

Slavery – Flourishes in America

by

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When we talk about slavery, we usually think of people being forced to do work they would otherwise avoid. Slavery often times is associated with poor working environments such as sweat shops, in fields picking crops under threat of punishment, or serving as sex slaves.

In 1865, the [13th Amendment](#) to the *Constitution of the United States* abolishing slavery and involuntary servitude was ratified. Section 1 of the amendment reads:

“Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”

Before continuing our discussion, reread that section again and contemplate its meaning. Put aside your concept of what slavery is, as its original definition has morphed into many meanings. Slavery today can refer to many things such as child marriage, using children in armed conflict, bonded labor, sexual exploitation, economic slavery, debt bondage, and etcetera.

Regardless of which slavery definition you adopt most share common elements.

- the threat or use of force
- other forms of coercion
- fraud
- deception
- abuse of power or of a position of vulnerability
- giving or receiving of benefits to achieve the consent of a person having control over another person
- exploiting others against their will, or who are unable to walk away.

While there is no single definition of slavery almost all definitions contain attributes such as those listed above as helping to define the term. Following are some basic definitions for slavery.

- a state of subjection like that of a slave
- the state of being under the control of another person
- practice in which people are coerced under conditions that are exploitative
- submission to a dominating influence

The common theme that flows throughout all slavery definitions is “**control.**” However it is not control over something physical but rather control over people.

While our Constitution supposedly abolished slavery, and states have various laws against it, the simple fact is that **ALL** states **including** the federal government have not completely abolished slavery and acknowledge its existence with law, rules and regulations.

Since the 13th Amendment made involuntary servitude illegal, it is reasonable to assume that “[voluntary servitude](#),” such as the existence of “[indentured servitude](#)” in Colonial America, is legal. The concept of voluntary servitude is fairly well defined as a contract that essentially benefits the contractor over the benefits of the contracted.

At each of the four levels of our government (federal, state, county, and state) there are rules and regulations that must be followed. Some people and groups believe that such control is unlawful and constitutes one or more forms of slavery. Some argue that this is not true because our various governments are “for the people, by the people.”

However, as [Ronald Reagan](#) stated, “Freedom is never more than one generation away from extinction,” and that quote was never so true as when the “perfect political and social storms” collided during the Biden administration. But these storms did not start with Biden’s presidency. They started much earlier and can be traced to the mid-1960s and culminated when they merged with the “[Toxic Triangle](#)” of Biden’s presidency.

The rapid development of housing communities in the 1960s led to the expansion of Home Owner Associations (HOA) across the US as developers wanted to create and maintain the aesthetics, property values, and quality of life within a community development. While developers saw HOAs as a marketing tool, homeowners initially saw communities which had them as being “exclusive” or “prestigious” places to live.

Initially HOAs were seen as positive organizations and were unregulated for the most part. However as the number of HOA law suits grew because of abuse the court cases gave way to a myriad of ill written and convoluted state laws that benefited developers and HOAs, but not the homeowners.

Covenants, restrictions and HOAs are the brainchildren of developers who went to state legislatures and exerted undue influence to allow for the development of covenants and restrictions, and for HOAs to be quasi-legal governments with the power to enslave homeowners through “voluntary servitude.” Although federal and state governments have a series of independent checks and balances to maintain a democracy, HOAs and their associated covenants and restrictions do not have such checks and balances. For example, in North Carolina, HOAs are allowed to fine homeowners a \$100 per day for whatever infraction the homeowner may have violated. The infractions may be not cutting the grass according to “standards,” to drying clothing outdoors on a close line, to adding a porch without permission. These violations are akin to a misdemeanor (grass), the HOA violating the law (close line), to a felony (building a deck). This is “judicial mismanagement” by applying the same “punishment” to all “crimes.”

States are starting to realize the inequity of HOAs and their associated covenants and restrictions. However, developers and HOA associations continue to strive in blocking new or revised legislation. Additionally, state legislatures are still favoring developers and HOAs in their decision making. For example, in the North Carolina House Bill 444 and Senate Bill DRS45221-NO-16A, the proposed amendments to chapters 47F and 47C are not retroactive, meaning that homeowners cannot get compensation for improper and/or excessive fines issued before the bills are passed.

Additionally both bills continue to favor developers and HOAs by restricting the number of people (5 max) at any one time who can be tutored, receive educational lessons, or academic lessons. While the intent is probably to prevent the establishment of a “school” in a person’s home, such a ruling not only inhibits the education of children and adults, but can be used to try and control the application of First Amendment rights such as freedom of religion, speech, and assembly. Proponents may say that the ruling will not do so, however, as we have seen in many court cases HOAs have tried to prevent free speech with regard to flying the US flag and restricting political signs during elections. Furthermore HOA boards may interpret the lack of detail as permission to fine or place limits on celebrations or other types of gatherings, or other activities.

With the increasing amendments to HOA laws, states need to completely revise their HOA laws/statutes. They need to be:

- written in clear and concise language that does not require an attorney to interpret,
- flexible to incorporate changes in national, state and local
 - building standards,
 - rules,
 - regulations,
 - ordinances, and
- flexible to meet changing social, economic, technological, and environmental changes.

To reduce litigations and to create more harmonious communities, states should incorporate [Florida's](#) requirement of a state-approved certification program for all HOA board members. Such programs would include training on:

- Roles and Requirements of Officers and Directors
 - Official Records and Recordkeeping
 - Financial Reporting and Transparency
 - Covenant, Rule, and Regulation Enforcement
 - Assessments, Liens & Fines
 - Budgets
 - Contracts
- Procedures for Board and Membership Meetings
- Elections
- Homeowners Rights
- Disasters

- Dispute Resolution

Certification should be required for all HOA board members with recertification every 2 to 4 years.

States should also create avenues for homeowner complaints, the means to investigate such complaints, and to enforce appropriate findings. Like state medical boards, many states simply provide lip service and rarely take any action to protect consumers unless there is an abundance of complaints and publicity.

State statutes should also, retroactively, require three (3) separate documents when an HOA is formed. These documents should be available on an HOA website, and given to every homeowner whenever changes are made. The first two documents listed below should also be filed with the state and placed on the state website.

1. The applicable covenants and restrictions that apply ONLY to the overall structural look and feel of the development. This document should only address things that will not essentially change over time. For example it should contain discussion concerning utility and road easements, but not topics on signage, fences, etc.
2. The HOA By-laws. These are the rules and regulations (directions) that concern how the association is managed. By-laws address such topics as roles and responsibilities, meetings, elections, finances, procedures to be followed, etc.
3. The current and applicable rules and regulations including applicable rules and regulations regarding social, economic, technological, and environmental changes. The rules and regulations document contain those specific items that owners and the HOA must follow. By their very nature rules and regulations may change for any number of reasons, including changes in law, the economy, or the environment.

State legislatures have been complicit in creating these faux government organizations to rule in such a way that homeowners, although initially voluntary, can easily become involuntary servitudes of the HOAs. Poorly written HOA laws often lead to homeowner abuse. There is little doubt that HOAs can become tyrannical, toxic organizations as voiced on [reddit](#) and [Vox](#), and in many court decisions. When this happens, homeowners have several choices from replacing the board members to actually dissolving the HOA along with its covenants and restrictions.

A well run HOA, with common sense covenants, restrictions, rules and regulations fosters harmony between the community and its members.