for vulnerable categories of the population inside the country. In May 2022, the Dnipropetrovsk police detained four people, including the owner of the farm. The perpetrators kept 60 homeless people, who were forced to work without pay. Victims were sought out at railway stations and bazaars in various regional centers. They were brought to a state of alcoholic intoxication and taken to agricultural fields, where they ended up in de facto slavery ([Kitral, 2022](#)).

Slavery has evolved over time, taking on new and complex forms, integrating into the social systems of different societies, and having hidden or, on the contrary, apparent manifestations. The fight against slavery must address these modern manifestations and adapt legal frameworks to combat contemporary challenges. The recognition and prohibition of these practices in national and international law are vital steps in ensuring comprehensive protection against all forms of exploitation. The purpose of this study is to characterize the concept and forms of modern slavery, analyze the theoretical background of the issue, and international courts' jurisprudence concerning slavery, identify problems facing the international community and legal systems in this context, to identify potential opportunities and ways to solve them.

## **2. Materials and methods**

The study involves a multidisciplinary approach, combining historical retrospectives, modern contextual analysis, and comparative legal methodology. The theoretical basis for it embraces the works devoted to the historical and contemporary forms of slavery ([Allain, 2012](#); [Bales, Robbins, 2001](#); [Gekker, 2014](#); [Graig, 2010](#); [Quirk, 2006](#); [Martineau, 2021](#); [Miers, 2003](#); [Plant, 2014](#); [Scarpa, 2019](#); [Welch, 2009](#)).

In pursuit of the study's goal, the author investigated pertinent international treaties, resolutions, and recommendations put forth by international intergovernmental organizations, reports, and developments of international non-governmental organizations. To assess the current state of the spread of modern slavery and its individual forms, statistics and data generalizations, in particular, made public by international institutions, as well as media materials that illustrated specific cases of enslavement, were used. The analysis of the case law of the European Court of Human Rights (ECtHR), International Court of Justice, and International criminal tribunals revealed the approaches formulated within universal and regional international justice for combating slavery.

## **3. Discussion**

The history of combating slavery under international law is a complex and ongoing process that spans several centuries. Studying this process is essential for understanding the roots of

modern problems and the inability, in many cases, of international legal instruments to combat slavery in its current manifestations.

Efforts to address and eradicate slavery have evolved through various international agreements, conventions, and organizations. Early abolitionist movements in the 18th and 19th centuries, particularly in the United Kingdom and the United States, played a pivotal role in advocating for the abolition of the transatlantic slave trade and slavery itself. The 1807 Abolition of the Slave Trade Act in the UK ([Act, 1807](#)) and the Emancipation Proclamation in the United States ([Proclamation, 1863](#)) were significant steps in this direction. These acts belonged to national legal systems. However, their focus on eradicating slavery in the international legal space is obvious.

The 1807 Act for the Abolition of the Slave Trade (officially known as the Slave Trade Act 1807) was a landmark piece of legislation in the United Kingdom aiming at the abolition of the transatlantic slave trade involved the transportation of enslaved Africans to the Americas for forced labor on plantations. It was a brutal and inhumane practice that had been ongoing for centuries. The late 18th century saw the rise of the abolitionist movement in Britain, with individuals and groups advocating for the end of the slave trade and slavery itself. Prominent abolitionists, such as William Wilberforce, Thomas Clarkson, and Granville Sharp, played vital roles in raising awareness about the atrocities of the trade. The Act prohibited the capture and transportation of enslaved individuals from Africa to the colonies. It imposed significant penalties for individuals involved in the slave trade. Ships that violate the law could be seized, and those convicted of participating in the trade could face fines or imprisonment. The Royal Navy was empowered to enforce the provisions of the Act. Naval vessels were deployed to patrol the seas and intercept slave ships. The captured vessels were then taken to Vice-Admiralty courts for adjudication. There were, however, exceptions in the Act for the East India Company, allowing it to continue trading in slaves between India and the East Indies. This exception was later addressed in subsequent legislation ([Act, 1807](#)).

The Slave Trade Act of 1807 had a significant impact on the international slave trade. While it directly addressed British ships and traders, its moral and legal influence extended beyond Britain, contributing to the global movement against the transatlantic slave trade. The Act reflected a shift in public opinion against the slave trade. Abolitionist campaigns had successfully garnered support, and the Act represented a legislative response to growing humanitarian concerns. It laid the groundwork for subsequent legislation that aimed at the complete abolition of slavery. It set a precedent for the eventual abolition of slavery in the British Empire with the passage of the Slavery Abolition Act in 1833. Following Britain's lead, other nations began enacting legislation to abolish the slave trade. The British Navy actively participated in international efforts to suppress the trade, contributing to a decline in the overall practice.

The Emancipation Proclamation was a historic executive order issued by President Abraham Lincoln during the American Civil War. It was a pivotal moment in U.S. history, as it declared the freedom of all enslaved individuals in Confederate-held territory. Initially, the primary goal of the Civil War was to restore the Union, and Lincoln was cautious about taking radical steps against slavery. However, as the war intensified, he recognized the strategic and moral importance of addressing the issue of slavery. Issued on January 1, 1863: The Emancipation Proclamation was issued by President Lincoln on January 1, 1863, and it came into force immediately. The Proclamation did not immediately free all slaves; rather, it applied to areas in rebellion against the United States. It did not apply to border states loyal to the Union, such as Maryland, Kentucky, Delaware, and Missouri. In these states, slavery persisted until the ratification of the 13th Amendment in 1865 ([Proclamation, 1863](#)).

While the immediate impact of the Proclamation was limited, it held immense symbolic significance. It shifted the Union's focus from solely preserving the Union to a broader goal of ensuring freedom and justice. The Proclamation paved the way for the enlistment of African-American soldiers into the Union Army. Approximately 180,000 African Americans served, contributing significantly to the Union's military efforts ([Nazarian, 2019](#)). The Proclamation also had diplomatic implications. By aligning the Union with the cause of emancipation, it discouraged European powers, particularly Britain and France, from supporting the Confederacy. The Proclamation made it politically challenging for these European nations to support a cause associated with the preservation of slavery openly. It also served as an inspiration for anti-slavery movements worldwide. Its issuance highlighted the moral and ethical dimensions of the conflict,

resonating with individuals and groups advocating for the abolition of slavery in other parts of the world. Finally, the Emancipation Proclamation laid the groundwork for the eventual abolition of slavery throughout the United States with the ratification of the 13th Amendment in December 1865 ([Amendment, 1865](#)).

In 1814, European powers convened the Congress of Vienna to establish a post-Napoleonic peace order. During the Congress (1814–1815), the Vienna Declaration Relative to Universal Abolition of the Slave Trade (the Eight Power Declaration, 1815), marked a global humanitarian milestone. It became the first international instrument against slavery ([Handbook, 2012: 131](#)). Led by British Foreign Minister Lord Castlereagh, the Declaration condemned the Atlantic slave trade as contrary to humanity and morality. Castlereagh, influenced by British abolitionists, sought international abolition but only secured a vague commitment from “Eight Powers” (Great Britain, France, Russia, Austria, Prussia, Sweden, Spain, Portugal). The Declaration proclaimed the slave trade’s repugnance but lacked immediate prohibition, leaving implementation to individual states. Spain, Portugal, and France influenced the Declaration’s weakness due to their colonial interests. Nevertheless, the Vienna Declaration, while initially ineffective in curbing the slave trade, established a binding international principle and laid the foundation for future humanitarian and legal developments.

The International Agreement for the Suppression of the White Slave Traffic, signed in Paris on May 18, 1904, refers to international efforts to combat human trafficking, particularly the trafficking of women and girls for forced prostitution. The term “white slave traffic” was commonly used in the early 20th century to describe the trafficking of women for sexual exploitation. The agreement defined and criminalized various offenses related to the trafficking of women and girls for immoral purposes. It aimed to combat the recruitment, transport, and exploitation of individuals for prostitution. The Agreement recognized the need to protect and assist victims of trafficking. It called for measures to ensure the well-being and rehabilitation of individuals who had been subjected to exploitation. It also encouraged Signatory States to enact and enforce domestic legislation to prosecute and punish offenders ([International Agreement, 1904](#)).

The Brussels General Act (Convention Relative to the Slave Trade and Importation into Africa of Firearms, Ammunition, and Spiritous Liquors) was signed in Brussels on 2 July 1890 to, as the act itself puts it, “put an end to Negro Slave Trade by land as well as by sea, and to improve the moral and material conditions of existence of the native races” ([General Act, 1909](#)). It is important to note that the language and terminology used in historical documents may reflect the prevailing attitudes and norms of the time and today; efforts to combat human trafficking use more inclusive and non-stigmatizing language.

The Slavery Convention of 1926 ([Convention, 1926](#)), adopted under the auspices of the League of Nations, was a pivotal international agreement aimed at suppressing and preventing the practice of slavery worldwide. The primary goal of the Convention was to bring about the complete abolition of slavery in all its forms and manifestations. The Convention provided a comprehensive definition of slavery, encompassing practices where one person exercises powers akin to the rights of ownership over another. Researchers analyze the debate about this definition, the flaws in its universality, and the need to consider modern forms of slavery ([Allain, 2012: 29](#); [Martineau, 2021: 286-288](#)). However, this definition was critical to further international law-making and the jurisprudence of international courts.

The Convention sought to prohibit and criminalize various forms of slavery, including slave trading, forced labor, debt bondage, and servile marriage. Signatory States are committed to taking measures to prevent practices related to slavery, enforce laws against it, and ensure the punishment of offenders. It laid the groundwork for subsequent international agreements and contributed significantly to developing norms and efforts against slavery globally. Nevertheless, the Convention lacked robust mechanisms for enforcement. While it called for Signatory States to criminalize and prosecute slavery, there were no specific monitoring or enforcement bodies established to ensure compliance. Initially, not all States ratified or acceded to the Convention. This lack of universal participation weakened its impact, as not all states were bound by its provisions.

A new stage in the fight against slavery is associated with creating the United Nations. It was founded in 1945 with the principles of promoting human rights and fundamental freedoms for all. The UN Charter ([Charter, 1945](#)) laid the foundation for future international efforts to combat slavery. The 1948 Universal Declaration of Human Rights states, “No one shall be held in slavery or

servitude” ([Declaration, 1948](#)). A similar provision is found in Art. 4 of the European Convention on Human Rights (ECHR) “Prohibition of slavery and forced labour” ([Convention, 1950](#)).

The UN adopted the Supplementary Convention on the Abolition of Slavery in 1956 ([Supplementary Convention, 1956](#)), which extended and supplemented the 1926 Slavery Convention. It specifically addressed practices like debt bondage, serfdom, and forced labor. That is why the Supplementary Convention prompted the shift in terminology from “servitudes” to “institutions and practices similar to slavery.” Some Negotiating Parties aimed to apply the same obligations outlined in the 1926 Slavery Convention, specifically, the progressive abolition of slavery as soon as possible. Others referenced the 1948 Universal Declaration of Human Rights, which proclaimed that “no one shall be held in slavery or servitude.” Despite maintaining the language of “progressive and as soon as possible” for addressing servitude, a collective effort led to removing the term “servitude” from the final draft of the Supplementary Convention. Instead, it introduced the term “institutions and practices similar to slavery,” often abbreviated as “practices similar to slavery.” ([Allain, 2012](#)).

Convention on the Elimination of All Forms of Discrimination Against Women, 1979 ([Convention, 1979](#)) is an international treaty that addresses gender-based discrimination and includes provisions against the trafficking and exploitation of women, which are often related to modern forms of slavery.

Today, one of the primary international agreements in force addressing contemporary forms of slavery is the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, also known as the Palermo Protocol ([Palermo Protocol, 2000](#)). It supplements the United Nations Convention against Transnational Organized Crime ([Convention, 2000](#)). The Palermo Protocol comprehensively defines human trafficking, encompassing various forms of exploitation for labor, servitude, or slavery-like practices. It obligates the Signatory States to criminalize trafficking, protect victims, and prevent the offense through prosecution, victim protection, and international cooperation. Unlike earlier agreements, the Palermo Protocol emphasizes prevention, protection, and assistance to victims, recognizing the need for a holistic approach beyond prosecution. It has garnered widespread support, with many countries becoming parties to it, reflecting a more universal acceptance than earlier conventions. While challenges remain in fully eradicating modern slavery, the Palermo Protocol is a primary international instrument shaping efforts to combat trafficking in persons, forced labor, and other contemporary forms of exploitation. Its comprehensive approach and broader acceptance among States (more than 180 Parties) contribute to its relevance in addressing modern slavery globally.

The International Labour Organization (ILO) has adopted conventions and recommendations for labor rights and eliminating forced labor, including Convention N<sup>o</sup> 29 ([Convention, 1930](#)) and Convention N<sup>o</sup> 105 ([Convention, 1957](#)).

The 2007 UN Declaration on the Rights of Indigenous Peoples ([Declaration, 2007](#)) is worth mentioning in terms of combating slavery. The Declaration recognizes the rights of indigenous peoples and emphasizes the prohibition of forced labor and slavery in the context of indigenous rights.

Efforts to combat slavery under international law have continued to evolve, with various treaties addressing specific aspects of slavery and related practices and legally non-binding instruments. While significant progress has been made, challenges persist, and addressing contemporary forms of slavery remains a global priority for the international community.

#### 4. Results

As we have already noted, the 1926 Convention (Art. 1) 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” ([Convention, 1926](#)). A similar definition can be found in the Rome Statute of the International Criminal Court. According to Art. 7 “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 ([Rome Statute, 1998](#)).

Several international human rights organizations characterizing modern slavery define its signs and forms. For instance, Walk Free points out that “modern slavery refers to situations of exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception, and/or abuse of power ([Walk Free](#)). UN’s Special Rapporteur on contemporary forms of slavery,

including its causes and consequences (UN`s Working Group on Contemporary Forms of Slavery before 2007) ([Special Rapporteur](#)), International Justice Mission ([IJM](#)), Anti-Slavery International ([Anti-Slavery](#)), and other human rights organizations generally identify specific characteristics of modern slavery: 1) a person and his/her activity are controlled with the help of violence or the threat of violence; 2) a person is forced to be in a specific place, engage in a specific type of activity, and cannot change the situation at his/her own will; 3) a person receives little or no pay for his/her work.

In the legislation of many states, as well as in international legal instruments documents, specific signs of the form of slavery depend on the legal structures aimed at combating it (human trafficking, forced labour, forced marriage, etc.). However, the general concept of slavery has its distinctive characteristics. These, in our opinion, are:

**Control and Ownership.** Slavery involves one person exercising control, ownership, or the right to control another person's life, freedom, and labour. The enslaved individual is often treated as property and lacks autonomy over their choices and actions.

**Deprivation of Freedom.** Slavery involves the complete loss of freedom for the enslaved person. They are subject to coercion, physical confinement, or restrictions on movement, unable to leave or escape their situation.

**Forced Labor or Services.** Enslaved individuals are compelled to work or provide services against their will, often without compensation or under duress. The work is typically exploitative, and the individual has no say in the type or conditions of labor.

**Legal and Social Status.** Slavery deprives individuals of legal rights and recognition as equal members of society. They lack legal protections and are often marginalized or excluded from basic human rights and freedoms.

**Transferability and Inheritance.** In some cases, persons can be bought, sold, inherited, or transferred as property, reinforcing their status as commodities rather than persons.

**Coercion, Threats, and Violence.** Enslaved individuals are subject to coercion, threats, violence, or other forms of intimidation to maintain their subjugation and compliance with their enslavers' demands.

The forms of modern slavery vary in their manifestations and contexts but share the commonality of exploiting vulnerable individuals, denying them basic human rights, and subjecting them to conditions of exploitation, coercion, and control.

Global estimates of modern slavery provided by the International Labour Organisation, Walk Free, and the International Organisation for Migration identify two principal components of modern slavery: forced labour and forced marriage ([Global Estimates, 2022](#)). This approach can be accepted because almost all other forms identified by researchers and human rights organizations fit into these two components. For instance, in determining the most typical forms of modern slavery Anti-Slavery International lists human trafficking (the use of violence, threats or coercion to transport, recruit or harbour people in order to exploit them for purposes such as forced prostitution, labour, criminality, marriage or organ removal); forced labour; debt bondage/bonded labour; descent-based slavery (where people are born into slavery); child slavery (include child trafficking, child soldiers, child marriage and child domestic slavery); forced and early marriage; domestic servitude ([Anti-Slavery](#)). Specialists of the Centre for Human Rights United Nations Office at Geneva classify several human rights violations as “slavery.” They note that in addition to slavery in its traditional sense and the slave trade, these abuses include child trafficking, child prostitution, child pornography, exploitation of child labor, sexual mutilation of girls, use of children in armed conflicts, debt bondage, trafficking in human beings and human organs, exploitation of prostitution and some practices used under apartheid and colonial regimes ([Fact Sheet, 1991](#)). Forced labour exacted by the State is also identified as a specific form of modern slavery. Highlighting such a form, Plant gives examples of “privatized prisons” in industrialized countries, transferring of convicts to private companies for labour exploitation of China's “re-education through labor” system, which, though reformed by law in late 2013, formerly coerced individuals detained under administrative detention to forced work ([Plant, 2014: 12](#)).

Some researchers argue that the concept of modern slavery is “frequently used as a non-legal umbrella term comprising multiple forms of exploitation” ([Scarpa, 2019](#)). However, the contours of the international regime on contemporary forms of slavery remain undefined. As a result, the ambiguity surrounding the definition and limits of this concept has adverse effects on several

crucial aspects. It hampers the coordinated efforts of global governance actors in combating various contemporary forms of exploitation that constitute modern slavery. It impedes the collection of pertinent data and the accurate calculation of meaningful estimates regarding the prevalence and scope of modern slavery. Identifying and establishing priorities for future actions to address and combat modern slavery in its diverse forms is also complicated (Scarpa, 2019).

Even though modern international legal instruments are mainly focused on defining specific forms of slavery and combating them, international judicial institutions consider the general concept of modern slavery important and often state its manifestations in their decisions.

International Court of Justice has recognized that protection from slavery is an *erga omnes* obligation. According to §34 of Judgment in *Barcelona Traction, Light and Power Company, Limited (Belgium v Spain)* “such obligations derive, for example, in contemporary international law, from the outlawing of acts of aggression, and genocide, as also from the principles and rules concerning the basic rights of the human person, including protection from slavery and racial discrimination” (*Barcelona Traction, 1970*).

Considering the scope of “slavery” under Article 4 of ECHR, the European Court of Human Rights (ECtHR) refers to the classic definition of slavery given in the Slavery Convention of 1926, corresponding to the “classical” meaning of slavery as it was practiced for centuries. This definition “required the exercise of a genuine right of ownership and reduction of the status of the individual concerned to an “object” (Siliadin, 2005; M. and Others, 2012). Therefore, according to the ECtHR’s jurisprudence, a sign of slavery is the real right of the ownership exercised over a person and the reduction of his status to the status of a thing. The concept of “servitude” entails an obligation, under coercion, to provide one’s services, and is linked with the concept of “slavery” (Siliadin, 2005; M. and Others, 2012). Based on the statements described above, the Court notes that the state of servitude corresponds to a special type of coercion, compulsory labour or, in other words, forced or compulsory labour “under aggravating circumstances.” It highlights a fundamental difference between a state of slavery and forced or compulsory labour within the meaning of Art. 4 of the ECHR in terms of the suffering of the victim. Being enslaved individual feels that his/her condition is permanent and that the situation is unlikely to change. It is enough that this feeling is based on the above-mentioned objective criteria or was caused or supported by those responsible for the situation (C.N., 2012; Kasko, 2020: 13).

Therefore, the practice of the ECtHR clearly distinguishes slavery in its classical sense, as well as servitude from forced labor, forced marriages, debt bondage, etc. It is also worth paying attention to the fact that in several cases, the Court recognized as the violations of Art. 4 of the ECHR Convention situations when states failed to adequately protect people who became objects of human trafficking, victims of sexual exploitation, or were involved in forced labor (Chowdury, 2017, Rantsev, 2010).

On the other hand, the jurisprudence of International criminal tribunals tends to recognize a broad concept of slavery. Thus, the International Criminal Tribunal for the Former Yugoslavia (ICTY) considered “that the traditional concept of slavery, as defined in the 1926 Slavery Convention ... has evolved to encompass various contemporary forms of slavery which are also based on the exercise of any or all of the powers attaching to the right of ownership. In the case of these various contemporary forms of slavery, the victim is not subject to the exercise of the more extreme rights of ownership associated with “chattel slavery,” but in all cases, as a result of the exercise of any or all of the powers attaching to the right of ownership, there is some destruction of the juridical personality” (Kunarac, 2002). ICTY was the first international court to issue sentences for rape and enslavement as war crimes against humanity.

## 5. Conclusion

The concept of “slavery” has evolved significantly over the centuries. Historically, slavery referred to the ownership and control of individuals as property, often involving forced labor and a denial of basic rights. It was legally recognized and widespread across ancient civilizations and colonial eras. The abolitionist movements of the 18th and 19th centuries challenged and led to the formal abolition of transatlantic slavery in many countries. International legal instruments, like the 1926 Slavery Convention, aimed to prohibit and suppress traditional forms of slavery.

However, the concept of “modern slavery” emerged to address contemporary forms of exploitation that resemble historical slavery but exist in new manifestations. The characteristics of

slavery as a social phenomenon involve the exercising by one person of control and actual possession of another; treating as a property, in some cases transferability and inheritance; deprivation of freedom; forced labor or services; coercion, threats, violence, or other forms of intimidation.

In a legal sense, the main features of modern slavery can be designated: 1) deprivation or significant limitation of legal personality, 2) artificially created, as a rule, with the help of violence or psychological pressure, the inability to exercise human rights at the same level as other members of society; 3) the duration of the state and the inability for the victim to change the situation in principle. In cases where these signs are not observed (for example, when a person realizes that he is being exploited and violated, he can stop this condition but does not do this for economic reasons), other offenses could be identified, but not slavery or servitude in legal terms.

Several complex factors contribute to the existence and perpetuation of slavery. The most critical are inequality, discrimination, and social exclusion; social norms and cultural practices normalizing servitude or exploitation; poverty, lack of economic opportunities; and global demand for cheap labour, goods, and services. Armed conflicts and political instability create environments where exploitation thrives. Displacement and disruption of social structures make populations vulnerable to trafficking and forced labour. Inadequate legal systems or lack of enforcement also allow slavery-like practices to persist.

The task of international law at the present stage is, first of all, the prevention of local and global wars, the termination of armed conflicts that have already arisen, and, apparently, the construction of a new system of international immunity. Only the achievement of this goal can ensure the sustainable development of humanity, which means that slavery in its various manifestations will be eradicated.

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