

A Full Freedom: Contemporary Survivors' Definitions of Slavery

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ABSTRACT

This article examines key debates on the legal definition of slavery from the perspective of survivors. This group has previously not been included in the debates on slavery definitions. By drawing upon new interviews we have conducted with survivors and an analysis of hundreds of historical and contemporary slave narratives, the article resolves this critical oversight. Our analysis maps survivors' ideas onto existing definitions, and we argue that a survivor-informed definition can expand our understanding of the nature of slavery and, therefore, shape antislavery policies and practice.

KEYWORDS: human rights, slavery, survivors, Article 1 Slavery Convention 1926

1. INTRODUCTION

'Give us the freedom intended for us We claim ... full freedom ... We are not free ...'

—Frederick Douglass, 1872

Although slavery and the slave trade are globally prohibited, an estimated 40.3 million people¹ are enslaved today. As awareness of this phenomenon grew since its emergence as a global issue in the late 1990s, the antislavery community—including governments, intergovernmental organisations, non-governmental organisations (NGOs), businesses and courts—adopted the term 'modern slavery' to encompass a host of practices, including trafficking in persons, sexual exploitation, forced labour, bonded labour, domestic servitude, the worst forms of child labour, forced marriage and organ harvesting. Today there remains considerable debate about the formal parameters of slavery, as distinguished from lesser servitudes and 'institutions and practices similar to slavery'.² Yet the major contributions to the debate exclude a key set of people who have their own definitions: survivors of slavery. The legal parameters

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1 See the 2018 Global Estimates of Modern Slavery by the International Labour Organisation and the Walk Free Foundation with the International Organisation of Migration, available at: globalslaveryindex.org [last accessed 11 September 2018].

2 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, adopted 30 April 1956.

of slavery shape all areas of antislavery practice, from estimates of slavery prevalence to decisions on resourcing for survivor recovery, but scholars and practitioners have not integrated testimonies of lived experience into this important definitional debate.

In 2017, we conducted semi-structured interviews with survivors about their own definitions of slavery and freedom. None of the participants were given existing suggestions for legal definition prior to the interviews. Drawing on these interviews with survivors and on a wider analysis of hundreds of historical and contemporary slave narratives, we now bring survivors' perspectives to bear on the definition of slavery. These narrative accounts reveal nuanced concepts of control and freedom and add layers to existing definitions. They also give us the capacity to make the application of law a survivor-informed process. By applying a survivor lens to existing definitions—by assessing the meaning of slavery and evaluating the nature of its control and possession through survivors' self-described experiences—we can refine an operational definition, make empathy and justice a key part of our legal framework, respect survivors as full participants in the antislavery fight and work with survivors to achieve what the nineteenth-century abolitionist Frederick Douglass called a 'full freedom'.

2. SLAVERY DEFINITIONS IN LAW

Clear legal distinctions between slavery, 'practices similar to slavery' and other forms of exploitative treatment allow a preservation of slavery's *jus cogens* nature, a reflection of harm in sentencing and an assessment of government antislavery efficacy. Reflecting the importance of these parameters, the language of relevant legal provisions is often devised purposefully to either close the parameters of interpretation or to create a flexibility within frameworks that reflects the purpose of the legal instrument and allows for interpretation in line with shifting social mores. But even the most carefully constructed legal provision is often unable to capture with precision the parameters of circumstances to which it might apply. Courts must make judgments on the meaning and purpose of definition, and on the particular facts of each case, and in terms of the definition of slavery, do so in the absence of consensus over the benchmarks of 'ownership'. Meanwhile, the media and antislavery organisations rarely make these legal distinctions when trying to raise awareness of slavery—instead employing the word 'slavery' for its advocacy value and reinforcing a traditional separation between social and legal definitions.

At the heart of all ongoing definitional debates is the legal definition of slavery in the 1926 Slavery Convention: 'Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.'³ Where legal ownership of another human being is now prohibited, this is now interpreted to mean *de facto* ownership. However, without the mark of legal ownership, factual ownership is difficult to determine. The debate over how best to apply the 1926 definition in the twenty-first century moved forward in 2008 with the high-profile case of *Tang* (2008).⁴ Here, the High Court of Australia confirmed that the definition of slavery 'turns upon the exercise of power over a person . . . the exercise

3 Article 1 League of Nations, Convention to Suppress the Slave Trade and Slavery, 25 September 1926, 60 LNTS 253; signed at Geneva on 25 September 1926; entered into force on 9 March 1927.

4 *The Queen v Tang* [2008] HCA 39.

of any or all of the powers attaching to the right of ownership.⁵ The Court then made a distinction between slavery and harsh and exploitative treatment, highlighting the need to determine 'the nature and extent of the powers exercised.'⁶ This suggested that any evaluation of particular circumstances should involve an analysis of the substance as well as the form of the relationship, and the Court outlined ways to measure both substance and form when examining a relationship for indications of slavery: slavery, as opposed to other exploitative treatment, is evidenced by 'a capacity to deal with a complainant as a commodity, an object of sale and purchase . . . to use the complainants and their labour in a substantially unrestricted manner, the power to control and restrict their movements and the power to use their services without commensurate compensation.'⁷

A broader approach was taken in 2010 when the European Court of Human Rights addressed the definition of slavery in the case of *Rantsev v Cyprus and Russia*.⁸ Here, the Court determined that human trafficking was based on slavery, the Court stating that 'trafficking in human beings, by its very nature and aim of exploitation, is based on the exercise of powers attaching to the right of ownership.'⁹ The Court went on to conclude that it was 'unnecessary to identify whether the treatment about which the applicant complains constitutes "slavery", "servitude" or "forced and compulsory labour". Instead, the Court concludes that trafficking itself, within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the Convention.'¹⁰ The Court's judgment has been criticised for expanding Article 4, the prohibition of slavery, servitude and forced labour, beyond its textual parameters.¹¹

Two years later, the Bellagio-Harvard Guidelines on the Legal Parameters of Slavery (2012) advanced the definitional debate further. The Guidelines take the 1926 definition of slavery as the exercise of 'the powers attaching to the right of ownership' and explain that ownership should be understood as constituting 'control over a person in such a way as to significantly deprive that person of his or her individual liberty, with the intent of exploitation through the use, management, profit, transfer or disposal of that person.'¹² The Guidelines then equate control with *possession*.¹³ With this definition, 'institutions and practices similar to slavery' can become slavery when they include control extended over a person tantamount to possession: 'such as a person might control a thing . . . control [that] will significantly deprive that person of his or her individual liberty for a period of time which is, for that person, indeterminate.'¹⁴ The Guidelines also identify examples of the powers attaching to ownership: 'Such

5 Ibid. at para 25.

6 Ibid. at para 44.

7 Ibid. at paras 44, 50.

8 Application No 25965/04, Merits, 7 January 2010.

9 Ibid. at para 281.

10 Ibid. at para 282.

11 For a detailed analysis of the problems with the Court's approach to the definition on trafficking and slavery, see Allain, 'Rantsev v Cyprus and Russia: The European Court of Human Rights and Trafficking as Slavery' (2010) 10 *Human Rights Law Review* 546.

12 Members of the Research Network on the Legal Parameters of Slavery, '2012 Bellagio-Harvard Guidelines on the Legal Parameters of Slavery', at Guideline 2, available at: law.qub.ac.uk [last accessed 11 September 2018].

13 Ibid. at Guideline 3.

14 Ibid.

control may be physical, but physical constraints will not always be necessary to the maintenance of effective control over a person. More abstract manifestations of control of a person may be evident in attempts to withhold identity documents; or to otherwise restrict free movement or access to state authorities or legal processes; or equally in attempts to forge a new identity through compelling a new religion, language, place of residence, or forcing marriage.¹⁵ Some examples in the Guidelines of the powers attaching to ownership include buying, selling, transferring and using a person, managing and profiting from the use of a person, transferring a person to an heir or successor and the disposal, mistreatment or neglect of a person.¹⁶

Following the publication of the Guidelines, scholars have used them and the 1926 Convention as a starting point for the on-going refinement and application of a slavery definition. Allain and Hickey, two of the key legal scholars behind the development of the Guidelines, went on to argue that control (tantamount to possession) is evidenced through the buying and selling of individuals, managing and profiting from the use of a person, the transfer of persons and the power to dispose of their property.¹⁷ This then provides for an application of the 1926 definition that connects historical legal ownership with possession of property today. Allain and Hickey also provide an example of a lesser servitude, where an individual's labour is exploited or forced, but an employer does not control other elements of life and so does not have control amounting to possession.¹⁸

In our 2017 interview with Pranus, a 46-year-old Lithuanian man who came to the UK to work, he outlined an experience that reinforces several of the legal debate's consensus points and the distinction between slavery and lesser servitude outlined by Allain and Hickey. On his arrival in the UK, he was met by traffickers and forced into severe labour exploitation in the agricultural sector. His traffickers exercised control over his movements, accommodation and income. They subjected him to violence and the threat of violence and retained a significant proportion of his pay. When he protested, his traffickers denied him further work in order to force compliance. However, the power exercised over Pranus was not absolute, nor was he treated—in the words of the Bellagio-Harvard Guidelines—as if he were 'a thing'. He was not controlled to the point of possession and his experience aligns with Allain and Hickey's example of lesser servitude. Although he relied on his exploiters to provide him with work, accommodation and income, and experienced long working hours, poor living conditions and controlling behaviour, he was ultimately free to leave. He had freedom of movement—to go to the supermarket and other shops unattended—and (with some difficulty) he was able to retain a bank account in his own name.¹⁹ After he and a co-worker were severely beaten for questioning their pay, he went to the police. In our interview, Pranus did not associate his treatment with slavery. When discussing the meaning of slavery, he spoke in the third person:

15 Ibid.

16 Ibid. at Guideline 4.

17 Allain and Hickey, 'Property and the Definition of Slavery' (2012) 61 *International and Comparative Law Quarterly* 915 at 933-5.

18 Ibid. at 933.

19 Ibid.

To hear about slavery in the 21st century, a person is a slave when that person is under the control of other people, when a person is locked up, physically used and when a person gets beaten up sometimes and is sleep deprived. I read such stories in the papers sometimes. Worse situations, worse than mine, have happened to people. There are a lot of examples. When people work for free and others take their money. That's what I think.²⁰

Although for Pranus slavery is something that happens to others and in different circumstances, his definition lays out criteria that are recognisable from the debates of the past decade: control and domination, deprivation of liberty, violence and profiting from the 'use' of a person without commensurate compensation.

Along with Allain and Hickey, another key voice in the definitional debate has been the social scientist Kevin Bales. In 1999, Bales outlined slavery's key dimensions as violence or its threat, loss of control over one's life, obligation to another, lack of free movement and lack of payment. A working definition was people 'held against their will for purposes of exploitation.'²¹ More recently, after the development of the Bellagio-Harvard Guidelines, Bales has expanded on his early definition to discuss the mechanisms and outcomes of control: 'the control of one person (the slave) by another (the slaveholder or slaveholders). This control transfers agency, freedom of movement, access to the body, and labour and its products and benefits, to the slaveholder. The control is supported and exercised through violence and its threat. The aim of this control is primarily economic exploitation, but may include sexual use or psychological benefit.' Bales added: 'At its most fundamental, as a state of being, slavery is about a radical diminution in the exercise of free will; it is a loss of personal liberty.'²²

Finally, a fourth key voice in the definitional debate has been the sociologist Orlando Patterson, who argues for a narrower approach. Joining other scholars to debate the legal definition of slavery in the wake of the Bellagio-Harvard Guidelines, Patterson built upon his 1982 definition (the 'permanent, violent domination of natively alienated and generally dishonoured persons') to define slavery as 'the violent, corporeal possession of socially isolated and parasitically degraded persons'. This corporeal possession is based on the 'exercise or threat of physical violence characterised, first by the absolute power (in practice) of the master over his slave, the latter becoming merely an extension of the will and household of the former, the deracination and socio-cultural isolation of the slave (natal alienation) and the absolute degradation of the attached to slave status—a lack of dignity and respect'.²³ The criteria of socio-cultural isolation and natal alienation provide a narrower interpretation of 'possession' than suggested by Allain, Hickey and Bales.

While these scholars differ, they do reach consensus on some fundamentals for identifying slavery: the exercise of significant control by the slaveholder so as to hold

20 Pranus, as told to Andrea Nicholson, 20 January 2017 (on file with authors). Our thanks to Migrant Legal Action for their assistance.

21 Bales, *Disposable People: New Slavery in the Global Economy* (1999) at 19-20.

22 Bales, 'Professor Kevin Bales's Response to Professor Orlando Patterson' in Allain, *supra* n 12 at 371.

23 Patterson, *Slavery and Social Death: A Comparative Study* (1982) at 13; Patterson, 'Trafficking, Gender and Slavery: Past and Present' in Allain (ed.), *The Legal Understanding of Slavery: From the Historical to the Contemporary* (2012) 329.

power over the individual, the loss of personal liberty and the exploitation, use, transfer or sale of another person. But even the points of consensus between Allain, Bales, Hickey and Patterson have not produced an accepted working definition that reflects slavery as a continuum. Lawyers, policy-makers and antislavery practitioners continue to debate the factors that accurately indicate enslavement, how to distinguish between practices and the requisite level of ownership. At the same time, scholarly attempts to chart continuities of slavery have struggled to navigate the gaps between legal and factual slavery. Legal slavery of the past may not have been what we would consider *de facto* slavery today. We therefore also lack an accepted working definition that acknowledges slavery's historical continuities.

3. SLAVERY DEFINITIONS IN HISTORICAL SLAVE NARRATIVES

Testing these ideas of the past decade's legal debate against survivors' own ideas, we can identify a survivor-centred definition in the narratives of ex-slaves, past and present. For example, the leading African-American abolitionist and former slave Frederick Douglass repeatedly offered a clear definition of slavery as 'the granting of that power by which one man exercises and enforces a right of property in the body and soul of another.'²⁴ This was his lecture circuit definition—a sentence near the beginning of his public talks to anchor the speech's antislavery arguments. But he also used autobiographical narrative to add definitional layers that suggest *how* to recognise an exercise of the 'right of property' in practice.

Key to Douglass' definition was the denial of access to temporality—specifically future time. His famous *Narrative* of 1845 describes slavery as a state where he could 'lay out no plans for the future' and had to achieve 'complete thoughtlessness of the future.'²⁵ He returned to this theme of denied futurity in his second autobiography, *My Bondage and My Freedom* (1855), where he observes the denial of 'progress' to the slave, who has no 'future':

The thought of only being a creature of the present and the past, troubled me, and I longed to have a future—a future with hope in it. To be shut up entirely to the past and present, is abhorrent to the human mind; it is to the soul—whose life and happiness is unceasing progress—what the prison is to the body; a blight and mildew, a hell of horrors.²⁶

If slavery is a denial of temporal movement, it is also a denial of spatial movement. Douglass explains that while freemen might 'contemplate a life in the far west, or in some distant country', the 'slave is a fixture; he has no choice, no goal, no destination; but is pegged down to a single spot, and must take root here, or nowhere.'²⁷ As slaves have no future in time, so they have no spatial destination. Instead, the slaveholder controls all space through surveillance: 'He was under every tree, behind every stump, in every

24 Douglass, 'American Slavery, American Religion, and the Free Church of Scotland: An Address Delivered in London, England, on May 22, 1846' in Blassingame et al. (eds), *The Frederick Douglass Papers: Series One—Speeches, Debates, and Interviews Vol. 1* (1979) 269.

25 Douglass, *Narrative of the Life of Frederick Douglass, an American Slave* (1845) at 103.

26 Douglass, *My Bondage and My Freedom. Part I. Life as a Slave. Part II. Life as a Freeman* (1855) at 273.

27 *Ibid.* at 177, 176.

bush, and at every window, on the plantation.²⁸ Exiting human time, the slave also exits human space—he is 'a man going into the tomb . . . buried out of sight' in 'a stone prison.'²⁹

Along with Douglass, the former slave Harriet Jacobs gave nineteenth-century abolitionism its most extensive survivor definition of slavery. Again, the definition revolved around the slave's lack of access to time and space. Her autobiography *Incidents in the Life of a Slave Girl* (1861) has at its centre a tiny garret space in which the narrator hides for seven years after escaping from her master. Jacobs makes the garret space a symbol of the slave's social space, describing it as 'living grave' and a 'dismal hole', and slavery itself as being beyond 'the pale of human beings', with shadows that 'are too dense for light to penetrate', a 'cage of obscene birds' and a 'black pit'.³⁰ Like Douglass, Jacobs also defined slavery as a specific relationship with time as well as space. Part of slavery's imprisonment is a lack of access to the future. Slaves do not 'know what a year may bring forth', just that anything might 'at any moment be wrenched away'.³¹ Their only certainty is that there is 'no prospect of being able to lead a better life'.³² A state of no-time as well as no-space, slavery combines the liminal times of dusk and dawn: it means 'the very dawn of life is darkened by these shadows'.³³ The garret's symbolic space therefore embodies this disruption of time's passage: 'Morning came. I knew it only by the noises I heard; for in my small den day and night were all the same.'³⁴ Jacobs juxtaposes her wait in the garret space with descriptions of temporal suspension: multiple moments when the 'suspense was dreadful'.³⁵

Douglass and Jacobs, authors of the two most celebrated nineteenth-century slave narratives, offered a definition of slavery as the eternal present—a space of no-time. Slavery is suspended time where the future is inaccessible, and human beings cannot hope or plan because they cannot decide or act. And slavery's no-time, without the expectation of progress and change, is also a no-space: it is fixity, a site without destination. These definitions were important to how Douglass and other nineteenth-century abolitionist leaders campaigned against slavery. For example, Douglass' understanding of American slavery as temporal and spatial fixity underpinned his support for the radical abolitionist John Brown's 'Provisional Constitution' and attempt to arm slaves for a widespread uprising in 1859: his call for black men to enlist as soldiers during the Civil War in 1863 and his demand that African-Americans receive voting rights in the wake of Emancipation and slavery's legal end, all accompanied by speeches and writings that explained the importance of African Americans creating their own future in these ways—*via* insurrection, participation in armed conflict and full citizenship. An effective national post-emancipation plan would also have taken up the slavery definitions of nineteenth-century slave narratives to shape a freedom around access to future time and free space: land ownership for former slaves, not peonage; an expansion of the educational reach of the Freedman's Bureau; a government agency established to

28 Douglass, *supra* n 21 at 61.

29 Douglass, *supra* n 22 at 177, 301.

30 Jacobs, *Incidents in the Life of a Slave Girl* (1861) at 58, 81, 223-4, 245, 289.

31 *Ibid.* at 93, 58.

32 *Ibid.* at 117.

33 *Ibid.* at 45.

34 *Ibid.* at 173.

35 *Ibid.* at 165.

help former slaves after Emancipation; and the prevention of the new 'Black Codes', laws passed by former slave-holding states after Emancipation to restrict the civil rights and free movement of former slaves. In other words, as one country abolished slavery by Douglass' lecture circuit definition—removing the legal 'power by which one man exercises and enforces a right of property in the body and soul of another'—survivor testimony could have helped to guide what Douglass was still demanding in 1872, seven years after the end of the Civil War and of the country's legal slavery. Surveying conditions for former slaves and observing that 'we are not free', Douglass called again for 'full freedom.'³⁶

4. SLAVERY DEFINITIONS IN CONTEMPORARY SLAVE NARRATIVES

Many contemporary slave narratives express the Douglass' and Jacobs' definition of slavery as a futureless state. Telling their autobiographical accounts of enslavement in its immediate aftermath, dozens of narratives explore the difficulty of projecting forward after slavery—of moving past the slave's static self: 'I don't know what my future will be . . . When others discuss the future I run away . . . My mind I feel is frozen', observes Sabitha-Jayanthi. Abirami notes:

I know I should think of living but there is a feeling that death is hanging over my head . . . Whatever I aspire for or need . . . I won't get . . . I don't want to think of my future. I don't want to dream of anything. For anything at all, as I won't get anything . . . How will my future be?³⁷

But slavery as stasis is just one of the many nuanced understandings of slavery laid out by contemporary narratives. Some of those understandings echo the ideas of nineteenth-century antislavery: lack of futurity, but also Douglass' idea that slavery was being 'deprived of myself—of my own body, soul, and spirit',³⁸ and Brown's definition of slavery as a war waged by slaveholders upon slaves.³⁹ Other definitions in contemporary narratives echo the ideas of the past decade's legal debates, including the ideas of Allain, Bales, Patterson and the Bellagio-Harvard Guidelines. Based on our interviews and our survey of historical and contemporary narratives, the experiences of many contemporary survivors of slavery would fit within these definitional consensus points of the past decade's legal debates.

Many also meet Patterson's narrower definition of socio-cultural isolation and absolute degradation. In numerous narratives, individuals describe degradation to the point of dehumanisation. They sleep on floors, in outbuildings or cattle pens or tied outside on the ground. Many eat leftover food and only when it is available and receive

36 Douglass, 'Give us the Freedom Intended for Us' *The New National Era*, 5 December 1872.

37 Sabitha-Jayanthi (2002) and Abirami (2002), Contemporary Narratives Collection, *The Antislavery Usable Past*, available at: antislavery.ac.uk/narratives [last accessed 8 September 2018].

38 Douglass, 'I Am Here to Spread Light on American Slavery: An Address Delivered in Cork, Ireland on 14 October 1845' in Blassingame et al., *supra* n 24 at 39-40.

39 See also Brown, 'Whereas slavery, throughout its entire existence in the United States, is none other than a most barbarous, unprovoked, and unjustifiable war of one portion of its citizens upon another portion' in 'Provisional Constitution and Ordinances for the people of the United States, May 8, 1858' in Stauffer and Trodd (eds), *The Tribunal: Responses to John Brown and the Harpers Ferry Raid* (2012) at 31-2.

no care for their well-being. They are treated like outsiders or animals, feel owned, recount stories of exchange, purchase and sale and describe their transition into slavery as one of becoming an object. For example, Lajeunesse was repeatedly told that she 'was just an animal without any family'.⁴⁰ Iliona recalls the transformation of women into 'senseless objects'.⁴¹ Battis emphasises his transformation from human to thing—a 'product': 'The broker gave 1,000 rupees [\$20] to my father and took me with him as a product in his carry bag.'⁴² In our interview with Tung, he recounted the genital mutilation he suffered as an attempt to 'make him like a sex toy'.⁴³

However, some also go beyond the definitional points of the past decade's legal debate to offer new layers of definition for slavery. Aged four, Jean-Robert Cadet was 'given' to a family as a *restavec*, a child domestic slave, after his mother died. For 10 years, he served a number of families, being 'treated like the lowest of the low'.⁴⁴ He identifies the ease with which *restavec* children are used and mistreated, but in particular reveals the complete disregard for his well-being and the impact of social exclusion:

Any of you sitting here at this very moment can go to Haiti and ask for a child to live with you. All you need to do is find a family with too many mouths to feed and promise that you will send the child to school and she is yours. You can treat her the same way slaves were treated under the French colonists. You do not have to make her part of your family, learn her name, send her to school, provide her with health care, buy her clothes, give her affection, or treat her like a human being. You can make her sleep outside, torture her to death . . .

One of the worst forms of abuse facing Haiti's slave children is exclusion. Slave children set tables for meals in which they cannot partake, fetch water that they cannot use for their own needs, are denied medical care when they are struck by illness, are forbidden to speak until spoken to, and stay outside when adults are inside. While these slave children are forced to be invisible, they must remain within reach of their master's voice. Otherwise, severe doses of physical punishment will ensue without mercy . . .

This daily exclusion from any community or family often leaves no visible scars, but their trauma lasts a lifetime . . . Since their most basic rights—to a family's love and protection, health care, and education—are denied, *restavecs* are invisible children, observers instead of participants in their own society.⁴⁵

Cadet had no physical security, was malnourished and his comfort, health and educational needs were irrelevant. The inferiority of his status was further asserted in the way he was demeaned: his 'family' showing a complete lack of regard for his name and, by extension, his identity. He was 'invisible' and othered, an observer rather

40 Murphy (ed.), *Survivors of Slavery: Modern-Day Slave Narratives* (2014) at 63.

41 Bales and Trodd (eds), *To Plead Our Own Cause: Personal Stories by Today's Slaves* (2008) at 126.

42 Ibid. at 79.

43 Tung, as told to Andrea Nicholson, 9 February 2017 (on file with authors). Our thanks to Palm Cove Society for their assistance.

44 Cadet, *My Stone of Hope: From Haitian Slave Child to Abolitionist* (2011) at 25.

45 Bales and Trodd (eds), *To Plead Our Own Cause: Personal Stories by Today's Slaves* (2008) at 201-2.

than a participant in society, with no identity beyond that of a *restavec*, and 'deprived of himself' with no futurity. In Patterson's words, he was 'socially isolated' and 'parasitically degraded'. This exclusion and spectrality recurs in dozens of contemporary slave narratives. Christine Stark describes herself as 'silent' and 'numb'.⁴⁶ Elena notes that she was treated 'as if I were a nothing',⁴⁷ and Mende Nazer that 'I was a non-person. I didn't really exist.'⁴⁸

The idea of slavery as spectralisation, or non-existence, has full expression in our interview with Dwain, a former child slave from Niger. His single mother suffered severe mental illness, and he was immediately 'adopted' by relatives on birth. As soon as he was old enough, he was used as a houseboy. He was not treated as a member of the family, and was made to feel dirty, illegitimate, lesser and in his own words, 'discarded'. Dwain was exploited, malnourished, humiliated, abused and trafficked to work for relatives in France, Italy and the UK. Eventually, a neighbour witnessed his mistreatment and alerted the authorities. Defining 'slavery', Dwain stated:

[Slavery is] removing someone's autonomy. Their way of thinking, their freedom to act out on their impulses, on their whim. In fear of challenging your master I suppose; his commands or wishes. He doesn't want you to be able to express yourself or be opinionated or to say anything. You're meant to be seen and not heard. Which is exactly what I was. Its utilising your power but not to your advantage; to theirs.

...

My strength has been built up for somebody else. 'Cause as I say you don't usually get a weak slave, you know? He or she's no good for you if, you know, you want a strong one who can lift things, who's durable, energy levels always high and if anything, presentable to the eye. You don't want one that you've beaten up last week and it's still there. You want one that can heal quickly without any less performance rate if that makes sense. Because you're almost treated like a vehicle, like a car or something, well, a possession. You're somebody's possession. So the word guardian or responsibility is far from possession, it's almost three different words, but they are actually possession. So basically, whatever you think you want to do, you simply won't be able to do it unless it's at the request of the master. So you're a shadow of yourself basically.

There were so many times when I was in that regime, I'd look at myself outside of myself, and think God I'd be cross with asking that boy to do that much, so why aren't they? And there'd be sometimes I'd just collapse through general fatigue and crawl into my room, and one of the uncles would say: "What are you doing?" And I would say sorry I'm just resting. "Well get up, my mum needs this, he needs that, yeah, I know get up and do it." Because as he's asking me, it's not

46 Ibid. at 101.

47 Murphy (ed.), supra n 35 at 109.

48 Nazer and Lewis, *Slave: The True Story of a Girl's Lost Childhood and Her Fight for Survival* (2004) at 293. See also Ward, 'Servitude and Slave Narratives: Tracing "New Slaverys" in Mende Nazer's *Slave* and Zadie Smith's "The Embassy of Cambodia"' (2016) 31 *Wasafiri* 42 at 45.

really asking me it's like, "Nah mate, you're not resting yet. I've just come in and I need to be tended to", you know. And the amount of times you'd hear: "Well what's that boy doing?" or "Are you hungry? Well tell that boy to cook it". And you can hear, you know, whom they're referring to, which is sad. There's no identity, you don't really belong to anybody, but you're someone's possession. If you belong to someone I'd like to think, like I'd treat my trainers [running shoes]—if I had a new pair of trainers and I went out one day and it was a muddy terrain, I'd come back and clean them. Because I love them and they're mine. But that never happened with me. Never. I almost thought I was a disgusting thing anyway . . .

...

You're lucky that every 24 hours that you've put under your belt you ain't dead. So that's what I class slavery as. If you can get through a day without being discharged, which means anything, then you've been alright. That's what slavery is . . . [M]ost definitely it's just taking away your autonomy or your freedom to do as you please. Your will, your free will. It's not yours at all. And if it is, it's only at certain periods of time; when master's asleep, or when master's gone off to see some other concubine or something like that . . .

...

[Y]ou see there's nothing there that's your choice and if I understand the word exploitation in itself then that's definitely not your choice either. And just for the merit of the fact that your choice has been taken away from you would, would class that to me as exploitation, or abuse, or lack of options, or whatever you wanna call it. But then of course you've got slavery, which is exactly the same thing.⁴⁹

Dwain confirms the elements of a slavery definition on which there is consensus. But he also goes beyond the exercise of power *over* him to discuss slavery as the use of *his* power. By assuming that power for their own purpose, slaveholders diminished his ability to have influence and authority, to create change and to be independent. Slavery denied intentionality, his sense of agency and his ability to self-realise. He was 'deprived' of himself—of his body, soul and spirit: his strength became another's strength.

Dwain's descriptions of slavery as a state of lacking choice and being treated as a possession underpin his statement that slavery is the destruction of identity. He had no identity other than that of a slave, he did not belong to anyone in the sense that he is unloved and uncared for and he meant nothing to his 'family' other than as a possession to be used. Earlier in his narrative, he refers to the slave as 'it'—a thing, not a person—and to himself as 'that boy'. He is not loved, he is objectified as a 'disgusting thing' and there is no regard for his physical or mental health. His expectation and acceptance of his potential death, where he felt 'lucky' to get through the day without dying or being 'discharged' and knew that life can be 'wrenched away', underscores the denial of access to temporality that recurs in both historical and contemporary slave narratives.

49 Dwain, interview with Andrea Nicholson, 3 November 2017 (on file with authors).

Definitions of freedom can also reveal the characteristics of slavery. Survivor narratives indicate that understanding and defining slavery often requires understanding slavery *in relationship to freedom*. There is little scholarship on the meaning of freedom for survivors of slavery. But survivors' experiences of freedom form one final route towards a survivor-informed definition of slavery. Defining freedom, Dwain said:

D: In a simplistic way then [freedom is] just to be able to travel you know, er, if you go to that travel agency and say can I get a flight to Tenerife please and the following week I'm there. That would be freedom to me. I've been stuck in your country for this long . . . [Dwain then discusses his struggles with the regularisation of his immigration status and to gain a passport, as his birth was not registered, nor does he have his parents' birth certificates].

Interviewer: So really you're identifying the ability to travel, which is linked to them giving you a passport, as symbolic of a lot more.

D: Oh yes, it is . . . You've read it. It really is. It's so symbolic that I would probably keel over and cry in front of anybody because what that's shown me is finally what I've strived for forever, which is acceptance. I didn't choose to be this way it's just what happened. What I've tried to do is live with the Achilles heel that I have, if it is that. But because I'm living with it why can't anybody just respect that and work with me on it rather than against me or like . . . you know people like me are treated like criminals.

How can I be a criminal? I didn't choose this; I didn't choose to come into a country I didn't even know I was coming into illegally. So, because of that, why am I still being punished?

So it [freedom] would take a lot, it would wind me probably, it would take all the wind out of me but positively. Because then the new wind that would come would be a positive energy, a more vibrant optimistic, looking forward to the futures you know, because I feel like I can make a difference in my future now rather than sleeping on it But I'm now limited to what I can do, if I don't sleep on it what do you want me to do? Scream on it? Because if I scream on it I'll get put inside some prison or mental institution. I'm trying to keep my sanity so that when the good times do come I can actually recognise it as good times.⁵⁰

Ultimately, for Dwain, freedom is not just the ability to travel, with the choice that travel implies. The things that would *enable* travel, namely confirmation of citizenship and a passport, mean something more profound to him: acceptance as a 'legitimate' person. To be acknowledged by society and to integrate with it fully is to gain approval as a free human being. Slavery, then, is the converse of acceptance. It is the rejection of his value to society and his own identity within it. Echoing the definitions by nineteenth-century narrators, were Dwain to realise Douglass' 'full freedom,' he would

50 Ibid.

move beyond his current situation of stasis—'only being', 'sleeping on it'—and have the capacity to envisage and enact multiple futures.

In 2017, we also interviewed Tung, a young Vietnamese man who was trafficked, exploited and enslaved in the UK. Like Dwain, Tung identified definitional nuances for slavery that go beyond the Bellagio-Harvard Guidelines and the suggestions of scholars. And like Dwain, Tung's definition includes attention to the meaning of freedom. At the age of fifteen years, Tung believed he was being sent from his village to the UK to reunite with his father. He was excited and happy, not knowing that his parents had incurred considerable debt. He was brought to the UK *via* Russia and the French migrant camps. On arrival, he was taken to work in a Chinese takeaway. He was made to work up to 19 hours a day without breaks or pay, sleeping on the floor of a small storage room behind the kitchen with several others. He was allowed out once a week, accompanied, to buy basic provisions. Over a period of six years, he was trafficked within the UK and forced to manage cannabis farms. Eventually, he was forced into sexual slavery, suffering genital mutilation and severe impacts on his health. Discussing the meaning of slavery *and* freedom, Tung explained:

Right now I do think that I am like a slave, I was a slave. However I didn't think so up to the point where I got into the detention centre. I just thought what I had to do, I had to go through it, because my mum and dad owed the big debt and I thought I had to work to pay off the debt. I didn't know about the definition of slavery or the word slave. It was only brought to me on the first interview by somebody from the Home Office. The lady who came and asked me lots of questions, after I answered the questions she stopped the interview and she explained to me that I may be the victim of human traffickers and what I had to go through was like human slavery. So that lady helped me to fill in the forms for asylum, and it was then I was more aware of what I had been through . . .

To me, slave probably means being someone that had to do something that they are made to do without knowing the purpose of the action or being someone who had to do something under some kind of threat, or doing something without being paid or for any kind of reward for that . . .

Freedom is not being arrested, not being kept in any way. Freedom to me is being allowed to do what I want to do or I am allowed to have human rights, basic human rights, like being able to go to school, and freedom to me means I have got a private life, I can do what I want as long as it isn't illegal and I can do what I want without being watched.⁵¹

The first definitional marker for slavery in Tung's narrative is life without purpose. The slave experiences a disconnection between choice and action, for actions are at the will of the slaveholder and have no purpose or meaning to the enslaved. He is aimless and motiveless. The second measure of slavery for Tung revolves around his understanding of freedom. Freedom means a private life—a life without being watched.

51 Tung, *supra* n 38.

Conversely, slavery is a denial of privacy. Like the idea of action without meaningful purpose, the denial of a right to privacy suggests a level of control: the denial of agency within one's own life. To the Bellagio-Harvard Guidelines' illustrations of 'control over a person by another such as a person might control a thing'—the withholding of identity documents, the restriction of free movement and attempts to forge a new identity through force—Tung adds the denial of privacy and the severing of a clear connection between purpose and action.

5. THE IMPLICATIONS OF A SURVIVOR-INFORMED DEFINITION OF SLAVERY

Writing in 2014, one of this article's co-authors, Dang, noted the limitations of current slavery definitions:

As a survivor of human trafficking and slavery, I am most concerned that the way we think about the problem will be in the best interest of the victims and survivors. Currently, I don't think this is the case There is currently no victim-centred definition of human trafficking or slavery. The definitions fail to sufficiently describe the condition of the person experiencing the criminal act(s) done to them Human trafficking and slavery are fundamentally problems because they cause harm. Thus, the definition needs to convey the social and interpersonal impact.

Dang then offered this victim-centred definition:

Slavery is a social phenomenon existing on the far end of a continuum of oppression, where human beings completely dominate and exploit other human beings and this domination results in physical, psychological, and interpersonal trauma; financial and social instability and inequities; and dilution of the fundamental principles of democracy.⁵²

Dang's survivor-informed definition points to the importance of defining slavery through attention to its *impact* or harm. So too do the contemporary narratives we have gathered and analysed. The slavery definitions in these survivor narratives validate the emerging consensus in recent scholarly debates on definition, including a lack of social acceptance, where the enslaved exist beyond society's structures and systems. But they also reveal at least five new criteria for the operation of a slavery definition: (1) *stasis*, the denial of temporal and spatial movement so that the enslaved experience a lack of access to the future; (2) *spectralisation* or *destruction of identity*, due to objectification, dehumanisation and othering; (3) *lack of purpose*, where actions lose their meaning; (4) *denial of privacy*, with the corresponding loss of agency and dignity; and (5) a *disregard for well-being*. What ties all these definitional layers together is their shared

52 Dang, 'Language Matters: Defining Human Trafficking and Slavery' *End Slavery Now*, Blog, 2 October 2014, available at: endslaverynow.org/blog/articles/language-matters-defining-human-trafficking-and-slavery [last accessed 11 September 2018].

starting-point: slavery's consequences, rather than the slaveholder's intent. Current definitions of slavery emphasise the function or purpose of control for slaveholders and are therefore primarily framed from the perspective of the perpetrator. This means that government bodies and non-governmental organisations (NGOs) currently organise antislavery efforts around a perpetrator-centred definition. Survivors instead emphasise the *impact* of control.

These five definitional layers, and their invitation to understand slavery's meaning and nature from the survivor perspective of slavery's *impact* rather than its *intent*, have implications for a key area of antislavery policy: post-slavery support. Current legal definitions provide guidelines for law enforcement to detect slavery and respond to it as a crime. Interventions are aimed at criminal justice rather than social justice and survivor restoration. But Tung, for example, was almost dismissive about the fact that his traffickers had not been caught and prosecuted. Throughout the interview, this was not his concern or an expressed need in terms of his view of justice. Instead, Tung's perception of justice revolved around the post-enslavement support available to him (housing, food, dignity, asylum and legal representation). He also spoke of the shame and fear that he experienced until he was able to compare his experiences with others held in a detention centre. Those feelings diminished when he told his story, he explained. This perception of justice as rooted outside of the legal system—in support that involves a context for telling one's story—recurs across several contemporary narratives. Tung's narrative and the stories of others are a call for therapeutic justice: a justice model where legal processes act as social agents geared to enhancing psychological well-being.⁵³

At the same time, our interviews and analysis reveal that while many survivors do not see prosecution as central to their own sense of justice, they do nonetheless care deeply about how their experiences are assessed and labelled by courts. A court statement that slavery occurred can create feelings of shame but can also be validating as a formal acknowledgement of their mistreatment and their entitlement to rights. The definition validates that an experience has been harmful. It means they are no longer spectralised, but present in the world and its systems, and it asks the State to take responsibility. It also opens access to a survivor community where experiences, choices and actions have a shared context. In fact, survivors' expressed need in their narratives to label their experiences *as* slavery suggests that our ability to agree and apply a survivor-informed slavery definition would have a therapeutic benefit.⁵⁴ A survivor-informed slavery definition would encompass the psychological impact of enslavement, allowing legal definitions to delineate that harm and encouraging service-providers to focus on what survivors *themselves* suggest in their narratives should be the key post-enslavement

53 See Wexler and Winick, *Law in a Therapeutic Key: Developments in Therapeutic Jurisprudence* (1996).

54 We have also documented significant survivor frustration with other individuals who identify their experience as slavery but whose experiences fall outside of the slavery definition of 'powers attaching to the right of ownership' (instead embodying 'practices similar to slavery'). Survivors explain they have felt insulted when individuals use the word 'slavery' to label circumstances and harm that appear 'less' than slavery. A survivor-informed slavery definition does not therefore mean an all-encompassing definition that collapses the distinction between slavery and 'practices similar to slavery' (or what the Bellagio-Harvard Guidelines term 'lesser servitudes').

concerns: enabling survivors to get on with their lives, adjust to freedom and—in some cases—supporting their work as survivor-leaders to prevent the enslavement of others.

In fact, the definitions of survivors contain a potential blueprint for that recovery process, because in defining slavery through its consequences, they suggest that freedom has the inverse effect. For example, if Tung's definition of slavery is loss of purpose and his definition of freedom includes a right to a private life, then a 'full freedom'—in Douglass' words—would enable the survivor to achieve purpose and privacy after enslavement. Other survivor narratives describe slavery's impact as feelings of shame, a loss of a sense of common humanity and a sense of stunted growth. Trauma recovery could therefore focus on processes of accepting victimhood and innocence (in response to shame), building community (in response to a loss of a sense of common humanity) and developing a new identity and purpose that incorporates the experiences of slavery (in response to a sense of stunted growth). As we have learned from survivor narratives, freedom and slavery must be understood in relationship to each other. Work by and with survivors to reclaim their identity may therefore need to avoid denying or compartmentalising the experiences of slavery.

By taking a survivor-informed approach to defining slavery, we may even be able to map survivor definitions of slavery—and their blueprint for recovery—onto mental health concepts of well-being. Ryff outlines the six dimensions of well-being as self-acceptance, personal growth, autonomy, purpose in life, positive relationships and environmental mastery.⁵⁵ Our analysis of narratives suggests that these six dimensions are recurring themes: their loss is a consequence of slavery, and their restoration is a focus for survivors after enslavement. Well-being is likely to be a key element of survivors' experiences of freedom, just as denial of well-being is a survivor-informed slavery definitional layer. By delineating how survivors define well-being in freedom, we can answer the inverse question of which slavery experiences have the most impact on a survivor's well-being.

In so doing, we can better identify not only the central indicators of what the Bellagio-Harvard Guidelines term 'control over a person by another such as a person might control a thing' but also a blueprint for survivor recovery. In 2015, the international community committed to trying to end slavery by 2030, as part of the United Nations Sustainable Development Goals (SDG 8.7).⁵⁶ By putting survivor perspectives, definitional ideas and policy suggestions at the centre of their work, the thousands of contemporary organisations working to end global slavery could create a survivor-informed antislavery movement—one that understands slavery through its impact not its intent, and so target the liberation of 40 million people towards, at last, Douglass' 'full freedom'.

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55 Ryff, 'Psychological well-being in adult life' (1995) 4 *Current Directions in Psychological Science* 99.

56 Available at: un.org/sustainabledevelopment [last accessed 11 September 2018].