

# Human Dignity within the Anti-Trafficking Regime: From Consensus to Complicity

## Abstract

This essay analyses the rationales, legal and political, behind the co-optation of human dignity by the international anti-trafficking regime. It identifies several, partly contradictory, functions the concept of human dignity performs as part of the anti-trafficking discourses, laws and policies: forging consensus among antitrafficking actors, reinforcing the state prerogative to delimit belonging, providing the basis for the application of the human rights law, as well as sustaining the economic and socio-political order that enables trafficking-related exploitation. Ultimately, while the emancipatory potential of human dignity is not invalidated by its neoliberal instrumentalization, the latter must be taken into account if dignity is to be evoked to foster meaningful efforts against exploitation, exclusion, and unfreedom – whether or not these are described as modern slavery.

## *Introduction: dignity as the thrust of anti-trafficking frameworks*

Safeguarding human trafficking victims' human rights and dignity has been recognised as an impetus of anti-trafficking efforts alongside crime prevention and prosecution. Among three constitutive elements of the human trafficking offence, use of means that lead to the loss by the trafficked individual of control over their life choices, rendering their consent to exploitation irrelevant, is definitive to assessing the relationship between trafficking and dignity. Considering that personal autonomy is one of the possible connotations of human dignity,<sup>1</sup> and given the importance of “the experience of humiliation and human suffering” for the entrenchment of the concept of dignity in legal instruments,<sup>2</sup> human trafficking will necessarily amount to a violation of human dignity, or an attempt of such violation. In turn, as a “purpose” and a “general principle of law informing *jus cogens*” and raising grounds for human rights,<sup>3</sup> protection of human dignity is a manifest reason for appealing to the human rights law – based on the recognition of the “intrinsic value” of the wellbeing of all human beings<sup>4</sup> – in the context of the anti-trafficking legislation. Importantly, as an under-determined legal and political concept, human dignity is a value capable of forging universal support for the anti-trafficking regime under the human rights protection paradigm.<sup>5</sup>

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<sup>1</sup> A Clapham, *Human Rights Obligations of Non-State Actors* (OUP 2006), 546

<sup>2</sup> W Moka-Mubelo, *Reconciling Law and Morality in Human Rights Discourse: Beyond the Habermasian Account of Human Rights* (Springer International Publishing 2017), 203

<sup>3</sup> T Weatherall, *Jus Cogens: International Law and Social Contract* (Cambridge University Press 2015), 41, 44

<sup>4</sup> J Raz, *The Morality of Freedom* (OUP 1988), 180

<sup>5</sup> C McCrudden, ‘Human Dignity and Judicial Interpretation of Human Rights’ [2008] 19(4) *European Journal of International Law* 655, 678

### *Dignity as a requisite of political belonging*

Identifying dignity as the protected legal interest of the human trafficking offence (as, for example, in the Spanish Penal Code)<sup>6</sup> underlines the symbolic significance of public visibility of human trafficking and the impact of victimhood on an individual's socio-political belonging. Although voluntary enslavement is a historically observable practice,<sup>7</sup> a conscious acceptance of coercion in exchange for survival or subsistence<sup>8</sup> is impermissible in liberal thinking as it requires a slave to renounce their liberty for good.<sup>9</sup> Such a renouncement excludes an enslaved person from the community since slaves “are not counted as sources of claims.”<sup>10</sup> While both their rights and duties are replaced, to an extent, with a master's duties to maintain their slave, these stem “either from slaveholders or from the general interests of society (which do not include the interests of slaves).”<sup>11</sup> A victim of human trafficking, by losing their freedom of deliberation, is also expelled from the community where they are exploited. However, the authority to grant, enforce or restrict rights (which in this understanding will be civil and not even socio-economic rights) rests with the state. In a society where freedom is considered inalienable, and slavery, servitude or other forms of unfreedom are formally abolished, the trafficker and/or exploiter usurp the state's prerogative to suspend one's liberties; tellingly, certain categories of state-imposed forced labour, including prison work, remain excluded from the scope of the Forced Labour Convention. Human trafficking constitutes such an encroachment upon the exclusive powers of the state, resulting in unauthorised “expulsions” from the community through the unlawful deprivation of liberty.

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<sup>6</sup> Ley Orgánica 5/2010, de 22 de junio, por la que se modifica la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal (BOE núm. 152, de 23/06/2010)

<sup>7</sup> Including ancient Near East, Africa, and ancient Roman and European medieval debt slavery which could suppose a “suspension”, rather than a complete and indefinite renouncement of liberty – leading gradually to a preference of debt servitude over enslavement (J Spicksley, ‘The Decline of Slavery for Debt in Western Europe in the Medieval Period’ in *Serfdom and Slavery in the European Economy. 11th - 18th Centuries: Atti della “Quarantacinquesima Settimana di Studi, 14-18 aprile 2013 /A cura di Simonetta Cavaciocchi* (Firenze University Press 2014) 465; J Spicksley, ‘Death, Obligation and the Origins of Slavery’, Centre for Historical Economics and Related Research at York, CHERRY Discussion Paper Series DP 13/2, 18 <<https://www.york.ac.uk/media/economics/documents/cherrydiscussionpapers/1302.pdf>> accessed 16.10.2022)

<sup>8</sup> O Patterson, *Slavery and Social Death: A Comparative Study* (Harvard University Press 1982), 130; SL Engerman, ‘The Rise, Persistence, and Slow Decline of Legal Slavery’ in J Allain (ed.), *The Legal Understanding of Slavery. From the Historical to the Contemporary* (OUP 2012), 170

<sup>9</sup> J Feinberg, *The Moral Limits of the Criminal Law Volume 3: Harm to Self* (OUP 1989), 76; JS Mill, *On Liberty* (1859, Batoche Books 2001), 94

<sup>10</sup> J Rawls, *Justice as Fairness: A Restatement* (E Kelly ed., The Belknap Press of Harvard University Press 2001), 23

<sup>11</sup> *ibid*, 24

The state, in turn, is interested in maintaining a certain level of inclusion permitting sensible participation even of those who, as “merely ... human beings”<sup>12</sup> that share neither in the political community nor in the social welfare system,<sup>13</sup> due to the lack of such entitling recognition,<sup>14</sup> may claim few rights on this state in the first place.<sup>15</sup> The international human rights law appears, wanting a widespread ratification of legal instruments of protection of rights of migrant workers (prominently, of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, but also such ILO acts as the Convention No. 97 concerning Migration for Employment and the Convention No. 143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers),<sup>16</sup> to be the only viable tool for rectifying the harm suffered by migrant trafficking victims, safeguarding both the positive rights of individuals to the freedom of employment, and the negative rights of protection from the forms of exploitation mentioned in the definition of human trafficking. The main aim of victims’ protection under the antitrafficking legislation is their reintegration into the society they have been forced out of, through the reinstatement of their personal autonomy that should guarantee their free choice of any subsequent labour exchanges.

### *Dignity as a claim on common humanity*

Applying the language of human dignity to trafficking provides the minimum of equality that enables meaningful solidarity with victims. Ensuring justice, seen as “respect for fundamental human rights which all men have, whether or not any particular society recognises such rights in its law or social practice,”<sup>17</sup> may act as a counterweight to the exculpatory narratives in “destination” countries that tend to contrast exploitation of migrant workers with the “modern slavery” supposedly proliferating in their countries of origin. This strand of the “modern slavery” public and policy discourse (present, for instance, in the UK 2014 Modern Slavery Strategy as it seeks to prevent trafficking by working with “countries that suffer from a high incidence of modern slavery”)<sup>18</sup> stabilises the vision of exploitation as an attribute of

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<sup>12</sup> *ibid*, 58

<sup>13</sup> G Vonk, ‘Access to Social Protection for Non-Citizen Migrants: The Position of Irregular Immigrants,’ in R Plender (ed.), *Issues in International Migration Law* (BRILL 2015), 81-90

<sup>14</sup> G Pellegrino, ‘The Circumstances and Context of Bounded Democracy. Some Qualms’ [2018] 221 *Biblioteca della libertà* 1, 18

<sup>15</sup> Raz et n.4, 176-177

<sup>16</sup> V Chetail, *International Migration Law* (OUP 2019), 70

<sup>17</sup> HLA Hart, *Essays in Jurisprudence and Philosophy* (OUP 1983), 188

<sup>18</sup> HM Government, ‘Modern Slavery Strategy,’ (November 2014), 12

the “Global South,”<sup>19</sup> and trafficking as slavery “imported” by traffickers from societies where it is supposedly entrenched.<sup>20</sup> It conveniently ignores the impact of western-oriented antitrafficking legislation and activism on south-south migration and exploitation practices and the pressure on local governments to suppress labour mobility.<sup>21</sup> This exclusive logic still applies if traffickers, even though not foreigners, are “othered” as a racialised minority (as the allegedly Pakistani ethnic perpetrators of child sex trafficking in the UK),<sup>22</sup> or, alternatively, if a disadvantaged minority group is a perceived target of victimisation<sup>23</sup> and so “othered” itself.<sup>24</sup> This way, either perpetrators or victims, and ideally both, may still be a foreign “contaminating agent in an otherwise just and fair society.”<sup>25</sup> From this standpoint, slavery is not so much a violation of the regimes of human rights and norms of the free market, as a lack thereof among the enslaved. It is to be resolved, then, by a further entrenchment of these regimes, not a rectification of their shortcomings. Meanwhile, “modern slaves” are to be “liberated” and introduced into the “civilised” free society.

In this respect, recognition of human dignity as universal and innate to every human being may serve as an antidote to the condescending mode of antitrafficking efforts precisely

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<[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/383764/Modern\\_Slavery\\_Strategy\\_FINAL\\_DEC2015.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/383764/Modern_Slavery_Strategy_FINAL_DEC2015.pdf)> accessed 08.11.2023

<sup>19</sup> The evolution of the antitrafficking discourse in Japan is instructive in this regard: as the country became to see itself as a developed nation, the notion of domestic trafficking of children after the WWII, and young women employed in domestic work in the 1950s, gave place to a more western understanding of trafficking of foreign women into sex work, and a problem of sex tourism of Japanese men to other Asian countries – which however bore references to Japanese colonialism rather than slavery (A Sasaki, ‘Human Trafficking and Slavery: Current Anti-Trafficking Efforts in Japan’ in H Cuadra-Montiel (ed), *Globalisation – Approaches to Diversity* (IntechOpen 2012))

<sup>20</sup> E Krsmanović, ‘Mediated Representation of Human Trafficking: Issues, Context, and Consequence’ in J Winterdyk and J Jones (eds), *The Palgrave International Handbook of Human Trafficking* (Springer 2020), 876; L Brace and J O’Connell Davidson, ‘Slavery and the Revival of Anti-slavery Activism,’ in L Brace and J O’Connell Davidson (eds.), *Revisiting Slavery and Antislavery* (Palgrave Macmillan 2018), 5

<sup>21</sup> A Bhagat, “‘Who Is not an Agent Here?’: The Collateral Damage of Anti-Trafficking in Nepal” [2022] *Antipode* <<https://doi.org/10.1111/anti.12882>>, 16

<sup>22</sup> See, e.g., H Archer, E Cockbain, ‘The Far Right Tried to Profit Off My Story, Says Telford Sex Ring Survivor’ (openDemocracy, 13.06.2023) <<https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/the-far-right-tried-to-profit-off-my-story-says-telford-sex-ring-survivor/>> accessed 10.11.2023

<sup>23</sup> EM Durisin and E van der Meulen, ‘Sexualized Nationalism and Federal Human Trafficking Consultations: Shifting Discourses on Sex Trafficking in Canada’ [2021] 7(4) *Journal of Human Trafficking* 454

<sup>24</sup> E.g., the case of mobile Roma, who, despite being EU citizens, mostly from Romania, may face multiple layers of formal and informal exclusion, including trafficking., problematises the question of the EU citizenship, the right to mobility and non-discrimination, and a common antitrafficking framework within the EU (O Parker and Ó López Catalán, ‘Free Movement for Whom, Where, When? Roma EU Citizens in France and Spain’ [2014] 8 *International Political Sociology* 379)

<sup>25</sup> A Szörényi, ‘Expelling Slavery from the Nation: Representations of Labour Exploitation in Australia’s Supply Chain,’ [2016] 7 *Anti-Trafficking Review* 79, 90

because it contradicts the very idea of slavery and as such figures in the 1956 Slavery Convention and the ILO documents.<sup>26</sup> Both the 1966 UN International Covenant on Civil and Political Rights, prohibiting slavery, servitude, forced labour and slave trade<sup>27</sup> and reinstating persons' right to liberty,<sup>28</sup> and the UN International Covenant on Economic, Social and Cultural Rights, announcing "the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts,"<sup>29</sup> confirm the individual right to self-determination<sup>30</sup> and refer to the value of human dignity. This also applies to regional human rights instruments, including the European Convention on Human Rights, which protects the rights to personal freedom and not to be subjected to slavery or forced labour.<sup>31</sup> While the 1949 Trafficking Convention, positing that "prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person,"<sup>32</sup> could hardly be considered a human rights instrument, the Additional Protocols to the 1949 Geneva Conventions characterise forced prostitution in conditions of armed conflict as an "outrage upon personal dignity."<sup>33</sup> Overall, it is the incompatibility of trafficking experiences with maintenance of human dignity that places trafficking within the remit of the human rights law in absence of a "right not to be trafficked"<sup>34</sup> and establishes entitlements that are not conditional upon victims' citizenship status.

### ***Dignity as a right to be exploited***

However, and here lies the paradox of endorsing human dignity as a universal language of counteracting trafficking and exploitation, when respect for personal autonomy is recognised as a morally fundamental right,<sup>35</sup> it eventually feeds into the non-interventionist stance on "consensual" exploitation. After all, the international human rights law "does not contain a

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<sup>26</sup> ED Genovese, 'The Hegemonic Function of the Law', in P Beirne and R Quinney (eds), *Marxism and Law* (John Wiley & Sons 1982), 279

<sup>27</sup> International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), Article 8

<sup>28</sup> ICCPR, Article 9

<sup>29</sup> International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR), Article 6

<sup>30</sup> ICCPR, Article 1; ICESCR, Article 6

<sup>31</sup> Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocols Nos. 11, 14 and 15 supplemented by Protocols Nos. 1, 4, 6, 7, 12, 13 and 16 (signed 4 November 1950, entered into force 03 September 1953) 213 UNTS 221 (ECHR), Articles 4-5

<sup>32</sup> Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (adopted 2 December 1949, entered into force 25 July 1951) 96 UNTS 271, Preamble

<sup>33</sup> C McCrudden, 'Human Dignity and Judicial Interpretation of Human Rights', 668-9

<sup>34</sup> M Jovanović, *State Responsibility for 'Modern Slavery' in Human Rights Law* (OUP 2023)

<sup>35</sup> Raz at n.4, 191-2, 203

right not to be exploited as such”<sup>36</sup> – and neither does antitrafficking contain a goal to prevent exploitation. Human rights do not only complement the criminal law approach<sup>37</sup> and reaffirm the liberal reading of trafficking as an offence against personal autonomy triggering the duty of state protection. They also side-line the perspectives focusing on labour rights violations as the essence of trafficking. Moreover, once reinterpreted within the neoliberal paradigm, human rights serve to reinforce it, becoming complicit in exploitation.<sup>38</sup> Doubtlessly, it is in states’ interest to gain back the monopoly on deprivation of liberty usurped by traffickers and to ensure victims’ loyalty without undermining the bases of the socio-economic order underpinned by exploitation, and appealing to human dignity is an elegant way to do so. Apparently, the transformation within the liberal discourse from the logic of exchange to one of unequal struggle,<sup>39</sup> and a corresponding reinvention of “human rights as the moral language of the competitive market”<sup>40</sup> have not been necessarily assessed by those using this language to stand for victims of trafficking – unless, of course, halting exploitation is not one of their goals either.

Co-opted by the neoliberal discourse, dignity comes to require “a competitive order in which individuals were responsible for their own fates.”<sup>41</sup> Neoliberal human rights should be enjoyed in a self-reliant and responsible manner, with the aim of freely finding one’s place at the labour market as a “socially useful” and “active” citizen.<sup>42</sup> The idea of “active citizenship” resonates in the antitrafficking regime also in another respect: taking responsibility for the social life – hence volunteering as a substitute for the state delivery of public services.<sup>43</sup> So, the fact that it is mostly societal initiatives that care for trafficking victims is in line with the emergence of community-based victim services in the context of the western welfare state retrenchment in the last quarter of the 20<sup>th</sup> century. While “active citizenship” may seem a remedy for the dismantlement of “the harm reduction systems” functioning on the basis of social solidarity,<sup>44</sup> and it indeed helps to cover the needs exacerbated by the state’s “absence,” it is instrumental to “further reduction of the public sphere and the dispersion of social control

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<sup>36</sup> V Mantouvalou, ‘Legal Construction of Structures of Exploitation’ in H Collins, G Lester and V Mantouvalou (eds.) *Philosophical Foundations of Labour Law* (OUP 2018), 190

<sup>37</sup> P Boukli, ‘Imaginary Penalties: Reconsidering Anti-trafficking Discourses and Technologies’ (DPhil thesis, The London School of Economics and Political Science 2012), 24

<sup>38</sup> L Ramina, ‘TWAAIL – “Third World Approaches to International Law” and Human Rights: Some Considerations’ [2018] 5(1) *Revista de Investigações Constitucionais*, Curitiba 261, 266

<sup>39</sup> B Amable, ‘Morals and Politics in the Ideology of Neo-liberalism,’ [2011] 9(1) *Socio-Economic Review* 3, 8

<sup>40</sup> J Whyte, *The Morals of the Market: Human Rights and the Rise of Neoliberalism* (Verso 2019), 28

<sup>41</sup> *ibid*, 27

<sup>42</sup> Amable et n.38, 6, 26

<sup>43</sup> RI Mawby and S Walklate, *Critical Victimology: International Perspectives* (Sage 1994), 173

<sup>44</sup> S Pemberton, *Harmful Societies: Understanding Social Harm* (Policy Press 2015), 49

mechanisms,”<sup>45</sup> so that community-oriented approaches may be conveniently integrated into the antitrafficking regime.

### *Dignity as neoliberal resilience*

The neoliberal rejection of socio-economic rights as “threats to individual rights”<sup>46</sup> largely disables a characterisation of trafficking as a violation of rights to dignified work, safety, accommodation, and so on. However, they may be reconciled with the paradigm provided that the responsibility for the non-fulfilment of rights is appropriately misallocated. So, in the UN Agenda for Sustainable Development – a document indisputably guided by the “universal respect for human rights and human dignity” and the goal of “full realisation of human potential” – exploitation, recognised as an impediment to ensuring “decent work of all”, is to be “eradicated” through development.<sup>47</sup> Since the demand side – economic structures that require exploitation, and the legal and political institutions that facilitate it – cannot be addressed from the standpoint of “apolitical” human rights agendas,<sup>48</sup> the solution is to tackle the “supply.” The temporary nature of this compromise means antitrafficking efforts are bound to be limited to the “humanitarian forms of governance,”<sup>49</sup> silent on the structural injustices behind the immediate suffering it alleviates.<sup>50</sup> And even where its causes and their man-made character are seemingly exposed, this does not amount to a recognition of rights violations as “planned misery.”<sup>51</sup>

At the level of individuals and communities, the concepts of resilience and empowerment are used to arm victims and potential victims with personal capacities to manage the task they have so far failed at or are at risk of failing.<sup>52</sup> Pre-departure orientation trainings for domestic workers in Southeast Asia, analysed by Liberty Chee, may be seen as efforts to prevent trafficking – i.e., to avoid victimisation<sup>53</sup> by preparing outgoing migrants “to endure

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<sup>45</sup> T Jacob, ‘From the Myth of *Self-Government* to the Rise of *Holoptism*: Another Genealogy of Liberal Governmentality’ [2022] 16 *International Political Sociology* 1, 14

<sup>46</sup> Whyte at n.39, 59

<sup>47</sup> ‘Transforming Our World: The 2030 Agenda for Sustainable Development’, UNGA Res 70/1 (25 September 2015) UN Doc A/RES/70/1, §§ 8, 27

<sup>48</sup> Whyte at n. 39, 161, 181

<sup>49</sup> N Mai, ‘“Too Much Suffering”: Understanding the Interplay between Migration, Bounded Exploitation and Trafficking through Nigerian Sex Workers’ Experiences’ [2016] 21(4) *Sociological Research Online* 159

<sup>50</sup> V Mantouvalou, *Structural Injustice and Workers’ Rights* (OUP 2023)

<sup>51</sup> S Marks, ‘Human Rights and Root Causes’ [2011] 74(1) *Modern Law Review* 54, 78

<sup>52</sup> L Knight, Y Xin and C Mengo, ‘A Scoping Review of Resilience in Survivors of Human Trafficking’ [2022] 23(4) *Trauma, Violence, & Abuse* 1048

<sup>53</sup> Mawby and Walklate at n.42, 184

the working and social environment that provides little protection from hyper-exploitation.”<sup>54</sup> “Resiliency humanitarianism” creates “subjects who are conceived as resilient to the extent that they adapt to, rather than resist, the conditions of their humanitarian suffering.”<sup>55</sup> A resilient actor is both “excluded from regimes of security, exempt from rights and privileges accorded by juridical and normative systems” and expected to “reach her full potential when exposed to danger.”<sup>56</sup> The ultimate protective duty therefore resides with a potential victim: in the words of a July 2023 antitrafficking leaflet prepared by the OSCE and the National Police of Ukraine, emphasising vigilance and self-care for trafficking prevention, “You have yourself.”<sup>57</sup>

Identified trafficking victims have already proven to be insufficiently resilient: they exemplify burdensome “welfare cases” – a failure that discredits global circulation of exploitable labour, or the so-called “migration industry.”<sup>58</sup> Now they are helped to “overcome” their experiences and reintegrate into society<sup>59</sup> as newly resilient subjects – apt for managing their inevitably “precarious lives.”<sup>60</sup> Arguably, engaging “trafficking survivors” in designing anti-trafficking policies is one method of co-optation – at least, if resilience is understood as a “methodology of power,” depoliticising and “ultimately disempowering.”<sup>61</sup> This does not mean that they cannot improve lives of people who have experienced exploitation, but rather that they do not represent a systemic rupture with “traditional” anti-trafficking frameworks.

This exposure of the hidden agenda of dignity-oriented discourses in neoliberal societies echoes a more general critique of human rights within the Marxist tradition, which maintains that civil and political rights uphold the capitalist system through “the legal apparatus of enforceable rights of contract.”<sup>62</sup> They embody, in a legal form, the exploitative mode of production and social relations that enable and define it.<sup>63</sup> So, while progressive in gaining

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<sup>54</sup> L Chee, “‘Supermaids’: Hyper-resilient Subjects in Neoliberal Migration Governance’ [2020] 14 *International Political Sociology* 366, 373

<sup>55</sup> S Ilcan and K Rygiel, “‘Resiliency Humanitarianism’: Responsibilizing Refugees through Humanitarian Emergency Governance in the Camp’ [2015] 9 *International Political Sociology* 333, 341

<sup>56</sup> Chee at n.53, 369

<sup>57</sup> «У тебе є ти»: a leaflet by OSCE, National Police, and Ministry of Internal Affairs of Ukraine, released on 21 July 2023 <<https://www.osce.org/files/f/documents/4/d/549019.pdf>> accessed 01.10.2023

<sup>58</sup> Chee at n. 53, 370

<sup>59</sup> R Strobl, ‘Becoming a Victim’ in SG Shoham, P Knepper and M Kett (eds), *International Handbook of Victimology* (Taylor and Francis 2010), 10

<sup>60</sup> D Fassin, *Humanitarian Reason: A Moral History of the Present* (R Gomme tr., University of California Press 2012)

<sup>61</sup> Ilcan and Rygiel at n. 54, 344

<sup>62</sup> C Pierson, *Marxist Theory and Democratic Politics* (Polity Press 1986), 26

<sup>63</sup> T Carver, *Marx’s Social Theory* (OUP 1982), 38-40

improvements in the life conditions and political participation of workers, rights cannot perform a transformative role.<sup>64</sup> This critique illuminates the mechanism of reconciling the oppressed with the oppressor, which seems to be at heart of the antitrafficking framework.

***Conclusion: dignity as a tool of emancipation***

All being said, just as it is potentially not impossible to give a new, emancipatory meaning to old legal forms through reinterpreting them according to new economic relations,<sup>65</sup> old meanings – such as the idea of dignity embracing effective autonomy complemented, rather than eroded, by economic, social, and political belonging and participation – should be enforceable through novel legal instruments. Anti-trafficking frameworks could serve as such an avenue, given the vast resources of the international antitrafficking regime. This still leaves unresolved the question whether the system may be undermined from within, and if this aspiration justifies, for the time being, incremental “empowering” antitrafficking efforts and other measures that uphold the status quo.<sup>66</sup> By the same token, it is up to debate whether the instrumentalization of the concept of human dignity by the system that is oriented, at best, at symptomatic treatment of the acute cases of economic, social and political exclusion conveniently grouped under the “modern slavery” umbrella, renders this concept less meaningful. Arguably, it does not. Human dignity, and the ultimate value of freedom it carries, remains a universal claim to our shared and inalienable humanity, transcending misappropriations. Yet, as with other apparently universal and over-used ideas, references to dignity and rights in application to human trafficking and exploitation should never be taken at face value, but rather assessed against the substantive agendas they purport to represent – lest they turn into their opposite.

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<sup>64</sup> Pierson at n. 62, 26

<sup>65</sup> M Cain, ‘The Main Themes of Marx’ and Engels’ Sociology of Law’ in *Marxism and Law*, 68; S Marks, ‘Big Brother is Bleeping Us – With a Message that Ideology Doesn’t Matter’ 12 (1) [2001] EJIL 109

<sup>66</sup> VE Munro, ‘The Master’s Tools? A Feminist Approach to Legal and Lay Decision-Making’, in D Watkins and M Burton, *Research Methods in Law* (2<sup>nd</sup> edn, Routledge 2018)

## CURRICULUM VITAE

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Y Monastyrova, ‘International Non-Governmental Organisations in Combatting Human Trafficking,’ [2018] 16 Herald of the Lviv National University, Philosophy and Politics 167 <[http://fps-visnyk.lnu.lviv.ua/archive/16\\_2018/26.pdf](http://fps-visnyk.lnu.lviv.ua/archive/16_2018/26.pdf)>

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*Slavery Past, Present and Future 6<sup>th</sup> Conference*

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Presentation of a paper “Domestic Human Trafficking: Dilemmas of Conceptualisation”

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