Lessons on the Law

Slavery and its Legacies: Marking the Sesquicentennial of the Thirteenth Amendment to the U.S. Constitution

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The year 2015 marks the sesquicentennial of the Thirteenth Amendment to the Constitution, which abolished slavery in the United States. The amendment was an enormous step forward in a nation that experienced four years of a bloody civil war, fought because of slavery. Yet the post-emancipation period presented numerous and serious challenges. Why does the issue of slavery still generate so much debate among scholars, politicians, activists, and the general public? How do the legacies of slavery persist today, as we commemorate the sesquicentennial of its legal abolition?

Fighting for Emancipation

The Thirteenth Amendment to the U.S. Constitution, which abolished slavery in 1865, was not a gift. It was the result of a long and gradual process, greatly determined by the daily fight led by abolitionists and slaves. Their efforts resulted in the passing of a number of federal and state legislative acts. The process that culminated with the legal abolition of slavery in the United States can only be understood within the context of the international anti-slavery and abolitionist movements that emerged during the eighteenth century in Europe and the Americas.

In 1791, the battle against slavery was fought on the ground. Following the beginning of the French Revolution in 1789, a great slave rebellion emerged in Saint-Domingue, then the richest French colony in the Americas. Although the successful slave uprising led to the abolition of slavery in the French colonies in 1794, slavery was reestablished after Napoléon Bonaparte proclaimed himself First Consul for Life in 1802. But despite the strong intervention of the French army, the slave rebels won the battle. In 1804, Saint-Domingue became an independent country. Free of slavery, the new black nation took the name Haiti.

The echoes of the Haitian Revolution were heard across the Americas. On the one hand, slave owners in Brazil, Cuba, and the United States feared other slave uprisings, which could lead to the end of slavery in their countries as well. On the other hand, as the abolitionist movement evolved in Britain and gained great popular support, British Parliament passed the Slave Trade Act of 1807 abolishing the international slave trade to the British colonies. This measure greatly affected slaving nations such as the United States and Brazil.

Although inspired by the same ideals of freedom as the French Revolution, the American Revolution did not aim to end slavery. Many of its most important leaders, such as George Washington, James Madison, and Thomas Jefferson—later known as the founding fathers—were large slave owners and never freed their own slaves. After the 13 colonies broke with Britain, the Declaration of Independence of 1776 did not challenge slavery. Moreover, the original Constitution, adopted in 1787, not only maintained slavery, but also empowered slave owners.

Beginning in 1777, Northern states abolished slavery, often through gradual emancipation. This new context led to a greater division between free states and Southern slave states. This divide became even more prominent during the congressional debates over the incorporation of Missouri into the union. Eventually, the solution to the issue was a federal statute that became known as the Missouri Compromise of 1820. This legislation admitted Missouri to the Union as a slave state, but also admitted Maine (separated from Massachusetts) as a free state. In addition, slavery was banned from all new states associated with the Louisiana Purchase north of the southern boundary of Missouri.

As industries of tobacco, rice, and cotton quickly expanded, slavery became central to the economy of the United States. By the middle of the eighteenth century, U.S. slave owners were promoting the growth of the enslaved population through natural reproduction. In 1807, Congress passed the first Slave Trade Act, which banned the importation of slaves—but not, of course, the domestic slave trade. The U.S. Census of 1860 estimated that 3,953,761 slaves lived in the country, making up more than 12 percent of the total population.

A War about Slavery

When Abraham Lincoln was elected
In December 1861, Senator (and later Vice-President) Henry Wilson proposed a congressional bill abolishing slavery in the United States.
Washington, D.C., which, despite opposition, was approved. Lincoln signed the District of Columbia Compensated Emancipation Act on April 16, 1862. Yet despite the particular context of war, as was done in the British West Indies and Saint-Domingue, this first U.S. emancipation act included a clause to compensate slave owners. It is important to note that compensated emancipation was not a new proposal. In 1849, Lincoln had already proposed emancipation in Washington, D.C., in exchange for financial compensation to the slave owners. In legal terms, slaves were considered property. The principle of compensated emancipation was based on the Fifth Amendment, which clearly established that government expropriation of property required indemnification.3

The District of Columbia Emancipation Act determined that slave owners would be compensated up to $300 per slave. However, the indemnification would be paid only to the slave owners who confirmed loyalty to the Union. On September 22, 1862 (effective on January 1, 1863), as part of a strategy to fight the Confederate states and gain the support of freed slaves who would be able to join the Union’s Army, Lincoln issued the Emancipation Proclamation of the Confederate states of the South. Despite excluding 450,000 slaves in the border slave states of the Union (Delaware, Kentucky, Maryland, and Missouri) and 275,000 slaves in Tennessee, and many thousands in areas controlled by the Union army in the states of Louisiana and Virginia, the decree freed more than three million enslaved men, women, and children, and favored the enlistment of black soldiers in the Union Army.4

After four years of a bloody Civil War, slavery was eventually abolished in the United States through the Thirteenth Amendment, which was ratified by the states by December 1865. As Reconstruction started, there were a number of proposals overseen by the newly created Freedmen’s Bureau to provide financial and material reparations to former slaves, especially through land ownership and education. In 1865, President Andrew Johnson, who succeeded Lincoln after his assassination, revoked the bureau’s order to redistribute land confiscated during the war to freedmen and freedwomen.5

Reconstruction and the Legacies of Slavery
Freed at last, several hundreds of thousands of African American men, women, and children were not provided with any significant financial and material means to rebuild their lives as free individuals. During Reconstruction, the newly freed population continued to face economic, social, and racial discrimination. Although the Fifteenth Amendment, ratified in 1870, prohibited disenfranchisement based on “race, color, or previous condition of servitude,” in Southern states explicit violence, fraud, poll taxes, literacy tests, and other mechanisms to limit the ability of registration were used during the Jim Crow era to prevent African Americans from voting.

Immediately after the abolition of slavery, in order to control the newly freed population, Southern states passed a series of laws based on older slave codes. Known as Black Codes, these laws greatly restricted the freedom of African Americans. Among others, a system of convict leasing (penal labor) was introduced in the Southern states such as Georgia, Mississippi, Florida, and North Carolina, to replace the
slaves workforce. Punished by vagrancy, many African Americans were sent to prison in order to provide unpaid workers to plantations and factories, leading to the exponential growth of the prison population. In the next decades of the twentieth century, especially in the North, Jim Crow laws sanctioned racial segregation in various areas, including public spaces, schools, transportation, and the military.

The second half of the twentieth century was marked by the long struggle of the civil rights movement, which eventually ended legal segregation in the United States. Still, these changes could not erase the centuries during which African Americans were subjected to forced labor, violence, and social exclusion. Racial inequalities remain in the post-civil rights era through racial discrimination embodied in African Americans’ lack of access to healthcare and higher unemployment rates. Today even if African Americans represent 12 percent of the U.S. population, they constitute 40 percent of the incarcerated population.

In recent years, slavery has been the subject of novels, films, plays, websites, and museum exhibitions. Never before have so many monuments and memorials to remember slavery been unveiled in the United States. The growing need to create these memorials and to talk about slavery are indicators that the wounds of this tragic past have left deep scars that are far from being healed. At the same time, through the newly emerging Black Lives Matter movement and during the recent debates to remove the Confederate flag from public buildings, African American youth are actively responding to urgent social issues, including police brutality and black mass incarceration.

Today, slavery is officially recognized as a crime against humanity by the United Nations. Teaching slavery and African American history in schools nationwide helps us come to terms with slavery and its legacies in the United States. Presenting a balanced and accurate view of the history of slavery in textbooks and recognizing this tragic chapter of U.S. history as a human atrocity is certainly a necessary step to understanding our difficult past and constructing a future with fewer social inequalities and more tolerance.

**Discussion Questions**

1. What are the legacies of slavery in the United States?
2. Why was the District of Columbia Emancipation Act the first and only federal legislation that compensated slave owners?
3. Should emancipated slaves also have received compensation?
4. What did the Thirteenth Amendment do? Did it accomplish its aims?
5. Was the Civil War inevitable?
6. Was the Civil War about slavery? Was it about emancipation?

**Notes**


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