
**CHAINS OF DECEPTION: HOW CHANGING
CULTURAL PERSPECTIVES COULD INCREASE
PROSECUTION OF MODERN DAY SLAVERY IN THE
UNITED STATES**

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INTRODUCTION

In the United States the word “slavery” instantly brings to mind images of the Antebellum South.¹ Images of African-American slaves bent over cotton plants, toiling away under a blazing-hot sun and the unrelenting whip of a plantation overseer, confined to their work by chains and the knowledge that attempts to flee would most likely end in failure as the master’s bloodhounds would inevitably track them down.² Because this type of slavery was such an integral part of early American history, these images have endured and become prevalent to the point that often times the average U.S. citizen cannot imagine that slavery may exist in other forms or that it can exist in today’s society.³ In fact, institutions have often times tried to lessen the horrific nature of this type of slavery, by diminishing reality in favor of a more neutral narrative.⁴ For political reasons, the American education system has promoted these outdated ideas of what constitutes slavery to the detriment of public knowledge and understanding of the power dynamics that actually constitute slavery.⁵ As a result, “the public is ‘largely unaware that crimes resembling slavery take place in America.’”⁶

Though the Thirteenth Amendment abolished slavery in 1865,

1. Josephus Holtzclaw, *Picking Cotton Near Montgomery, Alabama*, LIBR. OF CONG. PRINTS & PHOTOGRAPHS ONLINE CATALOGUE, <http://www.loc.gov/pictures/resource/stereo.1s02973/> (last visited Jan. 6, 2016).

2. *Id.*

3. When looking up “American Slavery” on Wikipedia—a source used by most Americans to find general information—the page states that if you are looking for information on modern slavery, you must click a link to be transferred to the page called “Human trafficking in the United States.” See *Slavery in the United States*, WIKIPEDIA, https://en.wikipedia.org/wiki/Slavery_in_the_United_States (last visited Jan. 6, 2016); *Human Trafficking in the United States*, WIKIPEDIA, https://en.wikipedia.org/wiki/Human_trafficking_in_the_United_States (last visited Jan. 6, 2016). This suggests that “human chattel slavery” of the eighteenth and nineteenth centuries is what people think of when they think of slavery in America. It also suggests that slavery in its modern forms is seen as either nonexistent, or tied up under the umbrella of human trafficking, which is technically a lesser crime under penal codes.

4. See, e.g., Trymaine Lee, *Tea Party Groups in Tennessee Demand Textbooks Overlook U.S. Founder’s Slave Owning History*, HUFFINGTON POST (Jan. 23, 2012), http://www.huffingtonpost.com/2012/01/23/tea-party-tennessee-textbooks-slavery_n_1224157.html.

5. See, e.g., *id.*

6. Sophie Kleeman, *Modern-Day Slavery Still Exists—And It’s Thriving Across America*, MIC.COM (Oct. 23, 2014), <http://mic.com/articles/102076/modern-day-slavery-still-exists-and-it-s-thriving-across-america> (citing COLLEEN OWENS ET AL., URBAN INST. JUSTICE POLICY CTR., NORTHEASTERN UNIV., UNDERSTANDING THE ORGANIZATION, OPERATION, AND VICTIMIZATION PROCESS OF LABOR TRAFFICKING IN THE UNITED STATES XVII (2014)).

slavery continues to exist in the United States today.⁷ Out of 29.8 million slaves around the world, 60,000 of them live in the United States.⁸ Slavery today usually takes different forms than the images from the average history textbook.⁹ Shackles and dogs are not necessary to strip slaves of their autonomy.¹⁰ Instead, captors take their victims' passports and other documentation or "threaten them or their families with violence."¹¹ The captors also threaten victims with deportation or with contacting the police if the victims do anything to try and break free of their bondage.¹² A person may appear to be walking alone in public and seemingly able to contact help, but in reality the victim is unable to engage in self-help, due to the coercion caused by these methods.¹³ They are, by legal definition, slaves.¹⁴

Once stripped of their autonomy, slaves are often forced to work as prostitutes, other types of sex service workers, or mail order brides.¹⁵ They may be forced to work as domestic servants or in sweatshops or factories.¹⁶ Additionally, they can be found in restaurants and hotels,

7. *Slavery*, BLACK'S LAW DICTIONARY (10th ed. 2014).

8. Max Fisher, *This Map Shows Where the World's 30 Million Slaves Live. There Are 60,000 in the U.S.*, WASH. POST (Oct. 17, 2013), <http://www.washingtonpost.com/blogs/worldviews/wp/2013/10/17/this-map-shows-where-the-worlds-30-million-slaves-live-there-are-60000-in-the-u-s/> (citing HOPE FOR CHILDREN ORG., THE GLOBAL SLAVERY INDEX 19 (2014)).

9. Jennifer Turner, *U.S. Admits Modern-Day Slavery Exists at Home*, ACLU (Jun. 24, 2014), <https://www.aclu.org/blog/human-rights-immigrants-rights-womens-rights/us-admits-modern-day-slavery-exists-home> (where slavery took the form of working for a U.S. federal contractor).

10. *See id.* In this case, a young man left his home in Nepal, induced by a promise to work in Jordan for a hotel. *Id.* After arrival, his passport was seized and he was forcibly transported to Iraq, where he was to work as a slave for a U.S. government contractor called Daoud & Partners. *Id.* Taking passports and using documentation as a way to exert control over a person has become a common way of stripping a person of their autonomy and forcing them into slavery. *Id.*

11. Kleeman, *supra* note 6.

12. *Id.* Because of the power dynamics between police and citizens in other countries—where police are often the perpetrators of crimes due to corruption—a threat by a captor to turn over the victim to the police can be equivalent to a threat of death or major bodily harm to a victim, especially for victims who do not speak English or do not understand the justice system in the United States. *See* KEVIN BALES, DISPOSABLE PEOPLE: NEW SLAVERY IN THE GLOBAL ECONOMY 178–79 (1990); FARHAD KARIM, HUMAN RIGHTS WATCH, CONTEMPORARY FORMS OF SLAVERY IN PAKISTAN 68–76 (1995); *10 Most Brutal Police Forces on Earth*, TOP CRIM. JUST. SCHS. (Jan. 18, 2012), <http://www.top-criminal-justice-schools.net/10-most-brutal-police-forces-on-earth>.

13. *See id.*

14. *See infra* Part I.A.

15. Stephen Lendman, *Modern Slavery in America*, GLOBAL RESEARCH (Mar. 6, 2009), <http://www.globalresearch.ca/modern-slavery-in-america/12576>.

16. *Id.*

behind the scenes where patrons cannot see the reality of the situation.¹⁷ This ever expanding market for slave labor—coupled with enduring historical perspectives of what slavery is—can cause great confusion among juries, prosecutors, and the media as to what constitutes slavery in the modern era and how the criminal justice system can fight such a massive and growing problem.

Though slavery technically has its own definition and generally includes harsher punishments than trafficking, slavery is not currently treated as its own criminal category and is rarely prosecuted on its own; it is instead listed under the umbrella of “human trafficking” within the Trafficking Victims Protection Act of 2000 (TVPA) and its reauthorizing legislation.¹⁸ Though advocates had high hopes for the TVPA’s ability to deal with both trafficking and slavery, the TVPA has not been as effective as expected.¹⁹ While there are still hundreds of thousands of victims all over the country—with numbers growing each year—prosecution of crimes under TVPA remains woefully low.²⁰ From October 2011 to October 2012, the Department of Justice’s investigations of TVPA crimes fell from 900 to 753, and convictions for those crimes fell from 151 to 138.²¹ Though these numbers rebounded slightly in fiscal year 2013, with 1025 investigations and 161 prosecutions,²² it is still painfully clear that investigations and prosecutions of these crimes are not at the level that they need to be, compared to the number of existing cases in the United States.²³

Not only are the numbers of prosecutions extremely low but so are the resulting sentences that slavers and traffickers are receiving.²⁴

17. *Id.*

18. U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT 2013: DEFINITIONS AND METHODOLOGY (2013), <http://www.state.gov/j/tip/rls/tiprpt/2013/210543.htm>.

19. Because of inefficiencies in the legislation, lawmakers have attempted to pass a new TVPA with stricter guidelines. *US Lawmakers Introduce Child Sex-Trafficking Bill*, HUMAN TRAFFIC WATCH (Aug. 14, 2013), <https://humantraffickingwatch.wordpress.com/tag/tvpa/>; H.R. 898, 113th Cong. (2013). However, the legislation has been blocked, and the TVPA in its current form remains intact. *Id.*

20. *See* U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT 2013, COUNTRY NARRATIVES: T–Z & SPECIAL CASE, 382–83 (2013), <http://www.state.gov/documents/organization/210742.pdf>.

21. *Id.*

22. U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT 2014, at 398 (2014), <http://www.state.gov/documents/organization/226849.pdf>.

23. *See* Fisher, *supra* note 8. It should be noted that while there are an estimated 60,000 slaves in the United States, the numbers provided by the Department of Justice’s TVPA statistics reflect both slavery and trafficking prosecutions, showing that prosecution of slavery is even lower than what the numbers suggest. *Id.*

24. U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT 2012, COUNTRY

During the same twelve month period, sentences ranged from probation to life in prison and the average sentence was 11.8 years—a number that was only increased because prosecutors were able to “[secure] life sentences against sex traffickers in several cases.”²⁵ This implies that most convictions, and subsequent sentences, are likely being obtained by prosecuting individuals under lesser trafficking statutes—statutes with shorter sentences than slavery statutes under the TVPA²⁶—or that judges are not increasing the base offense level under the sentencing guidelines to be consistent with slavery sentences.²⁷ Without any increases due to aggravating circumstances, a slavery conviction under trafficking statutes can lead to a sentence as low as twenty-seven months.²⁸ Either way, there is a definite disconnect between the amount of slavery that is actually occurring in the United States today and what is being investigated and prosecuted by both state and federal authorities. At least part of this issue is due to the misconceptions revolving around the definitions of trafficking and slavery, and the way that these different penalties are understood by the public and applied in today’s court proceedings by prosecutors.

I. DEFINITIONS: WHY PROSECUTORS PREFER TO BRING LESSER CHARGES FOR MODERN SLAVERY CRIMES

A. U.S. Definition: Complications

The definition of slavery is much broader than the colloquial understanding of the term. *Black’s Law Dictionary* defines slavery as: (1) “a *situation* in which one person has absolute power over the life, fortune, and liberty of another,” or (2) “[t]he *practice* of keeping individuals in such a state of bondage or servitude.”²⁹ Though this legal definition of the word slavery is very broad, prosecution for crimes of

NARRATIVES: T–Z & SPECIAL CASES 361 (2012), <http://www.state.gov/j/tip/rls/tiprpt/2012/>.

25. *Id.*

26. 18 U.S.C. § 1585 (2012) (seizure, detention and transportation of slaves has a maximum sentence of seven years); 18 U.S.C. § 1586 (service on a slave trade vessel has a maximum sentence of two years); 18 U.S.C. § 1587 (possession of slaves on a vessel has a maximum sentence of four years); 18 U.S.C. § 1588 (transportation of slaves from the United States has a maximum sentence of ten years). This is versus 18 U.S.C. §§ 1581, 1583–84 (peonage, enticement into slavery, and actual sale into involuntary servitude all have a maximum sentence of twenty years).

27. U.S. SENTENCING GUIDELINES MANUAL § 2H4.1 (U.S. SENTENCING COMM’N 2014); U.S. SENTENCING GUIDELINES MANUAL § Appendix G (U.S. SENTENCING COMM’N 2014).

28. *Id.*

29. *Slavery*, BLACK’S LAW DICTIONARY (10th ed. 2014) (emphasis added).

slavery can be difficult because the colloquial understanding of the word can confuse juries. Most of the general population would not think of activities such as forced begging as being related to slavery because it does not align with the traditional sense of the word, namely, that ever-lingering picture of a slave from the Antebellum South.³⁰ Because of this disconnect, prosecutors often think it is better to “charge other crimes that [they] are more comfortable with and that [they] have used in the past,” rather than to lose high-profile cases by attempting to use statutes that can be confusing for both the judge and the jury.³¹

As seen by the use of the TVPA, trafficking statutes are regularly used to prosecute slavery.³² Trafficking is defined as “the act of transporting, trading, or dealing, [especially] in illegal goods or people.”³³ The definition of human trafficking is more specific, as it is “the illegal recruitment, transportation, transfer, harboring, or receipt of a person, [especially] one from another country, with the intent to hold the person captive or exploit the person for labor [or] services.”³⁴ This definition refers to specific actions (such as moving people) and a specific intent (intent to hold captive or exploit).³⁵ Slavery, instead, refers to a generalized situation or practice, which is more difficult to explain because it can be more easily influenced by subjective value judgments.³⁶

Even though prosecutors find trafficking statutes tricky, when contrasted with slavery statutes the definition of trafficking is much easier to understand and apply. This is because the definition of trafficking includes a concrete action and mens rea, and it does not require a jury to decide whether an entire situation rose to a level of control that constituted slavery.³⁷ The definition of trafficking also does not invoke personal biases or cultural understandings as the word slavery does.³⁸ This is because the word “trafficking”—particularly

30. See *supra* text accompanying note 3.

31. Maureen McGough, *Ending Modern-Day Slavery: Using Research to Inform U.S. Anti-Human Trafficking Efforts*, NAT’L INST. JUST. (Feb. 2013), <http://www.nij.gov/journals/271/pages/anti-human-trafficking.aspx> (speaking about how even prosecuting trafficking can be difficult because of misunderstandings, and therefore prosecutors avoid using trafficking and slavery statutes).

32. U.S. DEPARTMENT OF STATE, *supra* note 18.

33. *Trafficking*, BLACK’S LAW DICTIONARY (10th ed. 2014).

34. *Human Trafficking*, BLACK’S LAW DICTIONARY (10th ed. 2014).

35. *Id.*

36. *Slavery*, BLACK’S LAW DICTIONARY (10th ed. 2014).

37. See *Trafficking*, BLACK’S LAW DICTIONARY (10th ed. 2014), Westlaw.

38. See Johannes Koettl, *Human Trafficking, Modern Day Slavery, and Economic Exploitation* (Soc. Prot. Advisory Serv., The World Bank, SP Discussion Paper No. 0911,

human trafficking—is a modern word that was first used in the 1990s to describe the movement of prostitutes and sex slaves from Eastern to Western Europe.³⁹

Though still very difficult, the definition of trafficking makes the crime easier to prosecute than slavery.⁴⁰ While a juror can clearly understand that a human being was purposefully put into a truck and moved across a state line or across an international border, it is more difficult for a juror to decide whether or not an action rises to the level of slavery. How much control over a victim does a slaver have to have in order to reach a level of “absolute power”?⁴¹ Could the victim being controlled have done something to prevent their situation? If a different action would have prevented the victim’s situation, does that mean that the slaver did not have complete control over the victim? Could the victim have possibly fought back, escaped, or gotten word out to someone who could help, which would have changed the dynamics between the victim and the slaver? Such questions can easily confuse jurors or persuade jurors that the situation was the slave’s own fault, making a slavery conviction much more difficult to obtain than a trafficking conviction.

The fact that slavery has been brought under the legal umbrella of trafficking has further caused the two words to be conflated, resulting in further confusion when trying to understand how to prosecute cases of slavery. This disconnect between the understanding of slavery and of trafficking is blatantly shown in the Congressional Record.⁴² In the 113th Congress alone, slavery was mentioned 307 times.⁴³ However, the use of the word was almost exclusively limited to either the (1) recognition or commemoration of the transatlantic slave trade (such as Senate Resolution 474, which designated June 19, 2014 as “Juneteenth Independence Day” in recognition of June 19, 1865, the day on which slavery legally came to an end in the United States)⁴⁴ or (2) as an analogy or synonym for human trafficking (for example, when the Senate designated a Human Trafficking Awareness Day).⁴⁵ The fact that

2009), <http://siteresources.worldbank.org/SOCIALPROTECTION/Resources/SP-Discussion-papers/Labor-Market-DP/0911.pdf>.

39. *Id.*

40. *Human Trafficking*, BLACK’S LAW DICTIONARY (10th ed. 2014).

41. *Slavery*, BLACK’S LAW DICTIONARY, (10th ed. 2014).

42. *See* THE LIBRARY OF CONGRESS, <http://thomas.loc.gov/home/LegislativeData.php?&n=Record&c=113> (last visited Jan. 6, 2016) (search “slavery”; search “trafficking”).

43. *Id.*

44. THE LIBRARY OF CONGRESS, *supra* note 42 (search “slavery”; then find “Juneteenth”).

45. S. Res. 60, 113th Cong. (2014) (enacted).

Congress itself continues to misuse the two words does nothing but reinforce these misunderstandings.⁴⁶ Such unconscious reinforcement of this idea will subsequently continue to undermine prosecution of slavery and promote prosecution of other crimes—like trafficking—in its place.

B. The International Community's Definition: What We Can Learn

While U.S.-based prosecution of slavery is limited due to subjective biases of *what* actions constitute slavery, the definition used by the international community for international prosecution suffers from limitations on *when* slavery can occur.⁴⁷ Article 7, section 1(c) of the Rome Statute lists enslavement as a crime against humanity, but states that under the statute a “‘crime against humanity’ means any of the following acts *when committed as part of a widespread or systematic attack* directed against any civilian population, with knowledge of the attack.”⁴⁸ This implies that, while slavery is a broad term that can include a plethora of different actions and circumstances, there is a limited window of when slavery is considered to have occurred.⁴⁹ This definition implies that the only time slavery can be prosecuted under the Rome Statute is when enslavement is occurring during a conflict and slavery is used as a weapon.⁵⁰

This issue was even more pronounced after the International Criminal Court (ICC) created an explanatory text to help better explain the statute to prosecutors and laypeople.⁵¹ The crime of slavery is clearly broken into three elements.⁵² These elements include:

1. The perpetrator exercised any or all of the powers attaching to the

46. See, e.g., 160 CONG. REC. H.1504 (daily ed. Jan. 29, 2014) (statement of Rep. Hultgren) (“[W]e still have slavery throughout the world today in 2014. It is called human sex trafficking.”).

47. See Rome Statute of the International Court, art. 7, §1(c), *approved* Jul. 17, 1998, 2187 U.N.T.S. 90, 93.

48. *Id.* (emphasis added).

49. *See id.*

50. *See id.* The incident in Chibok, Nigeria, where Boko Haram kidnapped and enslaved nearly 300 schoolgirls could be prosecuted under the section because the act was committed by jihadists who were using slavery as a way to both create terror and to fund their campaign against the government. Don Melvin, *Boko Haram Kidnapping of 200 Nigerian Schoolgirls, A Year Later*, CNN (Apr. 14, 2015), <http://www.cnn.com/2015/04/14/africa/nigeria-kidnapping-anniversary/>. However, slavers who use war as an opportunity to enslave victims, rather than a tool of warfare, may not technically meet this element of the International Criminal Court’s definition. *Id.*

51. *See* INTERNATIONAL CRIMINAL COURT, ELEMENTS OF CRIMES 5–6 (2011), <http://www.icc-cpi.int/NR/rdonlyres/336923D8-A6AD-40EC-AD7B-45BF9DE73D56/0/ElementsOfCrimesEng.pdf>.

52. *Id.* at 6.

right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty.

2. The conduct was committed as part of a widespread or systematic attack directed against a civilian population; and

3. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population.⁵³

By listing out these elements, the ICC increased the number of incidents that need to occur before the crime of slavery can be prosecuted and when they must occur, casting a very narrow window in which the court can work.⁵⁴

However, though the Rome Statute's definition is by no means perfect, the breakdown of elements provided by the ICC shows that the crime under the Rome Statute is much more element-based than slavery statutes in the United States.⁵⁵ This makes the Rome Statute easier to understand and therefore easier to apply for prosecution. This is because the ICC's explanation contains not only an understanding that there had to have been a deprivation of liberty, but the explanation also gives examples of actions that could lead to that deprivation or constitute that deprivation.⁵⁶ If such examples were provided to judges and jurors within the United States, the difference between trafficking and slavery would become much clearer to both judges and jurors, and prosecutors would likely feel more comfortable prosecuting these crimes.

II. THE LACK OF U.S. POLITICAL WILL TO PROPERLY HANDLE THE ISSUE OF SLAVERY

Even more problematic than understanding the definition of slavery is the lack of political will to make use of the definition that already exists in the United States. While new pieces of legislation that purport to bolster prosecution have periodically sprung up in the wake of scandals reported by the media, these waves of political support have not yet gained enough momentum to pass any comprehensive

53. *Id.*

54. "Criminal acts such as . . . [slavery] and other inhumane acts reach a threshold of crimes against humanity only if they are part of a practice. Isolated inhumane acts of this nature may constitute grave infringements of human rights . . . but fall short of the stigma attaching to crimes against humanity." A. CASSESE ET. AL., CASSESE'S INTERNATIONAL CRIMINAL LAW 92–93 (3d ed. 2013).

55. See INTERNATIONAL CRIMINAL COURT, *supra* note 51, at 5 (clarifying that crimes against humanity should be strictly construed).

56. *Id.* at 6 n. 11.

legislation to aid federal U.S. prosecutors. Across the pond, however, scandals have changed perceptions of average citizens and have led to a surge of political support and passage of comprehensive anti-slavery legislation.⁵⁷ As political will is a major component necessary for prosecution, looking to the United Kingdom's example could help shed light on how the United States could increase political will to change perceptions, resulting in increased prosecutions.

A. The United Kingdom's Political Will

Over the last few years, the United Kingdom has faced a number of slavery-related scandals that rocked the nation and led to the development of the Modern Slavery Bill.⁵⁸ In 2010, diplomats of the Saudi Arabian and United Arab Emirates embassies were accused of trafficking domestic staff into the United Kingdom to be kept as slaves at their homes in London.⁵⁹ According to activists, though the domestic staff had initially wanted to come to the United Kingdom, they were “deceived about their working and living conditions, the salary they [would] receive and many times [were] confined to the house and [had] their passports removed Sometimes they [were] threatened that if they [ran] away, the police [would] put them in jail.”⁶⁰ The conflict continued to generate media attention for months as the diplomats claimed diplomatic immunity and protection from prosecution.⁶¹

Later that year, the scandal resulted in a landmark case that went before the British Employment Appeal Tribunal.⁶² Two of the staff members who had been trafficked into the United Kingdom and who were kept as slaves at a Saudi Arabian diplomat's house sued the diplomat and his wife.⁶³ The case, *Al-Malki & Anor v. Reyes & Anor*, caused waves when the court ruled that diplomatic immunity extended to the houses of diplomats and the servants—or slaves—that they

57. Home Office, Karen Bradley MP & Theresa May MP, *Historic Law to End Modern Slavery Passed*, GOV.UK (Mar. 26, 2015), <https://www.gov.uk/government/news/historic-law-to-end-modern-slavery-passed>.

58. See JOINT COMMITTEE ON THE DRAFT MODERN SLAVERY BILL, DRAFT MODERN SLAVERY BILL, 2013–14, H.L. 166, H.C. 1019, at 3 (U.K.), <http://www.publications.parliament.uk/pa/jt201314/jtselect/jt slavery/166/166.pdf>.

59. Robert Booth, *Saudi and Emirati diplomats accused of trafficking staff into UK*, THE GUARDIAN (Feb. 22, 2010, 16:54 pm EST), <http://www.theguardian.com/world/2010/feb/22/saudi-arabia-united-arab-emirates>.

60. *Id.*

61. *Id.*

62. *Al-Malki v. Reyes*, [2014] ICR 135, 136–37 (UKEAT).

63. *Id.*

kept.⁶⁴ Such was the political climate when new scandals hit the headlines.⁶⁵

In 2012 and 2014, investigations began into not only slavery in the United Kingdom, but also into products produced by slave labor abroad that were imported into the country.⁶⁶ Scandal rocked supermarkets when investigations into seafood production led to the discovery that slave labor was used in Thailand, which supplied almost all of the prawns imported into the United Kingdom.⁶⁷ At a Primark's department store in Northern Ireland, a woman bought a pair of trousers, only to find later that an SOS message from a slave laborer in a Chinese prison had been hidden in the pocket.⁶⁸

While the stories from the diplomat scandals and subsequent ongoing litigation infuriated anti-slavery groups, the stories had still been on the periphery of the average citizen's attention.⁶⁹ These later events brought slavery into the homes of the average consumer, who now realized that almost everything that they ate, drank, wore, or used had been produced abroad and could have been the product of slave labor.⁷⁰ This brought a whole new group of advocates into the fray to combat slavery, in the form of housewives and middle class consumers.⁷¹ Members of Parliament could not ignore such voting

64. *Id.* at 152.

65. Harriet Grant, *Thai Shrimp Produced by Forced Labour Reaching EU and US, Warn Campaigners*, THE GUARDIAN (Sept. 26, 2013), <http://www.theguardian.com/global-development/2013/sep/26/thai-shrimp-forced-labour>; *Primark Investigates Claim of Cry for Help Note in Trousers*, BBC (June 25, 2014), <http://www.bbc.com/news/uk-northern-ireland-28018137>.

66. *See, e.g., id.*

67. Grant, *supra* note 65.

68. BBC, *supra* note 65.

69. Rowena Mason, *Labour Call to Stop UK Supermarkets Stocking Food Produced by Slaves*, THE GUARDIAN (June 11, 2014), <http://www.theguardian.com/global-development/2014/jun/11/slavery-prawns-thailand-supermarkets-labour> (“David Cameron’s spokesman said on Wednesday it was up to consumers whether they choose to eat prawns that had been produced through the work of slaves.”).

70. *See id.*

71. *See generally* Rebecca Smithers, *Slavery in Prawn Trade: Consumers Urged to Check Source of Seafood*, THE GUARDIAN (June 11, 2014), <http://www.theguardian.com/world/2014/jun/11/slavery-prawn-shoppers-boycott-unethical-seafood-greenpeace> (explaining that consumers were urged by members of conservation societies such as Greenpeace to take action and show their support for the anti-slavery movement by not buying the products); Felicity Lawrence, *Carrefour Stops Buying Prawns from CP Foods Following Slavery Revelations*, THE GUARDIAN (June 12, 2014), <http://www.theguardian.com/global-development/2014/jun/12/carrefour-stops-buying-prawns-cp-foods-slavery-revelations> (explaining that supermarket companies subsequently stopped buying prawns from slave-based operators, in response to consumer demand). Such actions by consumers indicated to politicians that this was an issue that needed to be dealt

blocks, and movement behind the Modern Slavery Bill continued to surge forward.⁷²

The Modern Slavery Act was finally passed on March 26, 2015.⁷³ The Act—“the first of its kind in Europe”—focused mainly on victim protection and on increasing prosecution.⁷⁴ The legislation “ensures perpetrators can be severely punished” by “[c]onsolidating and simplifying existing modern slavery offenses into one Act.”⁷⁵ The Act also created a new position: the Independent Anti-Slavery Commissioner.⁷⁶ The position is focused on spearheading the initiative, to bring together “statutory bodies and civil society groups [in order] to strengthen efforts to pursue and prosecute traffickers and slave drivers.”⁷⁷ This legislation was made possible because of an understanding of what constitutes slavery today, and the resulting political will pushed the issue to the forefront of U.K. politics. It should stand as an example to the United States of what can be accomplished when citizens understand what slavery is in the modern era.

B. Political Will in the United States

In 2014, while the United Kingdom was dealing with its slavery scandals, the United States was also facing a media firestorm, though at a lesser level. Audiences were bombarded by images in the media of young girls who had been saved by the FBI from sex traffickers.⁷⁸ FBI agents rescued over fifty women, as well as sixteen girls ranging from the ages of thirteen to seventeen.⁷⁹ The trafficking rings had been

with.

72. Labour MP Frank Field announced that “[t]here would be a ‘huge effort’ in the Commons and Lords [by the Labour Party] to introduce amendments about slavery in supply chains” to the Modern Slavery Bill. Mason, *supra* note 69. Though Prime Minister Cameron’s spokesman continued to state that Downing Street “preferred to leave the matter to the choice of shoppers,” the fact that the Modern Slavery Act was passed with an entire section dedicated to transparency in supply chains shows that the consumers spoke and spurred their representatives on to action. *id.*; see Modern Slavery Act 2015, c. 30, § 54 (Eng.).

73. Modern Slavery Act 2015, c. 30 (Eng.).

74. Karen Bradley MP & Theresa May MP, *Historic Law to End Modern Slavery Passed*, GOV.UK (Mar. 26, 2015), <https://www.gov.uk/government/news/historic-law-to-end-modern-slavery-passed>.

75. *Id.*

76. *Id.*

77. *Id.*

78. See Katie Zezima, *Super Bowl Prostitution Ring Forced Teens as Young as 13 Into Sex Work: FBI*, HUFFINGTON POST (Feb. 4, 2014, 12:32 PM), http://www.huffingtonpost.com/2014/02/04/super-bowl-prostitution_n_4724522.html.

79. *Id.*

preparing for a major event that would cause a substantial boom in business, namely the American Super Bowl.⁸⁰ While prostitution at the Super Bowl was no new phenomenon,⁸¹ such scandals had been handled at a state and local level rather than at the federal level, and focused more on sex-trafficking and child prostitution rather than slavery.⁸² However, this trend changed in 2014 when Representative Scott Peters of California introduced a bill called H.R. 5044, more commonly known as the End Modern-Day Slavery Act.⁸³

The bill was intended to amend the TVPA and create a task force to develop a plan to help the victims of trafficking.⁸⁴ Though the word slavery was used in the title of the bill, the goals of the bill focused only on trafficking; again conflating and confusing the two words.⁸⁵ The bill's plan was to: "(A) assist victims of trafficking; (B) investigate and prosecute crimes related to trafficking in persons; (C) conduct research and collect data related to trafficking in persons," and so forth.⁸⁶ Though the bill was not truly a bill to end modern slavery through prosecutorial means, it was a bill intended to help victims of this horrible crime.⁸⁷ However, political will for the issue petered off after the end of the Super Bowl, and the bill movement was halted⁸⁸ as the last act of Congress was to refer the bill to the Subcommittee on Africa, Global Health, Global Human Rights and International Organizations.⁸⁹ Because this action occurred on September 8, 2014, and there has been no subsequent movement, it is likely that the bill has died in committee.⁹⁰

80. *Id.*

81. Meghan Casserly, *Sex And The Super Bowl: Indianapolis Puts Spotlight on Teen Sex Trafficking*, FORBES (Feb. 2, 2012, 12:42 PM), <http://www.forbes.com/sites/meghancasserly/2012/02/02/sex-and-the-super-bowl-indianapolis-spotlight-teen-sex-trafficking/> (estimating that over 10,000 prostitutes were brought in for the 2010 Miami Super Bowl).

82. The Indiana House and Senate both unanimously voted to strengthen state laws on sex trafficking. Associated Press, *Indiana Legislators OK Tougher Sex-Trafficking Law*, WTHR.COM (Feb. 2, 2012, 5:20 PM), <http://www.wthr.com/story/16620007/indiana-legislators-ok-tougher-sex-trafficking-law>.

83. End Modern-Day Slavery Act, H.R. 5044, 113th Cong. (2014).

84. *Id.*

85. *Id.*

86. *Id.* § 2.

87. *See id.*

88. *See* CONG. RESEARCH SERV., BILL SUMMARY & STATUS, H.R.5044 CRS SUMMARY (2014); *see also* CONG. RESEARCH SERV., BILL SUMMARY & STATUS, H.R.5044 ALL CONGRESSIONAL ACTIONS (2014).

89. CRS H.R.5044 ALL CONGRESSIONAL ACTIONS.

90. *Id.*

Though the End Modern-Day Slavery Act seems to have fallen to the wayside, it ushered in a new initiative called the End Modern Slavery Initiative Act of 2015.⁹¹ The new act, sponsored by Senator Bob Corker of Tennessee, was introduced just before the passage of the United Kingdom's legislation.⁹² However, unlike the Modern Day Slavery Act, the End Modern Slavery Initiative Act does not focus on prosecuting slavery domestically. Instead, it requires that the federal government work with the private sector and foreign governments to "leverage limited foreign aid dollars . . . and investment from the public . . . and the private sector[s] to focus resources responsibly where [slavery] is most prevalent."⁹³ The initiative looks to establish "a 501(c)(3) non-profit grant-making foundation . . . that will fund . . . projects outside of the United States" to help end slavery.⁹⁴

Though the legislation has good intentions it misses key points. Because the legislation states that it is aimed at "eliminat[ing] slavery . . . around the globe," it implies that the issue is a foreign affairs issue and not a domestic issue.⁹⁵ Though Senator Corker acknowledges that slavery exists in the United States, by not focusing on the United States' own complications relating to prosecuting slavery, Senator Corker's bill actually continues to perpetuate the idea that slavery happens only elsewhere, by focusing the fight against slavery overseas instead of at home.⁹⁶ Also, though trying to partner with private sector partners brings badly needed capital into the fight, many companies use labor conditions that could constitute slavery.⁹⁷ These companies may in fact be able to influence conceptions of what slavery includes, in order to exclude their own practices. Also, by not focusing on the prosecution of slavery, the bill lacks teeth and, if passed, will likely turn out more research about slavery instead of reducing slavery.

91. End Modern Slavery Initiative Act of 2015, S. 553, 114th Cong. (2015).

92. *End Modern Slavery Initiative Act*, U.S. SENATOR BOB CORKER, <http://www.corker.senate.gov/public/index.cfm/end-modern-slavery-initiative-act> (last visited Jan. 6, 2016).

93. *Id.*

94. *Id.*

95. *Id.*

96. *See id.*

97. Home Office, Bradley & May, *supra* note 57.

III. SOLUTIONS

In order to increase political will, or at least public awareness about the issue of slavery in the United States as a separate and distinct issue from trafficking, a new strategy should be pursued by the federal government and by non-governmental organizations. The government, with private partners, should pursue an anti-slavery agenda through (1) enacting education campaigns that teach the public about what slavery actually is rather than its historical connotations; (2) creating general jury instructions for prosecutors and judges, which can be used to help encourage prosecution of slavery; and (3) obtaining political will and subsequently amending current legislation to better promote prosecution of slavery and the higher sentences that accompany the crime.

A. Education Campaigns and Public Service Announcements

The federal government has had a history of using education campaigns and public service announcements to help inform the American public and to change the way that it understands and views a particular issue.⁹⁸ One of the most well-known campaigns is the “Just Say No” campaign, which focused on preventing illicit drug use, especially use by children.⁹⁹

1. Just Say No

The foundation for the Just Say No campaign originated in June of 1971, when President Richard Nixon famously declared a “War on Drugs.”¹⁰⁰ Though the initial push against drugs was focused on arrests for drug use through the use of mandatory sentencing and the use of no-knock warrants, the public’s perception of drug use was not really affected in a way that made the issue a priority, nor did the issue really change the mindset of the public at large.¹⁰¹ Even though the federal government had put into place an anti-drug policy, between 1973 and 1977 eleven states decriminalized marijuana—a Schedule One drug—in conflict with the message being publicized by the Executive Branch.¹⁰² Even “the Senate Judiciary Committee voted to decriminalize

98. See, e.g., *A Brief History of the Drug War*, DRUG POLICY ALL., <http://www.drugpolicy.org/new-solutions-drug-policy/brief-history-drug-war> (last visited Jan. 6, 2016).

99. *Just Say No*, THE RONALD REAGAN PRESIDENTIAL FOUND. & LIBRARY, http://www.reaganfoundation.org/details_f.aspx?p=tr1008nrhc&tx=6 (last visited Jan. 6, 2016) [hereinafter REAGAN LIBRARY].

100. DRUG POLICY ALLIANCE, *supra* note 98.

101. *Id.*

102. *Id.*

possession of [a single ounce] of marijuana for personal use,” in conflict with the President’s agenda.¹⁰³

However, in 1982, a public awareness campaign swept the nation, and fundamentally changed the way that the public was thinking about drugs and how to react to them.¹⁰⁴ First Lady Nancy Reagan, after speaking with schoolchildren on the issue, advised a little girl to “just say no” if she was ever offered drugs.¹⁰⁵ The campaign against drugs took this slogan and ran with it, aiming to change the hearts and minds of American parents and children—an audience that was primed for change after the media had created a scare over crack cocaine and its use.¹⁰⁶ Nancy Reagan, leading the charge, participated in a strong media campaign that included 110 appearances and fourteen anti-drug speeches in 1984 alone.¹⁰⁷ Her efforts were coupled with high profile advertisements, including the famous, “This is your brain. This is your brain on drugs,” which accompanied a narrator holding up a fresh egg, and then cracking the egg and proceeding to cook the egg in a frying pan.¹⁰⁸ The campaign became so well-recognized that it was later named by TV Guide as one of the top 100 ads of all time.¹⁰⁹

By the end of 1988, cocaine use by high school seniors had dropped by a third, leading to the lowest rate of cocaine use in seniors in a decade.¹¹⁰ Not only was the drop in drug use impressive, but so was the change in public opinion.¹¹¹ In 1985, only 2 to 6% of polled Americans viewed drug abuse as the nation’s “number one problem.”¹¹² By September 1989, this figure had risen to 64%.¹¹³ Though the number fell within the year to less than 10%, the startling figures show that such campaigns can be successful.¹¹⁴

103. *Id.*

104. REAGAN LIBRARY, *supra* note 99.

105. *Id.*

106. DRUG POLICY ALLIANCE, *supra* note 98.

107. REAGAN LIBRARY, *supra* note 99.

108. Erika Alexander, *Famous Fried Eggs: Students Debate Effectiveness, Accuracy of Well-Known Anti-drug Commercial*, CNN (Dec. 6, 2000, 3:42 PM), <http://www.cnn.com/fyi/interactive/news/brain/brain.on.drugs.html>.

109. *Id.*

110. REAGAN LIBRARY, *supra* note 99.

111. DRUG POLICY ALLIANCE, *supra* note 98.

112. *Id.*

113. *Id.*

114. *Id.*

2. Campaigns Against Texting

These types of campaigns have also been used more recently to curb other types of public behavior and perceptions of such behavior.¹¹⁵ On October 1, 2009, the White House issued an executive order that stated the “Government . . . should demonstrate leadership in reducing the dangers of text[ing] . . . [and] driving.”¹¹⁶ Statistics in 2012 showed that 10% of all fatal car crashes were caused by driver distraction; and that 12% of those distraction-related car crashes were caused by cellphone-related crashes.¹¹⁷ The number of cellphone-related crashes resulting in injuries, however, was roughly 21,000; over fifty-five times the number of crashes resulting in deaths.¹¹⁸ While the statistics show the problem to be relatively minor when compared to the total number of car crashes, and even the total number of distracted driving cases, the issue gained national importance because of both the steadily growing number of people engaged in these types of crashes from 2010 to 2012, and the specific groups of people most affected.¹¹⁹ Over a quarter of all cellphone-related accidents were coming from the twenty to twenty-nine-year-old age bracket.¹²⁰

In reaction, the government paired up with different groups to attempt to change public opinion and public behavior on a national scale; this included creating public service announcements with the popular television show *Glee* and by partnering with Disney to use the characters from the movie *Cars* to create a movie advertisement/public service announcement combination in a relatively new private-public partnership for the public good.¹²¹ Though “today’s social-change campaigns confront a highly fragmented media marketplace and consumers’ extremely short attention spans,” and the effectiveness of

115. See U.S. Department of Transportation Unveils New Distracted Driving PSAs Featuring Cast of the Hit FOX TV Show “Glee”, U.S. DEP’T TRANSP. (Aug. 22, 2012), <https://www.transportation.gov/briefing-room/us-department-transportation-unveils-new-distracted-driving-psas-featuring-cast-hit>.

116. Exec. Order No. 13,513, 3 C.F.R. § 246.1 (2009).

117. U.S. DEP’T OF TRANSP., NAT’L HIGHWAY TRAFFIC SAFETY ADMIN., DOT HS 812 012, TRAFFIC SAFETY FACTS: RESEARCH NOTE: DISTRACTED DRIVING 2012, 1, 1-2 tbl.1 (2014), <http://www-nrd.nhtsa.dot.gov/Pubs/812012.pdf>.

118. *Id.* at 3 tbl.6.

119. *Id.*

120. *Id.* at 2 tbl.2.

121. U.S. Dep’t of Transp., *Glee Distracted Driving PSA: “On My Way”*, YOUTUBE (Aug. 21, 2012), https://www.youtube.com/watch?v=mnw_7xi5klm; Liza Barth, “Cars 2” Safety Video Reminds Drivers Not to Drive Distracted, CONSUMER REP. NEWS (June 15, 2011, 11:33 AM), <http://www.consumerreports.org/cro/news/2011/06/cars-2-safety-video-reminds-drivers-to-not-drive-distracted/index.htm>.

these advertisements are being called into question, steps are being taken to see how to pursue these goals.¹²² The Harvard School of Public Health Center for Health Communication, for example, is currently studying how national initiatives aimed at changing social norms and behavior could change the way media can be used to positively affect public opinion as it has in the past.¹²³

3. *Slavery Campaign*

These media tools could be harnessed to promote a different understanding of the word slavery. If the jury is better versed in what different activities constitute slavery in the modern world, prosecutors may be more likely to attempt to charge higher crimes. The Federal Communications Commission requires that broadcast media—radio and television—serve “in the public interest,” and many stations use public service announcements to meet this criteria.¹²⁴ Most stations donate roughly a third of their commercial spots to these types of advertisements, so access to media is available for these types of programs.¹²⁵ By accessing these types of resources—and using them wisely—the government could pursue an anti-slavery campaign by changing public perceptions about slavery before enforcing prosecution.

An anti-modern slavery perception campaign could also tap into social media, through the use of hashtags or other media tools that could help spread the word. The idea of using hashtags first occurred in 2007,¹²⁶ and ever since has been used as a tool not only for social connections, but also for social activism.¹²⁷ By using a hashtag—for example, #slaveryisntover or #slaveryisnow—information about what constitutes slavery in modern society could spread quickly across the Internet. The information could then begin to change public perception in a rapid way, by making the information more visible and accessible to people around the United States, and even around the world. Such a

122. Jay Winsten, *Stopping Distracted Driving: What Will It Take?*, HUFFINGTON POST (Nov. 1, 2013, 10:11 AM), http://www.huffingtonpost.com/jay-winsten/stopping-distracted-drivi_b_4178098.html.

123. *Id.*

124. THE WORK GRP. FOR CMTY. HEALTH & DEV., UNIV. OF KAN., COMMUNITY TOOL BOX, PREPARING PUBLIC SERVICE ANNOUNCEMENTS (2015), <http://ctb.ku.edu/en/table-of-contents/participation/promoting-interest/public-service-announcements/main>.

125. *Id.*

126. Jim Edwards, *The Inventor of the Twitter Hashtag Explains Why He Didn't Patent It*, BUS. INSIDER (Nov. 21, 2013, 10:21 AM), <http://www.businessinsider.com/chris-messina-talks-about-inventing-the-hashtag-on-twitter-2013-11>.

127. *Social Causes Gone Viral Around the World*, MAPS WORLD (Sept. 12, 2014), <http://www.mapsofworld.com/around-the-world/social-causes-gone-viral.html>.

tactic is currently being used to promote the End Modern Slavery Initiative Act, and could prove effective not only for promoting political support for a bill but also to encourage conversations about the issue in general to help change perceptions.¹²⁸

B. General Jury Instructions

Jury instructions can be a potent weapon in the prosecutor's arsenal. According to the Federal Rules of Criminal Procedure "[a]ny party may request in writing that the court instruct the jury on the law as specified in the request."¹²⁹ Jury instructions play an important part in the judicial system, because "many jurors cannot understand the law that they are expected to apply to the facts of the case, [and] the constitutional right to a fair trial is at stake."¹³⁰ Slavery prosecutions are no different.

1. Present Lack of Jury Instructions

Every state provides their own pattern jury instructions, or general jury instructions, to help courts explain everyday civil and criminal matters to juries.¹³¹ The same is true for the federal circuit courts, most of which publish their own boilerplate instructions for their own jurisdictions.¹³² Such instructions can be used to inform the jury of their duties, the definitions of the law that they are to consider, brief summaries of the elements of the crimes that the government must prove to make its case, and other sometimes difficult court proceedings that are not intuitive to jurors who likely have not been involved with legal proceedings prior to being on the jury.¹³³

Jury instructions can be very difficult to write due to the complexities of legal terms and statutory configurations, which has led

128. Senator Corker is currently using the hashtags #EndSlaveryAct and #EndItMovement to promote support for his bill. U.S. SENATOR BOB CORKER, *supra* note 92.

129. FED. R. CRIM. P. 30(a).

130. J. Brittany Cross, *Jury Incomprehension: Advocating for a Holistic Reform of Jury Instruction*, 98 KY. L.J. 355, 355 (2010) (citing Molly Armour, *Dazed and Confused: The Need for a Legislative Solution to the Constitutional Problem of Juror Incomprehension*, 17 TEMP. POL. & CIV. RTS. L. REV. 641, 641-42 (2008)).

131. Jan Bissett & Margi Heinen, *Reference from Coast to Coast: Jury Instructions Update*, LLRX.COM (July 27, 2007), <http://www.llrx.com/columns/reference53.htm>.

132. See, e.g., *Manual of Model Criminal Jury Instructions*, U.S. CTS. FOR NINTH CIR., <http://www3.ce9.uscourts.gov/jury-instructions/model-criminal> (last visited Jan. 6, 2016).

133. See NINTH CIRCUIT JURY INSTRUCTIONS COMM., *MANUAL OF MODEL CRIMINAL JURY INSTRUCTIONS FOR THE DIST. COURTS OF THE NINTH CIRCUIT* (2010), http://www3.ce9.uscourts.gov/jury-instructions/sites/default/files/WPD/Criminal_Jury_Instructions_2015_06.pdf.

to the proliferation of these boilerplate jury instruction forms.¹³⁴ However, even in the busiest courts around the country, there are no boilerplate instructions on how a jury should look at slavery; in fact, some courts, such as the Ninth Circuit and Illinois state courts, do not even have model jury instructions for the less harsh and more regularly prosecuted crime of human trafficking.¹³⁵ The closest Illinois state courts have come to creating such a jury instruction is in regards to the trafficking of prostitutes.¹³⁶ Though located under the trafficking umbrella, the crime is of such a distinct nature that it can provide little help for prosecutors when trying to explain a crime with the type of preconceived understanding associated with slavery.

But jury instructions have proven to be extremely resistant to change.¹³⁷ This is because those who draft the jury instructions, namely committees of judges and attorneys, oftentimes have other policy goals in mind rather than simply helping citizens to understand the law to better apply it during trial.¹³⁸ Also, these jury instructions are often drafted with other judges and attorneys in mind, rather than the lay people who actually need help in interpreting the law.¹³⁹ However, a movement of commissions, headed by California's Blue Ribbon Commission on Jury System Improvement, has led to more practical jury instructions.¹⁴⁰ These instructions have proven beneficial by providing more understandable language in jury instructions; instructions that are provided prior to the trial beginning.¹⁴¹

134. See Armour, *supra* note 130.

135. See NINTH CIRCUIT JURY INSTRUCTIONS COMM., *supra* note 133; see also SPECIAL SUPREME COURT COMM. ON PATTERN JURY INSTRUCTIONS-CRIMINAL, ILL. PATTERN JURY INSTRUCTIONS-CRIMINAL § 4.22 (2013), http://www.state.il.us/Court/CircuitCourt/CriminalJuryInstructions/Criminal_Jury_Instructions.pdf.

136. SPECIAL SUPREME COURT COMM. ON PATTERN JURY INSTRUCTIONS-CRIMINAL, *supra* note 135.

137. Cross, *supra* note 130 (citing Nancy S. Marder, *Bringing Jury Instructions into the Twenty-First Century*, 81 NOTRE DAME L. REV. 449, 458–75 (2006)).

138. *Id.* (citing Nancy S. Marder, 81 NOTRE DAME L. REV. 449, 458–63 (2006)).

139. *Id.* (citing Nancy S. Marder, 81 NOTRE DAME L. REV. 449, 460 (2006)).

140. *Id.*

141. *Id.* at 366; J. CLARK KELSO, BLUE RIBBON COMM'N ON JURY SYS. IMPROVEMENT, FINAL REPORT OF THE BLUE RIBBON COMM'N ON JURY SYS. IMPROVEMENT, 95 (1996), <http://www.courts.ca.gov/documents/BlueRibbonFullReport.pdf>.

2. *How to Improve Jury Instructions*

Since this movement, jury instructions have become more uniform and easier to understand.¹⁴² However, these instructions still remain very basic and do not contain the necessary examples on how prosecutors should deal with slavery.¹⁴³ After engaging the public to begin changing public opinion and understanding on the issue, the federal government should put together a commission similar to the Blue Ribbon Commission on Jury System Improvement, or the Federal Sentencing Commission. This temporary judicial body could put together a sample of slavery-related jury instructions, to be published on the upcoming Federal Jury Instructions Resource Page or some other central location for easy access and use by prosecutors around the country.¹⁴⁴

The instructions should first explain the definition of slavery, and emphasize the dual nature of the definition. For example:

Ladies and Gentlemen of the jury, the issue that you are about to decide is a complex one; whether or not the actions of the defendant amounted to the crime of slavery. It is your duty to apply the facts of this case to the law, using the evidence that is presented in court. This means that you are not to apply the facts of the case to what you think slavery is. You are to apply to facts of the case to what the law *says* that slavery is. And the law says that slavery can amount to a very broad range of situations, and not just the type of slavery that occurred in the Antebellum South. The law says that slavery is a situation in which *either* one person has absolute power over the life, fortune, and liberty of another *or* the person is engaging in the practice of keeping individuals in such a state of bondage or servitude. This means that even if you do not find that the defendant exercised absolute power over the victim, you may still find the defendant guilty if what the defendant did amounted to bondage or involuntary servitude.

If nothing else, the jury instructions could include a breakdown of the elements of the crime of slavery, similar to the guidelines created by the International Criminal Court.¹⁴⁵ It could also include examples of

142. See, e.g., NINTH CIRCUIT JURY INSTRUCTIONS COMM., *supra* note 133; see also SPECIAL SUPREME COURT COMM. ON PATTERN JURY INSTRUCTIONS-CRIMINAL, *supra* note 135.

143. For examples of how examples should look, see Modern Slavery Act 2015, c. 30, §§ 1–13 (Eng.).

144. *Federal Jury Instructions Resource Page*, FED. EVIDENCE REVIEW, <http://federalevidence.com/evidence-resources/federal-jury-instructions> (last visited Jan. 6, 2016).

145. INTERNATIONAL CRIMINAL COURT *supra* note 51; Rep. of the Preparatory Comm'n for the Int'l Criminal Court, at 10, U.N. Doc. PCNICC/2000/1/Add.2 (2000).

types of coercion or types of control that have been found by courts in the United States.¹⁴⁶ It should be noted somewhere within the model jury instructions, however, that the prosecutors or judges using the model jury instructions should not use the exact same example of coercion or control that is at issue in their particular case, in order to combat jury nullification. By taking these measures, the courts could help combat the issue of jury misunderstanding while making prosecutors feel more confident in their abilities to charge slavery in conjunction with other crimes, in order to pursue the harshest sentences possible for those accused of slavery.

C. Legislation

Legislation in the United States over the last few years, as mentioned in Section II, has suffered from a lack of political will, soft language, and an unfocused direction. The End Modern-Day Slavery Act simply aimed at amending the TVPA,¹⁴⁷ and the End Modern Slavery Initiative Act focused more on structuring anti-slavery funding and organizations than on actually ending slavery.¹⁴⁸ While neither bill has been passed, both acts seem to suggest that Congress is attempting to push back the issue another few years, rather than deal with the need for legislation at the moment.¹⁴⁹

The federal government could make slavery a priority by improving legislation by following the guidelines set forth by the United Kingdom. It should therefore create its own holistic legislation to promote understanding of the issue and prosecution of slavers. Instead of using the umbrella legislation of the TVPA, Congress should draft a new bill that recognizes slavery in the modern sense as its own crime, independent from trafficking statutes, though logically connected. The legislation should also contain a definition that is easier to understand for juries, and does not use confusing language that leaves it up to the jury to weigh the situation abstractly.

The legislation should also promote the use of an Anti-Slavery Commissioner to coordinate efforts within the federal government. The Commissioner could help with the aforementioned public awareness campaigns to inform the average American about the issue and prepare them for possible jury duty. The Commissioner could also help with

146. Drafters could glean through the hundreds of cases that have been investigated to pull examples. *See* U.S. DEPARTMENT OF STATE, *supra* note 22.

147. H.R. 5044, 113th Cong. (2014).

148. U.S. SENATOR BOB CORKER, *supra* note 92.

149. H.R. 5044, 113th Cong. (2014).

creating the aforementioned jury instructions and possibly provide trainings for prosecutors and judges on how to handle these delicate types of cases. The Commissioner could also coordinate efforts such as trainings on (1) how to apply basic jury instructions to different situations, (2) how to deal with media attention on these types of sensitive cases, and (3) how to best guide jurors through the process of deciding how to apply the statute to the facts presented. By having a coordinated effort on these lines, it would improve prosecution not only by making the prosecution of slavery easier for the jury, but it would also make prosecutors more confident in taking slavery cases and fully prosecuting them under the slavery statutes with the highest penalties.

CONCLUSION

Slavery, in all of its modern forms, is becoming an increasingly difficult problem both in the United States and abroad. With new technology that is providing new ways of capturing, hiding, transporting, and utilizing slavery victims, the federal government and non-profit organizations need to work together to try and combat this horrible crime. However, past actions have shown that toothless legislation—without changes in public perception or changes in judicial procedures—have led to a culture of prosecuting slavers for minimal crimes under related trafficking statutes, rather than pursuing charges for which convictions might be more difficult to obtain. Such a trend might include the possibility that the slavers could get away with their crimes, or face lower sentences after which they could continue their profitable activities.

These issues can be overcome by (1) using a targeted and effective anti-slavery media campaign, (2) providing a general jury instruction on slavery to aid prosecutors in explaining the crime to juries, and (3) providing holistic legislation that includes a more concrete and understandable definition of slavery. Then, the United States could actively engage in the fight against slavery, instead of remaining passive while other countries strive ahead. With such efforts, the United States may be able to become a leader in the fight against slavery, instead of lagging behind the United Kingdom and other countries across the Atlantic. Regardless of the actions taken, the United States needs to engage in this issue in a more proactive manner. The world once thought of the United States as a hypocrite for preaching freedom while keeping slaves, and the United States can little afford to find itself in the same position in the modern era.