

LAURA J. LEDERER

MODERN SLAVERY



A Documentary and Reference Guide



MODERN SLAVERY

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A Documentary and Reference Guide

Laura J. Lederer

Documentary and Reference Guides



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PREFACE

The problem of slavery goes back to the beginning of civilization. Today, modern-day slavery takes many forms, but no matter the name or manner of exploitation—sex trafficking, forced labor, bonded labor, debt bondage, involuntary servitude, forced child labor, child soldiers, child sex trafficking, organ trafficking—they all describe a terrible abuse of some humans over others.

This book covers centuries of campaigns by brave men and women, but it is mainly about the development of the modern-day antislavery movement in the United States. It tells the story through a series of documents, speeches, pamphlets, treaties, laws, and articles spanning more than 300 years, but focused mainly on the last 50 years, and tracks a rising consciousness about the forms modern-day slavery takes and the rising movement against it.

The book's main thesis is that even in the 18th and 19th centuries, there was no single antislavery movement, but rather actors and advocates who can be roughly grouped into four traditions: *religious*, *abolitionist*, *feminist*, and *human rights*. The foundation of today's antislavery work was laid in the early efforts from these four traditions, each of which had developed antislavery arguments based on the tradition in which they are rooted. They protested, wrote, spoke, and persevered until their cries were heard. In the United States, it was, and is still, a movement rooted in the understanding that all men and women are created equal and no person has the right to exploit any other. Unfortunately, those who profit from slavery become powerful and fight fiercely and unrelentingly to keep their profits and dominance. Thus, the battles to stop slavery are long and arduous and require a heroic vision of what is right and a long view toward the future.

Looking back, it is easy to laud the heroic efforts of the few early prophetic voices, but as we approach the end of the second decade of the 21st century, the field is crowded with modern-day abolitionists, and here the task of documenting new vision and best practices is more challenging. The voices competing for attention, resources, and followers are so numerous and diverse that it is sometimes difficult to decide who has the right answers. Examining the early antecedents of

today's antislavery movement and understanding its historical traditions give us an analytic context and help us make sense of some of the modern-day debates on policy, program, priorities, and perspectives. Fascinatingly, the language developed sometimes centuries ago by religious, abolitionist, feminist, and human rights advocates created frameworks for modern antislavery advocates. This book gives the reader those frameworks—whether it is God's word (“The Spirit of the Lord is upon me . . . he has sent me to proclaim liberty to the captives . . . and to set at liberty those who are oppressed”); a vision of equality (Josephine Butler talking about “the double standard of morality”—one for men another for women); the abolitionist (a broad spectrum of secular antislavery activists working at the practical level—first to stop the slave trade, and to develop alternatives to goods produced by slaves); or the human rights (fully developed in the 20th century, with a Universal Declaration of Human Rights that proclaims inherent rights of all human beings).

This book is laid out chronologically to show the development of the modern-day antislavery movement. Each chapter has documents from the four antislavery traditions. The primary source materials are printed either in their entirety or in excerpts. No material or words have been changed, nor the order rearranged. One early document, the first Quaker pamphlet against slavery, is written in Old English, and the spellings of certain words, though maddening to decipher, are best presented as written. The British spellings of words also remain—for example, the word “labour,” instead of the American “labor,” in international documents. Citations have been removed for clarity but can be found in the original source documents.

Interspersed throughout the book are sidebars that tell the stories of survivors, give overviews of other anti-trafficking efforts and aspects of the modern movement's focus. Each document is followed by an analysis, the source citation, and suggestions for further reading to gain other perspectives on the topic. A Reader's Guide to Related Documents groups the materials by subject matter and the different perspectives. A bibliography allows the reader easy access to the original documents. As an interesting visual to see how the fight to end slavery has evolved, a chronology is included, which begins in the mid-1600s and ends with current efforts. The chronology cites additional efforts not discussed in the documents, but included in the book to guide the reader and pinpoint significant markers in the fight to stop slavery.

With each new effort undertaken to end slavery and human trafficking, we discuss the debates and differences in policy perspectives, strategy, tactics, and end goals. In some cases, we look at campaigns that worked and others that failed. Taking that failure and revamping a campaign or effort can often turn defeat into victory. As history shows us, it is not an easy battle, nor a short one. The spirit of freedom is passed down from generation to generation and the fight goes on. It is my hope this book will inspire the next generation to take up the torch of liberty and defeat slavery for good.

I had much help while completing this book, and I want to thank those who helped most. First, a thank you to four students who did basic research finding

excerpts and articles from the past: Timur Insanally, Kimberly Whicher, Kara Foster-Bey, and especially Alice Browning, who read through archives ranging from 1600 to the present. I am also indebted to Brenda Zurita, who read through the entire manuscript, offering suggestions large and small throughout, and helping draft and edit final contributions. Finally, I owe thanks to my editor at ABC-CLIO, Robin Tutt, who offered encouragement and enthusiasm, as well as superb editing.

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INTRODUCTION

If slavery is not wrong, nothing is wrong.

—Abraham Lincoln

The development of the modern-day antislavery movement rose from a long and storied history going back over four centuries in the United States. At first glance, it may seem as though there were only two sides to the debate about African chattel slavery—those who were proslavery and those who were against it—but in truth even back as far as the 1600s, the movement developed in fits and starts over several centuries and was composed of numerous competing arguments, pro and con, culminating in a tipping point powder-kegged by a Civil War. Historians are still debating whether the impetus for the turn in tide against slavery was religious, economic, ideological, cultural, moral, or political, or, more likely, a combination of forces.

Of course, there are serious differences between early arguments against African chattel slavery and the modern-day antislavery movement. The most important, of course, is that slavery was legal in almost every country when the Quakers first began to speak against it in the 1600s. Today, slavery is prohibited in almost every country in the world. Yet, even with the legal prohibitions, slavery continues today, and the development of a modern-day abolitionist movement is eerily similar in many ways to our earlier abolitionist movement. It grew from a few lone voices who recognized modern slavery as having many of the same basic elements as the slavery of the past: the exploitation of some groups by other groups; vulnerable people being moved, sometimes vast distances, and forced to do someone else's bidding for someone else's gain.

Just as happened centuries ago, the sheer pain and suffering of those enslaved generated first a few fledgling protests, then the formation of new organizations, then action on the part of larger entities (faith-based, feminist, and human rights groups), and then, legislative action—including resolutions, bills, and finally, at the turn of the 21st century in the United States—a comprehensive law that outlined a tripartite response: prevention of trafficking, prosecution of traffickers, and protection and assistance to victims of trafficking.

In the past 20 years as the problem of modern-day slavery has emerged, just as in earlier years, splits have developed in the antislavery movement. One major split, for example, has been about the legalization of prostitution. A vociferous debate roiled under the surface of the anti-trafficking movement for almost a decade. To the average citizen, it was confusing to learn that while everyone was against sex trafficking, some believe that legalizing prostitution would help stop sex trafficking while others believed that prostitution contributed to sex trafficking—or was in reality a synonym for sex trafficking. As countries around the world grappled with this problem and took numerous different approaches to prostitution—some legalizing it, some criminalizing, some decriminalizing, and some just ignoring adult prostitution altogether—it became a polarized debate in the United States—polarized to the extent that even certain words and phrases (“sex worker” vs. “prostituted woman”) were a clue as to which side one was on in the debate. As in most polarized debates, it was almost impossible to stay neutral, and those working to stop trafficking and slavery were urged, encouraged, and pressured to choose a side.

Although legalization of prostitution is the most significant of these very public debates, there are others: for example, which is the more important focus—labor trafficking or sex trafficking? Is it better to work solely on children enslaved or should the focus always be on both adults and children? Are faith-based anti-trafficking efforts suspect because religious beliefs may drive them, or are they in fact better equipped to address modern-day slavery given the fact that centuries ago, the first antislavery voices emerged from the church? Is a global approach more effective, or does a local, less centralized approach make more sense?

Although they seem like very modern questions, many of these debates arise directly out of the antislavery movements of the past. Examining early documents, we quickly recognize echoes of the past in the language utilized by modern-day antislavery activists. Even more, analyzing the early documents can help us make sense of some of the ongoing debates and discussions, and perhaps give us a better understanding of why the modern-day antislavery movement is so multi-disciplined and multi-various.

In the United States, four distinct antislavery approaches emerged over the years. This book identifies four main approaches: *religious*, *abolitionist*, *human rights*, and *feminist*. They are examined chronologically and then in the context of modern-day slavery and trafficking. It is not our purpose to conduct a comparative analysis to identify the best approach of these four. Each of these traditions is unique and play an important role in the overarching antislavery movements, past and present. More important for our purposes is to illustrate how they built on one another’s arguments, strengthened one another, borrowed language and rhetoric from one another, while at the same time pointing out weaknesses, as, for instance, feminists noted that antislavery activists left women out of the equation at the turn of the century.

Clearly the *religious response* came first. In the United States, as early as the 1600s, it was Christians, mainly Quakers and Methodists, who first spoke publicly about the wrong of slavery. Their vision was driven by the word of God and their belief that slavery of any kind was an anathema to God. In England in 1657, George Fox, a Quaker, first spoke out about the evils of slavery and the importance of liberty, and shortly after, John Wesley, then a Methodist, spoke out in the mid-1700s about the

evils of slavery in England and the United States. Both men drew from the Bible to develop a theological argument about the unequivocal evil of slavery. This Christian antislavery tradition grew and strengthened over the next 200 years. It battled not just slave-owners and proslavery forces in government and society, but also the church itself, where, in the United States, whole denominations passed resolutions and regulations *supporting* slavery. Although these early battles are beyond the scope of this book, it is important to note that in each of the four antislavery traditions, debates emerged and battles raged. It is easy to look back to the 17th, 18th, and 19th centuries and judge which men and women, which organizations had the right perspective, but complexities existed then as they do in contemporary antislavery work.

In a similar fashion, the early *abolitionist movement* was the first secular challenge to slavery. Although the leadership came from religious men like Thomas Clarkson, William Wilberforce, Granville Sharp, and others, they were convinced that a broader movement was important and formed the British Abolitionist Committee in 1787. Fifty years later, the same group was instrumental in the birth of the British Anti-Slavery Society in 1823. These non-denominational, ecumenical, and eventually independent societies grew in Europe and the United States and eventually led to the formation of large international NGOs such as Anti-Slavery International, in 1839.

It sometimes seems as if *feminist efforts* to stop sex slavery sprang Athena-like in the late 20th century, but in actuality, they, too, can be traced to early international efforts in the 1800s. This book highlights the first feminist action against commercial sexual exploitation of women and children in the mid-1800s. It was then that Josephine Butler began helping “fallen women” in her town, even opening her house to them until they could get back on their feet. She called this work “new abolitionism” to emphasize the slavery-like condition of women in prostitution. In 1875, banned from an international meeting of one of the traditional abolitionist associations because she was female, she founded the first organization to fight international trafficking of women and children, and to protest British, French, and U.S. law that promoted prostitution and protected male purchasers of sex.

At the turn of the century, and in the early 1900s, the phrase *human rights* came into the lexicon. European and U.S. philosophers, writers, and activists expressed concerns about human rights, including social justice, civil and political rights, right to work, and freedom from labor exploitation, which arose again and again. Some of these ideas had clear antecedents in the early workers’ rights movements, but others arose from the debate about natural rights of man. Following World War I, with the formation of the League of Nations and the International Labor Organization (ILO), many of the ideas embodied in the modern human rights movement were put to paper. Early international resolutions, conventions, and treaties reflected these ideas, many of which were borrowed in the late 20th century for the drafting and passage of the Trafficking Victims Protection Act and other anti-trafficking protocols, treaties and legislation. The ILO played a lead role in addressing labor exploitation and child labor, drafting treaties and conventions that established international norms for right to work and right to be free from exploitation. In the 21st century, the ILO again played a role in the modern-day slavery movement, establishing “worst forms of labor,” and tracking labor and sex trafficking across the globe.

In each of these four traditions, there was usually a first protest made public by a courageous individual or organization. One purpose of the book is to highlight these first prescient voices and to illustrate how one person, with a clear vision of what is wrong and what needs to be done to make it right, can spark an entire movement. Just as important a purpose in this book is to demonstrate how each of these individuals spoke against slavery from a particular viewpoint and to highlight the language that shapes and gives life to the protests, the resolutions, the treaties, and laws that have arisen from these viewpoints. The ontological arguments expressed in these antislavery traditions can be traced up into the 21st century where they are found in the documents of the modern-day slavery movement.

Because slavery happens on plantations, in fields, inside private houses, in back alley brothels—in places the average person cannot access or see—all antislavery movements, past and present, must make clear the harms of slavery and make that harm visible to the general public. So, for instance, early evangelicals and abolitionists documented the nature and scope of the problem of slavery. For example, Thomas Clarkson early understood that saying “slavery is wrong” was not nearly as effective as describing in detail the violence—the shackles, beatings, and brutality—that was an every-day part of slavery. Brilliant and meticulous, he spent a year documenting the layout of a typical slave ship and commissioned an artist to illustrate the way slaves were transported across the ocean, packed in by the hundreds in the galley, with gruesome descriptions of the suffering, sickness, and death that were a part of every slave ship voyage across the Atlantic. Early abolitionists also worked with former slaves, escaped slaves, and freed slaves to find platforms for them to tell their stories firsthand. In this same vein, modern-day antislavery advocates continued this important approach by bringing survivors to Congress to testify as to what had happened to them, and some of these stories are included in the book.

Similarly, feminists set about the task of uncovering the terrible stories of sex slavery both abroad and here in the United States. Josephine Butler was known for her horrific descriptions of the inspections of women and girls suspected of prostitution. As part of the Contagious Diseases Act, they could be seized from the street at any time, hauled into a police station, and taken to a back room where a violent medical procedure devised to detect sexually transmitted diseases was performed. Newspaper articles tell of grown men and women crying out, fainting, getting ill, as they heard her describe the details of these “medical rapes.” One government official said he wept hearing her talk of the law he had helped to pass. Later, as she was able to convince some young women to tell their own stories, she helped create a feminist tradition of “breaking the silence” around crimes linked to sex and sexuality.

These early speak-outs can be tracked through other previously taboo issues such as rape and domestic violence in the late 20th century, but it wasn't until the 21st century that Norma Hotaling first used the term “survivor-centered” and argued that survivors of sex trafficking should tell their own stories. In the next 10 years, survivors noted that they are much more than just their stories and began working in all aspects of the fight against modern-day slavery, participating in shaping programs and policies for prevention, prosecution, protection and assistance, and partnership in the modern-day movement against slavery.

Today, the U.S. State Department, the Department of Health and Human Services, and other U.S. government agencies publish the first-person stories of trafficking survivors, and in 2012 the Obama administration established the first governmental United States Advisory Council on Human Trafficking of survivors to advise and guide U.S. agencies that play a vital role in eradicating human trafficking, so the importance of including survivors in anti-trafficking work has now reached U.S. government infrastructure.

Looking back over the past four centuries, following the development of anti-slavery movements through the actual primary source material allows us to understand the modern-day movements against slavery in a deeper and more rooted way. Indeed, we might even say that the past work of the many who battled for so many years to abolish slavery lives and breathes in the work of the many modern-day abolitionists today.

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ANTISLAVERY ANTECEDENTS (16TH–19TH CENTURIES)

INTRODUCTION

Today we hold a common understanding that slavery is an abusive, inhumane, and evil practice. In fact, every country in the world has passed a law prohibiting slavery and involuntary servitude. However, for over two centuries, slavery was an acceptable practice and flourished in West European countries and the United States, as well as other parts of the world. According to the Trans-Atlantic Slave Trade Database, over 12.5 million people were shipped to the Americas, and 10.7 million survived the Middle Passage, the dangerous, life-threatening part of the slave trade where people were packed tightly in ships and brought from Africa to the New World. Of that number, in 1688, about 15,000 slaves had been brought to the United States. Yet a few prescient souls were already questioning the morality of slavery. The earliest known antislavery document in the United States came from the Religious Society of Friends (commonly known as the Quakers), exhorting Quakers to turn against slavery in the New World. Over the next century, a movement grew, driven first by activists in the Church, and later by abolitionists who condemned slavery as a crime against humanity. Some of these abolitionists were freed slaves who survived to speak truth to power.

This chapter explores some of the first lone “voices in the wilderness,” who spoke out against various forms of slavery and exploitation. It also highlights key leaders in the long arduous move toward the abolition of slavery.

A MINUTE AGAINST SLAVERY: THE GERMANTOWN PETITION (1688)

- **Document:** “A Minute Against Slavery,” Addressed to Germantown Monthly Meeting of the Religious Society of Friends
- **When:** February 18, 1688
- **Where:** Germantown, PA
- **Significance:** This short petition is commonly accepted as the first written argument against slavery in the United States. It was drafted by Francis Daniel Pastorius and signed by him and three other Quakers living in Germantown, Pennsylvania (now part of Philadelphia). Their plea to abolish slavery and the slave trade was aimed not at the general public, but at Quakers themselves, for though Quakers believed it was a sin to swear or take oaths, to fight in wars, or to use the death penalty, shockingly over 70 percent of Quakers owned slaves from 1681 to 1705. This 1688 petition made a personal plea for Quakers to examine their consciences, and to apply the God’s Word to the problem of slavery. It was forwarded to the monthly, quarterly, and yearly meetings thereafter. Unfortunately, no action was taken on it. In fact, it took many more such petitions and actions on the part of other Quakers to convince the Quakers that no

Quaker could in good conscience own a slave. By 1756 only 10 percent of Quakers owned slaves. Over the next decades, many state Quaker associations disowned Quakers who kept slaves, leading to the Quakers being the first organization to ban slavery.

DOCUMENT

These are the reasons why we are against the traffick of men-body, as foloweth. Is there any that would be done or handled at this manner? viz., to be sold or made a slave for all the time of his life? How fearful and faint-hearted are many on sea, when they see a strange vessel,—being afraid it should be a Turk, and they should be taken, and sold for slaves into Turkey. Now what is this better done, as Turks doe? Yea, rather it is worse for them, which say they are Christians; for we hear that ye most part of such negers are brought hither against their will and consent, and that many of them are stolen. Now, tho they are black, we can not conceive there is more liberty to have them slaves, as it is to have other white ones. There is a saying that we shall doe to all men like as we will be done ourselves; making no difference of what generation, descent or colour they are. And those who steal or robb men, and those who buy or purchase them, are they not all alike? Here is liberty of conscience wch is right and reasonable; here ought to be liberty of ye body, except of evil-doers, wch is an other case. But to bring men hither, or to rob and sell them against their will, we stand against. In Europe there are many oppressed for conscience sake; and here there are those oppressed wch are of a black colour. And we who know than men must not comitt adultery,—some do committ adultery, in separating wives from their husbands and giving them to others; and some sell the children of these poor creatures to other men. Ah! doe consider will this thing, you who do it, if you would be done at this manner? And if it is done according to Christianity? You surpass Holland and Germany in this thing. This makes an ill report in all those countries of Europe, where they hear of, that ye Quakers doe here handel men as they handel there ye cattle. And for that reason some have no mind or inclination to come hither. And who shall maintain this your cause, or pleid for it. Truly we can not do so, except you shall inform us better hereof, viz., that Christians

BENJAMIN LAY (1632–1759)

Benjamin Lay's protests against slavery have a very modern feel to them. He refused to eat or wear anything produced by slave labor. He was vocal in his opposition to slavery, describing slave owners as "proud, lazy, tyrannical, gluttonous, drunken, debauched . . . the Scum of the infernal Pit." In 1737, he publicly condemned Quakers who owned slaves and challenged Christians in a famous pamphlet that begins, "All slave owners that keep the Innocent in bondage, Apostates pretending to lay claim to the Pure and Holy Christian Religion. . . ." He signs it, "Written . . . by him that truly and sincerely desires the present and eternal welfare and happiness of all Mankind, all the world over, of all colours, and Nations, as his own Soul; Benjamin Lay." In addition to writing, he believed that it was critical to take action against slavery and his protests were early theater, designed to force Quaker Friends to confront the barbarity of slavery. For example, in one protest, he stood outside a Quaker meeting in the winter with no coat and one foot bare in the snow. When Friends coming to meeting expressed concern for his health, he used it as a teaching moment and said that slaves were forced on daily basis to work outdoors in winter without proper clothing. In another protest, he dressed as a soldier, quoting the Bible to demonstrate God's hatred of slavery. He then plunged a sword into a Bible that he had filled with "a bladder of red pokeberry juice," symbolizing the blood of slaves who lost their lives in slavery. The National Portrait Gallery, a part of the Smithsonian in Washington, D.C., has a portrait of Benjamin Lay.

have liberty to practise these things. Pray, what thing in the world can be done worse towards us, than if men should rob or steal us away, and sell us for slaves to strange countries; separating husbands from their wives and children. Being now that this is not done in the manner we would be done at therefore we contradict and are against this traffic of men-body. And we who profess that is is not lawful to steal, must, likewise, avoid to purchase such things as are stolen, but rather help to stop this robbing and stealing if possible. And such men ought to be delivered out of ye hands of ye robbers, and set free as well as in Europe. Then is Pennsylvania to have a good report, instead it hath now a bad one for this sake in other countries. Especially whereas ye Europeans are desirous to know in what manner ye Quakers doe rule in their province;—and most of them doe look upon us with an envious eye. But if this is done well, what shall we say is done evil?

If once these slaves (wch they say are so wicked and stubborn men) should join themselves,—fight for their freedom,—and handel their masters and mastrisses as they did handel them before; will these masters and mastrisses take the sword at hand and warr against these poor slaves, licke, we are able to believe, some will not refuse to doe; or have these negers not as much right to fight for their freedom, as you have to keep them slaves?

Now consider will this thing, if it is good or bad? And in case you find it to be good to handle these blacks at that manner, we desire and require you hereby lovingly, that you may inform us herein, which at this time never was done, viz., that Christians have such a liberty to do so. To the end we shall be satisfied in this point, and satisfie likewise our good friends and acquaintances in our natif country, to whose it is a terror, or fairful thing, that men should be handeld so in Pennsylvania.

This is from our meeting at Germantown, held ye 18 of the 2 month, 1688, to be delivered to the Monthly Meeting at Richard Worrell's.

Source: Walton, Joseph, ed. *Incidents Illustrating the Doctrines and History of the Society of Friends*. Philadelphia: Friends' Book Store, 1897, 535–537.

ANALYSIS

The “Minute Against Slavery,” commonly known as the 1688 Petition, was the first written public protest against slavery in the United States. Even today, the contemporary nature of the arguments made in the document is evident. Its early emphasis on human rights and equality, and its acknowledgment of the universal rights of all human beings, regardless of their nationality, race, or religion predate the Universal Declaration of Human Rights by over two and a half centuries. The document clearly appeals to the humanity and empathy of individuals, asking, “Is there anyone among us who would want to be made a slave—taken against our will—and held for the rest of our lives?” Throughout the petition, the four men who signed the petition also refer again and again to bedrock Christian tenets. For example, the petition refers to the Golden Rule, which says “that we shall doe to all men like as we will be done ourselves.” In addition, it refers to the 7th Commandment, which says, “Thou shalt not commit adultery,” and makes the clever argument that slave

owners contribute to committing adultery when they separate enslaved husbands from wives and sell their children off to others. It also cites the 8th Commandment, “Thou shalt not steal,” and forcefully makes the argument that taking human beings and selling them to others robs them of their liberty and steals their freedom from them and that no Christian with a conscience can be involved in these terrible and fearful activities.

Two other interesting ideas are imbedded in this short document. The writers raise the question of a slave revolt—and suggest that slaves have a right to fight for their freedom. This statement is prescient. The Haiti Rebellion—an insurrection in which slaves liberated themselves and fought successfully for their freedom—didn’t begin until 1791. Over the two centuries in which slavery flourished in the United States, many slaves revolted on their own and in groups before the Civil War. We do not have exact numbers because these revolts were put down in privacy on plantations and in homes where slaves were considered property and property owners had the legal right to punish such revolts. The 1688 Petition makes the case that anyone enslaved has the right to revolt to regain his or her God-given freedom.

Finally, it is amazing to read another quite contemporary argument about demand reduction in this document. The authors make the case that if the slaves have had their liberty stolen from them, then Quakers must “avoid to purchase such things as are stolen” and instead must help to stop the robbing and stealing of other people’s liberty and freedom. This powerful document—a speech less than a minute long—is a clarion call to end slavery and the beginning of the Quaker—indeed the American—abolitionist movement.

FURTHER READING

Quakers and Slavery Project, a joint digitizing project at Haverford and Swarthmore Colleges, comprising 80,000 plus primary source documents and scholarly commentary on Quaker involvement in antislavery movements. <http://trilogy.brynmawr.edu/speccoll/quakersandslavery/about/index.php>.

WILLIAM WILBERFORCE'S ABOLITION SPEECH (1789)

- **Document:** William Wilberforce's Abolition Speech
 - **When:** May 12, 1789
 - **Where:** British House of Commons, Westminster, London, England
 - **Significance:** In this important speech, William Wilberforce rose before the British House of Commons and called for abolition of the slave trade. The speech is now regarded as a turning point in British history—and reverberated in the United States—in which Parliament was persuaded by research and force of argument to change its mind about the nature of the slave trade. Up to that point, proslavery advocates had argued successfully that the conditions for slaves were not terrible. Wilberforce's speech was preceded by a Privy Council (a body of advisors to the House of Lords and House of Commons) investigation into the slave trade. They delivered a report to House of Commons members detailing the gross human suffering inflicted by the trade. Although Wilberforce was a devout Christian, and he believed that God had set him the great task of abolishing the slave trade, his speech to the House of Commons focused on “cool and impartial reason” in making his case. The following year he succeeded in getting Parliament to create a select council to examine the evidence amassed against the slave trade. Almost 20 years later, in 1807, the Slave Trade Act (prohibiting the trade in slaves using British ships) received Royal Assent.
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DOCUMENT

When I consider the magnitude of the subject which I am to bring before the House—a subject, in which the interests, not of this country, nor of Europe alone, but of the whole world, and of posterity, are involved: and when I think, at the same time, on the weakness of the advocate who has undertaken this great cause—when these reflections press upon my mind, it is impossible for me not to feel both terrified and concerned at my own inadequacy to such a task. But when I reflect, however, on the encouragement which I have had, through the whole course of a long and laborious examination of this question, and how much candour I have experienced, and how conviction has increased within my own mind, in proportion as I have advanced in my labours;—when I reflect, especially, that however averse any gentleman may now be, yet we shall all be of one opinion in the end;—when I turn myself to these thoughts, I take courage—I determine to forget all my other fears, and I march forward with a firmer step in the full assurance that my cause will bear me out, and that I shall be able to justify upon the clearest

principles, every resolution in my hand, the avowed end of which is, the total abolition of the slave trade.

I wish exceedingly, in the outset, to guard both myself and the House from entering into the subject with any sort of passion. It is not their passions I shall appeal to—I ask only for their cool and impartial reason; and I wish not to take them by surprise, but to deliberate, point by point, upon every part of this question. I mean not to accuse any one, but to take the shame upon myself, in common, indeed, with the whole parliament of Great Britain, for having suffered this horrid trade to be carried on under their authority. We are all guilty—we ought all to plead guilty, and not to exculpate ourselves by throwing the blame on others; and I therefore deprecate every kind of reflection against the various descriptions of people who are more immediately involved in this wretched business.

In opening the nature of the slave trade, I need only observe, that it is found by experience to be just as every man, who uses his reason, would infallibly conclude it to be. For my own part, so clearly am I convinced of the mischief's inseparable from it, that I should hardly want and farther evidence than my own mind would furnish, by the most simple deductions. Facts however, are now laid before the House. A report has been made by his majesty's privy council, which, I trust, every gentleman has read, and which ascertains the slave trade to be just such in practice as we know, from theory, it must be. What should we suppose must naturally be the consequence of our carrying on a slave trade with Africa? With a country was in its extent, not utterly barbarous, but civilized in a very small degree? Does anyone suppose a slave trade would help their civilization? Is it not plain, that she must suffer from it? That civilization must be checked; that her barbarous manners must be made more barbarous; and that the happiness of her millions of inhabitants must be prejudiced with her intercourse with Britain? Does not everyone see that a slave trade, carried on around her coasts, must carry violence and desolation to her very centre? That in a continent just emerging from barbarism, if a trade in men is established, if her men are all converted into goods and become commodities that can be bartered, it follows, they must be subject to ravage just as goods are; and this too, at a period of civilization, when there is no protecting legislature to defined their only sort of property, in the same manner as the rights of property are maintained by the legislature of every civilized country. We see then, in the nature of things, how easily our practices of Africa are to be accounted for. Her kings are never compelled to wear, that we can hear of, by public principles, by national glory, still less by the love of their people. In Europe it is the extension of commerce, the maintenance of national honour, or some great public object, that is ever the motive to war with every monarch; but, in Africa, it is the personal avarice and sensuality of their kings: these two vices of avarice and sensuality, the most powerful and predominant in natures this corrupt) we tempt, we stimulate in all these African princes, and we depend upon these vices for the very maintenance of the slave trade. Does the king of Barbess want in brandy? He has only to send his troops in the night time, to burn and desolate a village; the captives will serve as commodities that may be bartered with the British trader. What a striking view of the wretched state of Africa does the tragedy of Calabar furnish! Two towns, formerly hostile, has settled their differences, and by intermarriage among their chiefs, had each pledged themselves to peace; but the trade in slave was

prejudiced by such pacifications, and it became, therefore, the policy of our traders to renew the hostilities. This their policy, was soon put in practice, and the scene of carnage which followed was such, that it is better, perhaps, to refer gentlemen to the privy council's report, than to agitate their minds by dwelling on it.

The slave trade, in its very nature, is the source of such kind of tragedies; nor has there been a single person, almost, before the Privy Council, who does not add something by his testimony to the mass of evidence upon this point. Some indeed, of these gentlemen, and particularly the delegates from Liverpool, have endeavoured to reason down this plain principle; some have palliated it; but there is not one, I believe, who does not more or less admit it. Some, nay most, I believe, have admitted the slave trade to be the chief cause of wars in Africa. Mr. Penny, a Liverpool delegate, has called it the concurrent cause; some confess it to be sometimes to cause, but argue that it cannot often be so. Here I must make one observation, which I hope may be done without any offence to any one, and which I do, once for all though it applies equally to many other evidences upon this subject. I mean to lay it down as my principal, that evidences, and especially interested evidences, are not to be judges of the argument. In matters of fact, of which they speak, I admit their competency; I mean not to suspect their credibility with respect to any thing they see or hear, or themselves personally know; but, in reasoning about the causes and effect, I hold them to be totally incompetent. So far, therefore, from submitting to their conclusions in this respect I utterly discard them. I take their premises readily and fairly; but upon these premises, I must judge for myself: and the House, I trust, nay, I perfectly well know, will; in like manner judge for itself. Confident assertions therefore, not of facts, but of supposed consequences of facts, however pressed by the Liverpool delegates, or any other interested persons, go for nothing in my estimation: and it is necessary that parliament should proceed upon this principle, as well in this as every other public question in which interested evidences must be examined. Thus the African committee have reported that very few enormities, in their opinion, can be practiced in Africa; because in forty years only two complaints have been made to them, I admit to the fact undoubtedly; but, I trust gentlemen will judge for themselves, whether parliament is to rest satisfied that there are no abuses in Africa, in spite of all the positive proofs of so many witnesses on the spot to the contrary. Whether, for instance, Mr. Wardstrom's evidence, Dr. Spaarman's, Captain Hill's are to go for nothing, any of whom either saw the battles, were told by the kings themselves, that it was for the sake of slaves they went to battle, or conversed with a variety of prisoners taken by these means. In truth an inquiry from the African committee whether any foul play prevails in Africa, is somewhat like an application to the Custom-house officers to know whether any smuggling is going on; the officer may tell you that very few seizures are made and very few frauds come to his knowledge; but does it follow that parliament must agree to all the reasoning of the officer? And though smuggling be ever so notorious through the land, must agree there is not smuggling, because the officer reports that he makes very few seizures and seldom hears of it? I will not believe, therefore, the mere opinions of African traders, concerning the nature and consequences of the slave trade. It is a trade in its principle most inevitably calculated to spread disunion among the African princes, to sow the seeds of every mischief, to inspire enmity, to destroy humanity; and it is

found in practice, by the most abundant testimony to have had the effect in Africa of carrying misery, devastation and ruin wherever its baneful influence has extended.

Having now disposed of the first part of this subject, I must speak of the transit of the slaves in the West Indies. This I confess, in my own opinion, is the most wretched part of the whole subject. So much misery condensed in so little room, is more than the human imagination had ever before conceived. I will not accuse the Liverpool merchants: I will allow them, nay, I will believe them to be men of humanity; and I will therefore believe, if it were not for the enormous magnitude and extent of the evil which distracts their attention from individual cases, and makes them think generally, and therefore less feelingly on the subject, they would never have persisted in the trade. I verily believe therefore, if the wretchedness of any one of the many hundred Negroes stowed in each ship could be brought before their view, and remain within the sight of the African Merchant, that there is no one among them whose heart would bear it. Let anyone imagine to himself 6 or 700 of these wretches chained two and two, surrounded with every object that is nauseous and disgusting, diseased, and struggling under every kind of wretchedness! How can we bear to think of such a scene as this? One would think it had been determined to heap upon them all the varieties of bodily pain, for the purpose of blunting the feelings of the mind; and yet, in this very point (to show the power of human prejudice) the situation of the slaves has been described by Mr. Norris, one of the Liverpool delegates, in a manner which, I am sure will convince the House how interest can draw a film over the eyes, so thick, that total blindness could do no more; and how it is our duty therefore to trust not to the reasonings of interested men, or to their way of colouring a transaction. “Their apartments,” says Mr. Norris, “are fitted up as much for their advantage as circumstances will admit. The right angle of one, indeed is connected with the left angle of another by a small iron fetter, and if they are turbulent, by another on their wrists. They have several meals a day; some of their own country provisions, with the best sauces of African cookery; and by way of variety, another meal of pulse, according to European taste. After breakfast they have water to wash themselves, while their apartments are perfumed with frankincense and lime-juice. Before dinner, they are amused after the manner of their country. The song and dance are promoted,” and, as if the whole was really a scene of pleasure and dissipation it is added, that games of chance are furnished. “The men play and sing, while the women and girls make fanciful ornaments with beads, which they are plentifully supplied with.” Such is the sort of strain in which the Liverpool delegates, and particularly Mr. Norris, gave evidence before the Privy Council. What will the House think when, by the concurring testimony of other witnesses, the true history is laid open. The slaves who are sometimes described as rejoicing at their captivity, are so wrung with misery at leaving their country, that it is the constant practice to set sail at night, lest they should be sensible of their departure. The pulse which Mr. Norris talks of are horse beans; and the scantiness, both of water and provision, was suggested by the very legislature of Jamaica in the report of their committee, to be a subject that called for the interference of parliament. Mr. Norris talks of frankincense and lime juice; when surgeons tell you the slaves are stowed so close, that there is not room to tread among them; and when you have it in evidence from Sir George Yonge, that even in a ship which wanted 200 of her complement, the stench

was intolerable. The song and the dance, says Mr. Norris, are promoted. It had been more fair, perhaps, if he had explained that word "promoted." The truth is, that for the sake of exercise, these miserable wretches, loaded with chains, oppressed with disease and wretchedness, are forced to dance by the terror of the lash, and sometimes by the actual use of it. "I", says one of the other evidences, "was employed to dance the men, while another person danced the women." Such, then is the meaning of the word promoted; and it may be observed too, with respect to food, that an instrument is sometimes carried out, in order to force them to eat which is the same sort of proof how much they enjoy themselves in that instance also. As to their singing, what shall we say when we are told that their songs are songs of lamentation upon their departure which, while they sing, are always in tears, insomuch that one captain (more humane as I should conceive him, therefore, than the rest) threatened one of the women with a flogging, because the mournfulness of her song was too painful for his feelings. In order, however, not to trust too much to any sort of description, I will call the attention of the House to one species of evidence which is absolutely infallible. Death, at least, is a sure ground of evidence, and the proportion of deaths will not only confirm, but if possible will even aggravate our suspicion of their misery in the transit. It will be found, upon an average of all the ships of which evidence has been given at the Privy Council, that excluding of those who perish *before* they sail, not less than 12½ per cent perish in the passage. Besides these, the Jamaica report tells you, that not less than 4½ per cent die on shore before the day of sale, which is only a week or two from the time of landing. One third more die in the seasoning, and this in a country exactly like their own, where they are healthy and happy as some of the evidences would pretend. The diseases, however, which they contract on shipboard, the astringent washes which are to hide their wounds, and the mischievous tricks used to make them up for sale, are, as the Jamaica report says, (a most precious and valuable report, which I shall often have to advert to) one principle cause of this mortality. Upon the whole, however, here is a mortality of about 50 per cent and this among Negroes who are not bought unless (as the phrase is with cattle) they are sound in wind and limb. How then can the House refuse its belief to the multiplied testimonies before the Privy Council, of the savage treatment of the negroes in the middle passage? Nay, indeed, what need is there of any evidence? The number of deaths speaks for itself, and makes all such enquiry superfluous.

As soon as ever I had arrived thus far in my investigation of the slave trade, I confess to you sir, so enormous, so dreadful, so irremediable did its wickedness appear that my own mind was completely made up for the abolition. A trade founded in iniquity, and carried on as this was, must be abolished, let the policy be what it might, let the consequences be what they would, I from this time determined that I would never rest till I had effected its abolition. Such enormities as these having once come within my knowledge I should not have been faithful to the sight of my eyes, the use of my senses and my reason, if I had shrunk from attempting the abolition: it is true, indeed, my mind was harassed beyond measure; for when West-India planters and merchants retorted it . . . that it was the *British* parliament had authorized this trade; when they said to me, "It is *your* acts of parliament, it is *your* encouragement, it is faith in *your* laws, in *your* protection, that had tempted us into this trade, and has now made it necessary to us." It has become difficult, indeed, what

to answer; if the ruin of the West-Indies threatened us on the one hand, while this load of wickedness pressed upon us the other, the alternative, indeed, was awful. It naturally suggested itself to me, how strange it was that Providence, however mysterious in its ways, should so have constituted the world, as to make one part of it depend for its existence on the depopulation and devastation of another. I could not therefore, help, distrusting the arguments of those, who insisted that the plundering of Africa was necessary for the cultivation of the West-Indies. I could not believe that the same Being who forbids rapine and bloodshed, had made rapine and bloodshed necessary to the well-being of any part of his universe. I felt a confidence in this principle, and took the resolution to act upon it: soon, indeed, the light broke in upon me . . .

. . . Having heard all of this you may choose to look the other way but you can never again say that you did not know.

Source: “Debate on Mr. Wilberforce’s Resolutions respecting the Slave Trade,” in William Cobbett, *The Parliamentary History of England. From the Norman Conquest in 1066 to the Year 1803*, 36 vols. London: T. Curson Hansard, 1806–1820, 28 (1789–91), cols. 42–68.

ANALYSIS

William Wilberforce (1759–1833) was a key figure in the battle to abolish slavery and the slave trade in Britain. As a young member of the House of Commons, he was approached by antislavery activists, including Thomas Clarkson and others who had spent years documenting the terrible nature of the British slave trade. Moved by their entreaties, and inspired by his religious and moral convictions, he led the battle in Parliament to abolish the slave trade. It is important to understand the context in which this speech was made. For over 20 years, a grassroots movement to abolish both slavery and the slave trade had been building in Britain. Petitions and pamphlets circulated, including one by British Quakers about “our Fellow Creatures, the Oppressed Africans.” From 1760 to 1780, proslavery arguments prevailed. The most important of these arguments were first, that Africans were not full human beings, and second, that the conditions of slavery were actually improving, and finally, that Africans in slavery had better lives than what they could expect on their own continent. The battle between the two sides escalated from 1783 to 1786. During that time, abolitionists sought to counter the first argument with reasoning that all people share a common humanity. Josiah Wedgwood (of Wedgwood stoneware family) created a medallion, famous to this day, featuring a chained slave kneeling on the ground with his hands raised in a plea, it had the motto “Am I Not a Man and a Brother?” Hundreds were produced and given away; they were worn as bracelets, pins, and pendants, and the image became the emblem of the movement to abolish slavery. Meanwhile, in 1769, activist Granville Sharp, who took in escaped slaves and helped them fight for their freedom, wrote the first treatise in England against slavery. In 1774, Sharp argued the legal case of a runaway slave, James Somerset. Two years after this, John Wesley, a well-known Methodist minister, and later

founder of the Wesleyan Church, wrote a short book called *Thoughts on Slavery*. In it, he attacked both slavery and the slave trade and called for a boycott of sugar and rum, two popular products that were slave-produced.

Wesley preached a sermon condemning slavery in a church in Bristol, one of the main slave trading ports in Britain. The speech was so intense in its condemnation of slavery that it caused a disturbance in the church. At the same time, Thomas Clarkson began documenting in great detail the horrors of slavery. His efforts were critical in contesting proslavery arguments that slavers treated slaves well. The most famous of these efforts was a sketch that he drew of Brookes slave ship. It illustrated the nature of the slave trade, showing how 454 Africans were packed side by side, chained together, in the hold of the ship with no room to move, relieve themselves, or change position in case of sickness or death. Clarkson later said, "This print seemed to make an instantaneous impression of horror upon all who saw it, and was therefore instrumental, in consequence of the wide circulation given it, in serving the cause of the injured Africans."

The *Brookes* ship sketch and other documents had been given to House of Commons members only days before Wilberforce stood to make his speech. Thus, a great deal of work had been done to prepare for this effort in Parliament. With detailed information to contest both of the main proslavery arguments, Wilberforce begins by acknowledging that the issue of slavery affects not just Britain and Europe, but the whole world—and even posterity. He tells his fellow Commons members that he feels inadequate to the task, but because of its importance, he has found the courage to lead the fight for the abolition of slavery. As he makes his case, one is again struck, as with the previous document, by the very modern arguments he makes: if we turn human beings into commodities, he says, we should not be surprised that they should be "subject to ravage just as goods are." He then uses a series of facts to decimate the proslavery argument that the slave trade is humane. Taking on Mr. Norris, one of the apologists for slavery, he counters every argument, describing in detail the misery of Africans forced to leave their country, chained 600–700 to each other, "stowed so close there is no room to tread among them," "the stench intolerable," "oppressed with disease and wretchedness," "forced to dance by terror of the lash," "12½ percent dying during the ship's voyage and another 4½ percent dying within days of landing."

It was no accident that Wilberforce stood to make this speech. Over 150 petitions had been circulated calling for the abolition of the Atlantic slave trade, with hundreds of thousands signing them. A growing grass-roots movement had, by the 1780s, made increasingly frequent attempts to end slavery and the slave trade, and it was clear to all that its continued existence was due to inaction on the part of Parliament. As a result, the focus of the abolition campaign had turned to urging Parliament to declare the trade illegal. Though he was relatively new to government, Wilberforce had already demonstrated an eloquence and ability to speak forcefully. The young prime minister William Pitt asked him to be the lead in the abolition campaign in the House of Commons. After this speech, and for the next 20 years, Wilberforce worked to pass legislation prohibiting the slave trade. In 1807, the Slave Trade Act was passed. Following this victory, Wilberforce remained active in the abolitionist movement and turned attention to passing a law prohibiting slavery itself

(not just the slave trade). That law, the Slavery Prohibition Act, was passed in the House of Lords in August 1834, one month after Wilberforce's death.

FURTHER READING

- Hochschild, Adam. *Bury the Chains: Prophets and Rebels in the Fight to Free an Empire's Slaves*. Boston: Houghton Mifflin, 2005.
- Sinha, Manisha. *The Slave's Cause: A History of Abolition*. New Haven, CT: Yale University Press, 2016.

A FEDERAL LAW PROHIBITING SLAVE TRADE (1820)

- **Document:** Act of 1820, STATUTE I., CHAP. CXIII.—An Act to continue in force “An act to protect the commerce of the United States, and punish the crime of piracy,” and also to make further provisions for punishing the crime or piracy.
- **When:** May 15, 1820
- **Where:** Congress, Washington, D.C.
- **Significance:** As the British were struggling to prohibit the trade in slaves, the United States was also engaged in similar legislation. During a 25-year period, Congress passed a series of laws aimed at stopping the slave trade. First came a law that prohibited anyone from outfitting a ship to trade in human cargo (1794); then a law prohibited U.S. citizen investment in the slave trade or employment on foreign vessels involved in the slave trade (1800); then a law prohibiting new slaves from being imported into the United States (1807), and finally, the 1820 law in which participation in the African slave trade was to be considered the most heinous crime on the high seas—piracy—punishable by death. These laws were all part of a general trend toward abolishing the international trade in slaves. This law shows a growing determination in the United States to prohibit slavery. As in Britain, antislavery activists attacked the slave trade first. It would be another 40 years before the United States abolished slavery.

DOCUMENT

Sec. 4. *And be it further enacted,* That if any citizen of the United States, being of the crew or ship’s company of any foreign ship or vessel engaged in the slave trade, or any person whatever, being of the crew or ship’s company of any ship or vessel, owned in the whole or part, or navigated for, or in behalf of, any citizen or citizens of the United States, shall land, from any such ship or vessel, and, on any foreign shore, seize any negro or mulatto, not held to service or labor by the laws of either of the states or territories of the United States, with intent to make such negro or mulatto a slave, or shall decoy, or forcibly bring or carry, or shall receive, such negro or mulatto on board any such ship or vessel, with intent as aforesaid, such citizen or person shall be adjudged

THE BUSINESS OF SLAVERY

The business of slavery was so profitable that slave traders made 100 percent profit on most of their slave-trade voyages. Slave owners exploited slaves in many labor-intensive industries, including the harvesting and producing of cotton, sugar, coffee, mining, and agriculture. Slave owners also used slaves in houses to cook, clean, and raise children. This is from a slave trader’s diary:

Cost of Expedition:	\$300,000
1200 Negroes @ \$650 each =	\$750,000
Profit:	\$480,000

a pirate; and, on conviction thereof before the circuit court of the United States for the district wherein he may be brought or found, shall suffer death. [Persons landing on a foreign shore, and seizing negroes or mulattoes, not held to service, etc., with intent to make them slaves, or decoying, forcibly bringing or carrying, etc., them on board, etc., declared pirates, and to suffer death.]

...

Sec. 5. *And be it further enacted*, That if any citizen of the United States, being of the crew or ship's company of any foreign ship or vessel engaged in the slave trade, or any person whatever, being of the crew or ship's company of any ship or vessel, owned wholly or in part, or navigated for, or in behalf of, any citizen or citizens of the United States, shall forcibly confine or detain, or aid and abet in forcibly confining or detaining, on board such ship or vessel, any negro or mulatto not held to service by the laws of either of the states or territories of the United States with intent to make such negro or mulatto a slave or shall on board any such ship or vessel, offer or attempt to sell, as a slave, any negro or mulatto not held to service as aforesaid, or shall, on the high seas, or anywhere on tide water, transfer or deliver over, to any other ship or vessel, any negro or mulatto not held to service as aforesaid, with intent to make such negro or mulatto a slave, or shall land, or deliver on shore, from on board any such ship or vessel, any such negro or mulatto, with intent to make sale of, or having previously sold, such negro or mulatto, as a slave, such citizen or person shall be adjudged a pirate; and, on conviction thereof before the circuit court of the United States for the district wherein he shall be brought or found, shall suffer death. [Persons forcibly confining, detaining, or aiding to confine or detain negroes, etc., on board vessels, etc. declared pirates, and to suffer death.] APPROVED, May 15, 1820.

Source: An Act to continue in force “An act to protect the commerce of the United States and punish the crime of piracy,” and also to make further provisions for punishing the crime of piracy. Pub.L. 16–13, 3 Stat. 600, enacted May 15, 1820.

ANALYSIS

In 1820, Congress passed a law known as “An act to protect the commerce of the United States, and punish the crime of piracy,” which was a culmination of acts and amendments to prohibit the slave trade to the United States. Like Britain’s Slave Trade Act of 1807, it abolished the *trade* in slaves not slavery itself. Looking back now, it is easy to condemn both Britain and the United States for focusing on ending the slave trade, while allowing slavery itself to continue. Yet examining the acrimonious and intense battles about slavery over almost two centuries, it may be easier to see why William Wilberforce and his colleagues in the House of Commons and U.S. legislators in Congress made a conscious decision to succeed first in prohibiting the slave trade.

The battles in Congress to control and prohibit the slave trade and slavery reflect the difficulties in finding common ground. As noted above, a short history of the laws enacted over a 25-year period illustrate the incremental progress: In 1794,

Congress passed the federal Slave Trade Act prohibiting the use of any U.S. port or shipyard for the fitting out or building of any ship meant for the introduction of slaves. The Act also prohibited ships sailing from U.S. ports to engage with the slave trade, under threat of exorbitant fines and the confiscation of the vessel. Following this law banning the *export* of slaves from the United States, Georgia and South Carolina *imported* 100,000 slaves in the next decade. In response, Congress amended the Slave Trade Act in 1800 to prohibit any financial investment in a ship involved in the transatlantic slave trade, regardless of whether they were legal or foreign ships. In 1807, Congress again strengthened prohibitions on slave trade with the passage of the Act of 1807, which gave all slave traders nine months to close down their operations in the United States. Any operations including ships or slaves, American or foreign, after January 1, 1808, would be confiscated by the U.S. government and sold with the U.S. government taking the profit.

The Acts of 1818 and 1819 created a platform for the Act of 1820 by shifting the burden of proof from the prosecutor to the defendant: slave owners now had to prove that their slaves had not been purchased internationally within the last five years or were not recently of African descent. The Act of 1819 was the first step the U.S. government took to acknowledge the injustice of slavery and to attempt to repair its damage. It created the Africa Squadron, which was to return Africans who wanted to go to West Africa, mainly Liberia and Sierra Leone. The Squadron was a unit of the U.S. Navy that patrolled the West Coast of Africa in order to suppress the slave trade. The final statute, known as the Act of 1820, was clear: any association with the international slave trade in Africans would be considered piracy, for which the penalty was death.

The question arises: why did countries work so hard to abolish the slave trade while leaving slavery in place? Scholars now say that in most countries the slave trade was abolished 30 to 60 years before slavery itself because the public knew about and objected to the conditions of slave ships, to premature death, and to the separation of families. In addition, some argue that a kind of paternalism existed, even in the most passionate of abolitionists. For example, William Wilberforce is said to have argued for an incremental approach to abolishing slavery, writing in a pamphlet in 1807 that: "It would be wrong to emancipate (the slaves). To grant freedom to them immediately would be to insure not only their masters' ruin, but their own. They must (first) be trained and educated for freedom." In any event, the history of the passage of the Act of 1820 demonstrates the painful and incremental progress made on the path to abolishing slavery.

FURTHER READING

"The Abolition of the Slave Trade," U.S. Constitution and Acts, New York Public Library, Schomburg Center for Research in Black Culture, Abolition of the Slave Trade.

WHAT TO THE SLAVE IS THE 4TH OF JULY? (1852)

- **Document:** Excerpt from a speech by Frederick Douglass
 - **When:** July 5, 1852
 - **Where:** Ladies Anti-Slavery Society, Rochester, New York
 - **Significance:** Famed 19th-century author and orator Frederick Douglass was an eminent human rights leader in the antislavery movement and the first African American citizen to hold a high U.S. government rank. This speech, delivered on Independence Day, is renowned for its frank look at what our celebration of freedom meant for a slave. Douglass adroitly uses the 4th of July to point out to white Americans the inherent contradictions, the paradoxes, indeed the hypocrisy and injustice of such a day when over 4 million were still enslaved. At the same time, he challenges Americans to go back to our founding documents and examine them for original purposes. The Constitution is a “glorious liberty document,” he argues. In this way, the speech, while thunderous and angry, also embodies hope, freedom, and the pursuit of happiness for all, including African Americans. Many scholars believe this to be Frederick Douglass’s greatest and most powerful speech.
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DOCUMENT

Fellow-citizens, above your national, tumultuous joy, I hear the mournful wail of millions! whose chains, heavy and grievous yesterday, are, to-day, rendered more intolerable by the jubilee shouts that reach them. If I do forget, if I do not faithfully remember those bleeding children of sorrow this day, “may my right hand forget her cunning, and may my tongue cleave to the roof of my mouth!” To forget them, to pass lightly over their wrongs, and to chime in with the popular theme, would be treason most scandalous and shocking, and would make me a reproach before God and the world. My subject, then, fellow-citizens, is American slavery. I shall see this day and its popular characteristics from the slave’s point of view. Standing there identified with the American bondman, making his wrongs mine, I do not hesitate to declare, with all my soul, that the character and conduct of this nation never looked blacker to me than on this 4th of July! Whether we turn to the declarations of the past, or to the professions of the present, the conduct of the nation seems equally hideous and revolting. America is false to the past, false to the present, and solemnly binds herself to be false to the future. Standing with God and the crushed and bleeding slave on this occasion, I will, in the name of humanity which is outraged, in the name of liberty which is fettered, in the name of the constitution and the Bible which are disregarded and trampled upon, dare to call in question and to

denounce, with all the emphasis I can command, everything that serves to perpetuate slavery—the great sin and shame of America! “I will not equivocate; I will not excuse”; I will use the severest language I can command; and yet not one word shall escape me that any man, whose judgment is not blinded by prejudice, or who is not at heart a slaveholder, shall not confess to be right and just. But I fancy I hear some one of my audience say, it is just in this circumstance that you and your brother Abolitionists fail to make a favorable impression on the public mind. Would you argue more and denounce less, would you persuade more and rebuke less, your cause would be much more likely to succeed. But, I submit, where all is plain there is nothing to be argued. What point in the anti-slavery creed would you have me argue? On what branch of the subject do the people of this country need light? Must I undertake to prove that the slave is a man? That point is conceded already. Nobody doubts it. The slave holders themselves acknowledge it in the enactment of laws for their government. They acknowledge it when they punish disobedience on the part of the slave. There are seventy-two crimes in the State of Virginia, which, if committed by a black man (no matter how ignorant he be), subject him to the punishment of death; while only two of these same crimes will subject a white man to like punishment.

Fellow-citizens, this murderous traffic is, to-day, in active operation in this boasted republic. In the solitude of my spirit I see clouds of dust raised on the highways of the South; I see the bleeding footsteps; I hear the doleful wail of fettered humanity on the way to the slave-markets, where the victims are to be sold like horses, sheep, and swine, knocked off to the highest bidder. There I see the tenderest ties ruthlessly broken, to gratify the lust, caprice and rapacity of the buyers and sellers of men. My soul sickens at the sight.

Is this the land your Fathers loved,
The freedom which they toiled to win?
Is this the earth whereon they moved?
Are these the graves they slumber in?

But a still more inhuman, disgraceful, and scandalous state of things remains to be presented. By an act of the American Congress, not yet two years old, slavery has been nationalized in its most horrible and revolting form. By that act, Mason and Dixon’s line has been obliterated; New York has become as Virginia; and the power to hold, hunt, and sell men, women and children, as slaves, remains no longer a mere state institution, but is now an institution of the whole United States. The power is co-extensive with the star-spangled banner, and American Christianity. Where these go, may also go the merciless slave-hunter. Where these are, man is not sacred. He is a bird for the sportsman’s gun. By that most foul and fiendish of all human decrees, the liberty and person of every man are put in peril. Your broad republican domain is hunting ground for men. Not for thieves and robbers, enemies of society, merely, but for men guilty of no crime. Your law-makers have commanded all good citizens to engage in this hellish sport. Your President, your Secretary of State, your lords, nobles, and ecclesiastics enforce, as a duty you owe to your free and glorious country, and to your God, that you do this accursed thing. Not fewer than forty Americans have, within the past two years, been hunted down and, without

a moment's warning, hurried away in chains, and consigned to slavery and excruciating torture. Some of these have had wives and children, dependent on them for bread; but of this, no account was made. The right of the hunter to his prey stands superior to the right of marriage, and to all rights in this republic, the rights of God included! For black men there is neither law nor justice, humanity nor religion. The Fugitive Slave Law makes mercy to them a crime; and bribes the judge who tries them. An American judge gets ten dollars for every victim he consigns to slavery, and five, when he fails to do so. The oath of any two villains is sufficient, under this hell-black enactment, to send the most pious and exemplary black man into the remorseless jaws of slavery! His own testimony is nothing. He can bring no witnesses for himself. The minister of American justice is bound by the law to hear but one side; and that side is the side of the oppressor. Let this damning fact be perpetually told. Let it be thundered around the world that in tyrant killing, king-hating, people-loving, democratic, Christian America the seats of justice are filled with judges who hold their offices under an open and palpable bribe, and are bound, in deciding the case of a man's liberty, to hear only his accusers!

In glaring violation of justice, in shameless disregard of the forms of administering law, in cunning arrangement to entrap the defenceless, and in diabolical intent this Fugitive Slave Law stands alone in the annals of tyrannical legislation. I doubt if there be another nation on the globe having the brass and the baseness to put such a law on the statute-book. If any man in this assembly thinks differently from me in this matter, and feels able to disprove my statements, I will gladly confront him at any suitable time and place he may select.

I take this law to be one of the grossest infringements of Christian Liberty, and, if the churches and ministers of our country were not stupidly blind, or most wickedly indifferent, they, too, would so regard it.

At the very moment that they are thanking God for the enjoyment of civil and religious liberty, and for the right to worship God according to the dictates of their own consciences, they are utterly silent in respect to a law which robs religion of its chief significance and makes it utterly worthless to a world lying in wickedness. Did this law concern the "mint, anise, and cummin"—abridge the right to sing psalms, to partake of the sacrament, or to engage in any of the ceremonies of religion, it would be smitten by the thunder of a thousand pulpits. A general shout would go up from the church demanding repeal, repeal, instant repeal!—And it would go hard with that politician who presumed to so licit the votes of the people without inscribing this motto on his banner. Further, if this demand were not complied with, another Scotland would be added to the history of religious liberty, and the stern old covenants would be thrown into the shade. A John Knox would be seen at every church door and heard from every pulpit, and Fillmore would have no more quarter than was shown by Knox to the beautiful, but treacherous, Queen Mary of Scotland. The fact that the church of our country (with fractional exceptions) does not esteem "the Fugitive Slave Law" as a declaration of war against religious liberty, implies that that church regards religion simply as a form of worship, an empty ceremony, and not a vital principle, requiring active benevolence, justice, love, and good will towards man. It esteems sacrifice above mercy; psalm-singing above right doing; solemn meetings above practical righteousness. A worship that can be conducted

by persons who refuse to give shelter to the houseless, to give bread to the hungry, clothing to the naked, and who enjoin obedience to a law forbidding these acts of mercy is a curse, not a blessing to mankind. The Bible addresses all such persons as "scribes, pharisees, hypocrites, who pay tithe of mint, anise, and cummin, and have omitted the weightier matters of the law, judgment, mercy, and faith."

One is struck with the difference between the attitude of the American church towards the anti-slavery movement, and that occupied by the churches in England towards a similar movement in that country. There, the church, true to its mission of ameliorating, elevating and improving the condition of mankind, came forward promptly, bound up the wounds of the West Indian slave, and restored him to his liberty. There, the question of emancipation was a high religious question. It was demanded in the name of humanity, and according to the law of the living God. The Sharps, the Clarksons, the Wilberforces, the Buxtons, the Burchells, and the Knibbs were alike famous for their piety and for their philanthropy. The anti-slavery movement there was not an anti-church movement, for the reason that the church took its full share in prosecuting that movement: and the antislavery movement in this country will cease to be an anti-church movement, when the church of this country shall assume a favorable instead of a hostile position towards that movement.

Fellow-citizens, I will not enlarge further on your national inconsistencies. The existence of slavery in this country brands your republicanism as a sham, your humanity as a base pretense, and your Christianity as a lie. It destroys your moral power abroad: it corrupts your politicians at home. It saps the foundation of religion; it makes your name a hissing, and a bye-word to a mocking earth. It is the antagonistic force in your government, the only thing that seriously disturbs and endangers your Union. it fetters your progress; it is the enemy of improvement; the deadly foe of education; it fosters pride; it breeds insolence; it promotes vice; it shelters crime; it is a curse to the earth that supports it; and yet you cling to it as if it were the sheet anchor of all your hopes. Oh! be warned! be warned! a horrible reptile is coiled up in your nation's bosom; the venomous creature is nursing at the tender breast of your youthful republic; for the love of God, tear away, and fling from you the hideous monster, and let the weight of twenty millions crush and destroy it forever!

But it is answered in reply to all this, that precisely what I have now denounced is, in fact, guaranteed and sanctioned by the Constitution of the United States; that, the right to hold, and to hunt slaves is a part of that Constitution framed by the illustrious Fathers of this Republic.

Then, I dare to affirm, notwithstanding all I have said before, your fathers stooped, basely stooped

To palter with us in a double sense:
And keep the word of promise to the ear,
But break it to the heart.

And instead of being the honest men I have before declared them to be, they were the veriest impostors that ever practised on mankind. This is the inevitable conclusion, and from it there is no escape; but I differ from those who charge this baseness

on the framers of the Constitution of the United States. It is a slander upon their memory, at least, so I believe. There is not time now to argue the constitutional question at length; nor have I the ability to discuss it as it ought to be discussed. The subject has been handled with masterly power by Lysander Spooner, Esq. by William Goodell, by Samuel E. Sewall, Esq., and last, though not least, by Gerrit Smith, Esq. These gentlemen have, as I think, fully and clearly vindicated the Constitution from any design to support slavery for an hour.

Fellow-citizens! there is no matter in respect to which the people of the North have allowed themselves to be so ruinously imposed upon as that of the pro-slavery character of the Constitution. In that instrument I hold there is neither warrant, license, nor sanction of the hateful thing; but interpreted, as it ought to be interpreted, the Constitution is a glorious liberty document. Read its preamble, consider its purposes. Is slavery among them? Is it at the gate way? or is it in the temple? it is neither. While I do not intend to argue this question on the present occasion, let me ask, if it be not somewhat singular that, if the Constitution were intended to be, by its framers and adopters, a slaveholding instrument, why neither slavery, slaveholding, nor slave can anywhere be found in it. What would be thought of an instrument, drawn up, legally drawn up, for the purpose of entitling the city of Rochester to a tract of land, in which no mention of land was made? Now, there are certain rules of interpretation for the proper understanding of all legal instruments. These rules are well established. They are plain, commonsense rules, such as you and I, and all of us, can understand and apply, without having passed years in the study of law. I scout the idea that the question of the constitutionality, or unconstitutionality of slavery, is not a question for the people. I hold that every American citizen has a right to form an opinion of the constitution, and to propagate that opinion, and to use all honorable means to make his opinion the prevailing one. Without this right, the liberty of an American citizen would be as insecure as that of a Frenchman. Ex-Vice-President Dallas tells us that the constitution is an object to which no American mind can be too attentive, and no American heart too devoted. He further says, the Constitution, in its words, is plain and intelligible, and is meant for the homebred, unsophisticated understandings of our fellow-citizens. Senator Berrien tells us that the Constitution is the fundamental law, that which controls all others. The charter of our liberties, which every citizen has a personal interest in understanding thoroughly. The testimony of Senator Breese, Lewis Cass, and many others that might be named, who are everywhere esteemed as sound lawyers, so regard the constitution. I take it, therefore, that it is not presumption in a private citizen to form an opinion of that instrument.

Source: Oration, Delivered in Corinthian Hall, Rochester, By Frederick Douglass, July 5, 1852. Rochester: Lee, Mann, & Co., American Building, 1852.

ANALYSIS

By the mid-1800s, abolitionists had built a movement that was hundreds of thousands strong. While there were early leaders, like the Quakers and evangelicals who

saw slavery as a sin against God (John Wesley's phrase), there was also a burgeoning secular movement, including William Lloyd Garrison, the writers John Greenleaf Whittier and Harriet Beecher Stowe, and sisters Angelina and Sarah Grimke. Until recently, these and other white abolitionists were front and center in history books, but over the past several decades, scholars have acknowledged and highlighted many African American abolitionists including Sojourner Truth, Josiah Henson, Frances Ellen Watkins Harper, Harriet Tubman, William Wells Brown, David Ruggles, William Still, and many others. Most were born slaves and their life stories and paths to freedom were often a part of the way they educated the public about the terrible, inhumane, and violent conditions of slavery. One scholar has noted that their autobiographies are not just anecdotal stories, but also clear antislavery texts. In addition, they began the modern tradition of survivor voices that inform, but also include an expertise that cannot be learned in any textbook.

Preeminent among these was Frederick Douglass. Born into slavery in 1818, he was first a field slave, then a house slave, a slave for hire, a fugitive slave after he escaped, and finally freed slave after he bought his own freedom. He learned to read from the wife of a slave owner. After she was told that educating slaves was dangerous, he realized that education was one key to freedom and taught himself in every spare moment he had. He spoke of the brutal conditions of his enslavement, including beatings and whippings by various masters, each more vicious than the next. He spoke of the deep scars on his back from repeated lashings but said "I would I could make visible the wounds of this system upon my soul." His first book was *The Narrative of the Life and Times of Frederick Douglass*. He published a newspaper entitled *The North Star*. It was the first newspaper to be owned and operated by an ex-slave. He also gave hundreds of sermons and speeches across the United States.

In this speech, which is now world-renowned, Douglass notes that the 4th of July is of substantial symbolic significance to the American people. It is a celebration of life, liberty, and the pursuit of happiness, a recognition of the "great deliverance" from Great Britain so many years ago. Douglass draws a connection between the American rebellion and subsequent Declaration of Independence and abolitionists and slaves, who also long for and deserve freedom. In the first sentence of this speech, Douglass takes this day of rejoicing and turns it on its head, telling the audience that when he thinks of the 4th of July, he hears the mournful wail of millions in chains. In the most powerful part of the speech, Douglass accuses American citizens: "The existence of slavery in this country brands your republicanism as a sham, your humanity as a base pretense, and your Christianity as a lie. It destroys your moral power abroad: it corrupts your politicians at home. It saps the foundation of religion; it makes your name a hissing, and a byword to a mocking earth."

Some scholars have criticized Douglass for ending this speech on a "tame" note—for "vindicating the anti-slavery nature of the Constitution" and calling it "a glorious liberty document." Yet Douglass was in the end a true visionary and understood that if the ideals of the Declaration of Independence and the Constitution were applied to Africans brought as slaves to the United States, it would be a victory for democracy and human rights.

FURTHER READING

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- Read-Aloud by James Earl Jones, Morgan Freeman, and Danny Glover, The Zinn Education Project: Teaching a People's History, *Black Abolitionists*, Film and DVD. Directed by Howard Zinn, Chris Moore, and Anthony Arnone. 2009. 110 minutes. <https://zinnedproject.org/materials/people-speak-extended-edition-contents/>
- Sinha, Manisha. *The Slave's Cause: A History of Abolition*. New Haven, CT: Yale University Press, 2016.

THE EMANCIPATION PROCLAMATION (1863)

- **Document:** Emancipation Proclamation Made by President Abraham Lincoln
 - **When:** January 1, 1863
 - **Where:** Washington, D.C.
 - **Significance:** The Emancipation Proclamation is an Executive Order issued by President Lincoln proclaiming that “all persons held as slaves” within the rebellious states “are and henceforward shall be free.” It is a preeminent document in abolitionist history and is referenced today in the fight to eradicate modern-day slavery. It did not end slavery in the United States, but it did free over 3 million slaves. The Proclamation initially freed only the slaves in the rebel states in the South, but it influenced and prepared citizens to accept emancipation for all slaves in both the North and the South. President Lincoln believed it to be his most important action of his Presidency and said, “I never, in my life, felt more certain that I was doing right, than I do in signing this paper. . . . If my name ever goes into history it will be for this act, and my whole soul is in it.”
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DOCUMENT

That on the first day of January, in the year of our Lord one thousand eight hundred and sixty-three, all persons held as slaves within any State or designated part of a State, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever free; and the Executive Government of the United States, including the military and naval authority thereof, will recognize and maintain the freedom of such persons, and will do no act or acts to repress such persons, or any of them, in any efforts they may make for their actual freedom.

That the Executive will, on the first day of January aforesaid, by proclamation, designate the States and parts of States, if any, in which the people thereof, respectively, shall then be in rebellion against the United States; and the fact that any State, or the people thereof, shall on that day be, in good faith, represented in the Congress of the United States by members chosen thereto at elections wherein a majority of the qualified voters of such State shall have participated, shall, in the absence of strong countervailing testimony, be deemed conclusive evidence that such State, and the people thereof, are not then in rebellion against the United States.

Now, therefore I, Abraham Lincoln, President of the United States, by virtue of the power in me vested as Commander-in-Chief, of the Army and Navy of the United States in time of actual armed rebellion against the authority and government of the United States, and as a fit and necessary war measure for suppressing said rebellion, do, on this first day of January, in the year of our Lord one thousand eight

hundred and sixty-three, and in accordance with my purpose so to do publicly proclaimed for the full period of one hundred days, from the day first above mentioned, order and designate as the States and parts of States wherein the people thereof respectively, are this day in rebellion against the United States, the following, to wit:

Arkansas, Texas, Louisiana, (except the Parishes of St. Bernard, Plaquemines, Jefferson, St. John, St. Charles, St. James Ascension, Assumption, Terrebonne, Lafourche, St. Mary, St. Martin, and Orleans, including the City of New Orleans) Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, and Virginia, (except the forty-eight counties designated as West Virginia, and also the counties of Berkley, Accomac, Northampton, Elizabeth City, York, Princess Ann, and Norfolk, including the cities of Norfolk and Portsmouth), and which excepted parts, are for the present, left precisely as if this proclamation were not issued.

And by virtue of the power, and for the purpose aforesaid, I do order and declare that all persons held as slaves within said designated States, and parts of States, are, and henceforward shall be free; and that the Executive government of the United States, including the military and naval authorities thereof, will recognize and maintain the freedom of said persons.

And I hereby enjoin upon the people so declared to be free to abstain from all violence, unless in necessary self-defence; and I recommend to them that, in all cases when allowed, they labor faithfully for reasonable wages.

And I further declare and make known, that such persons of suitable condition, will be received into the armed service of the United States to garrison forts, positions, stations, and other places, and to man vessels of all sorts in said service.

And upon this act, sincerely believed to be an act of justice, warranted by the Constitution, upon military necessity, I invoke the considerate judgment of mankind, and the gracious favor of Almighty God.

Source: Lincoln, Abraham. Emancipation Proclamation, January 1, 1863, Presidential Proclamations, 1791–1991, Record Group 11, General Records of the United States Government, National Archives.

ANALYSIS

Abraham Lincoln issued a preliminary Emancipation Proclamation on September 22, 1862. It stipulated that if the Southern states did not cease their rebellion by January 1, 1863, then the Proclamation would go into effect. When the Confederacy did not yield, Lincoln issued the final Emancipation Proclamation on January 1, 1863.

The Emancipation Proclamation has long been heralded as a turning point in both the Civil War as well as American history. For the first time the United States formally recognized that not only was the slave trade heinous but that the institution of slavery needed to end. In making this Proclamation, Lincoln essentially defined abolition as a new goal of the Civil War.

Clearly, the centuries of abolitionist work, both abroad and in the United States, paved the way for this historic Proclamation. The movement had continued to gain traction in the years before the Civil War. Individuals like William Lloyd Garrison

helped to add fire to the movement. He started *The Liberator*, an abolitionist paper in 1830 and in 1832 formed the Antislavery Society, which featured testimonies from freed black slaves, such as Frederick Douglass. Experts surmise that Abraham Lincoln's priority was to keep the United States united, but as the war dragged on Lincoln's sympathies for abolition grew and his reasons for incorporating emancipation of slaves into the war effort solidified. Lincoln's cabinet advised him to wait until the Union had won a major victory before releasing it, to add to the legitimacy of an executive proclamation. Abraham Lincoln announced a preliminary proclamation on September 22, 1862, five days after the Union victory at the Battle of Antietam, which guaranteed that, "all persons held as slaves within . . . designated States . . . are, and henceforward shall be free."

The final version of the Emancipation Proclamation, effective January 1, 1863, differed slightly from the preliminary proclamation. It specified the Confederate states to which the proclamation would be applicable and enforced: all parts of Arkansas, Texas, Mississippi, Alabama, Florida, Georgia, South Carolina, and North Carolina, and parts of Louisiana and Virginia. It also requested that freed slaves "abstain from all violence, unless in necessary self-defence." Finally, it added a brilliant maneuver, declaring that "such persons of suitable condition, will be received into the armed service of the United States to garrison forts, positions, stations, and other places, and to man vessels of all sorts in said service." As a footnote, very shortly thereafter, in May 1863, the War Department issued a General Order allowing African Americans to join the Army. By 1865, 190,000 African Americans had joined the Union forces to fight for their freedom against the Confederacy.

Lincoln believed that signing the Emancipation Proclamation was the right thing to do, for the state of the Union and for fellow African Americans. He was assassinated two years later on April 15, 1865, and did not live to see the ratification of the 13th Amendment to the Constitution of the United States. However, with the Emancipation Proclamation, he put in motion the final push toward abolition.

FURTHER READING

Franklin, John Hope. "The Emancipation Proclamation: An Act of Hope," *Prologue Magazine* 25(2) (Summer 1993).

National Archives and Records Administration, Washington, DC (housing the original Emancipation Proclamation).

AMENDMENT XIII (1865)

- **Document:** The 13th Amendment to the Constitution
 - **When:** Passed by Congress January 31, 1865. Ratified December 6, 1865
 - **Where:** Washington, D.C.
 - **Significance:** This amendment formally abolished slavery in the United States.
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DOCUMENT

Section 1

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.

Section 2

Congress shall have power to enforce this article by appropriate legislation.

Source: U.S. Constitution, 13th Amendment, Charters of Freedom, National Archives.

ANALYSIS

The Emancipation Proclamation was essentially a Presidential Executive Order. This meant that another president could rescind it. To abolish slavery by law, Congress would need to act. For this reason, Lincoln believed that a constitutional amendment was necessary to ensure the end of slavery. Congress passed the 13th Amendment to the Constitution and ratified it December 6, 1865, codifying the Emancipation Proclamation and formally abolishing slavery in the United States. This was 45 years after the United States had abolished the slave trade and 32 years after Britain outlawed slavery. Following the 13th Amendment, Congress also passed the 14th and 15th Amendments, which ensured freedom and defined the rights of freed men. The word “men” is literal here: voting rights for women came later, in the next century. Still, these Amendments were critical to prohibit slavery. Collectively they are referred to as the Civil War Amendments.

The 14th Amendment, ratified in 1868, stated that “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside all persons born or naturalized in the United States.” This included former slaves who had been freed after the Civil

War. It guaranteed a certain amount of protection for former slaves, stating, “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

Finally, the 15th Amendment, ratified two years later in 1870, acknowledged that as citizens African American men had the right to vote. “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.” African American women were left out of this Amendment, and women who had worked for abolition of slavery quickly began a campaign for women’s suffrage.

FURTHER READING

Primary Documents in American History: 13th Amendment to the U.S. Constitution Containing the Debates, Bills, Laws, and Journals Surrounding the Making of the 13th Amendment. <https://www.loc.gov/rr/program/bib/ourdocs/13thamendment.html>.

SCENES IN THE LIFE OF HARRIET TUBMAN (1869)

- **Document:** Scenes in the Life of Harriet Tubman
 - **When:** 1869
 - **Where:** Auburn, New York
 - **Significance:** This excerpt, from an account of Harriet Tubman's life written by Mrs. Sarah H. Bradford, documents Tubman's efforts in the Underground Railroad, and her early life as a slave. She is known for her dozen dangerous trips to lead at least a hundred slaves to freedom in the North. This document tells a little of the journeys she made and the reasons she made them. Most of her work was done during the time after the passage of the Fugitive Slave Act which made the travels and the escapes she arranged even more perilous. Many of the slaves she brought to freedom had bounties on their heads. Tubman herself was wanted and there are various stories of \$3,000, \$12,000, and higher rewards offered for her return. She was never caught. She followed the North Star and used several ingenious methods to prevent capture, including traveling only at night and only in the winter when it was more difficult to track her. Tubman was illiterate, and used passages from the Bible and gospel songs to communicate with slaves about the Underground Railroad. For this reason we are dependent upon the writings of a very few contemporaries, such as the writings of Sarah Bradford, who spoke with her and recorded her life and work.
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DOCUMENT

It will be impossible to give any connected account of the different journeys taken by Harriet for the rescue of her people, as she herself has no idea of the dates connected with them, or of the order in which they were made. She thinks she was about 25 when she made her own escape, and this was in the last year of James K. Polk's administration. From that time till the beginning of the war, her years were spent in these journeyings back and forth, with intervals between, in which she worked only to spend the avails of her labor in providing for the wants of her next party of fugitives. By night she traveled, many times on foot, over mountains, through forests, across rivers, amid perils by land, perils by water, perils from enemies, "perils among false brethren." Sometimes members of her party would become exhausted, foot-sore, and bleeding, and declare they could not go on, they must stay where they dropped down, and die; others would think a voluntary return to slavery better than being overtaken and carried back, and would insist upon returning; then there was no remedy but force; the revolver carried by this bold and daring pioneer would be

pointed at their heads. "Dead niggers tell no tales," said Harriet; "Go on or die;" and so she compelled them to drag their weary limbs on their northward journey.

At one time she collected and sent on a gang of thirty-nine fugitives in the care of others, as from some cause she was prevented from accompanying them. Sometimes, when she and her party were concealed in the woods, they saw their pursuers pass, on their horses, down the high road, tacking up the advertisements for them on the fences and trees. "And den how we laughed," said she. "We was de fools, and dey was de wise men; but we wasn't fools enough to go down de high road in de broad daylight." At one time she left her party in the woods, and went by a long and roundabout way to one of the "stations of the Underground Railway," as she called them. Here she procured food for her famished party, often paying out of her hardly-gained earnings, five dollars a day for food for them. But she dared not go back to them till night, for fear of being watched, and thus revealing their hiding-place. After nightfall, the sound of a hymn sung at a distance comes upon the ears of the concealed and famished fugitives in the woods, and they know that their deliverer is at hand. They listen eagerly for the words she sings, for by them they are to be warned of danger, or informed of safety. Nearer and nearer comes the unseen singer, and the words are wafted to their ears:

Hail, oh hail ye happy spirits,
 Death no more shall make yon fear,
 No grief nor sorrow, pain nor anger (anguish)
 Shall no more distress you there.
 Around him are ten thousan' angels,
 Always ready to 'bey comman'.
 Dey are always hobring round you,-
 Till you reach the hebbenly Ian.
 Jesus, Jesus will go wid you;
 He will lead you to his throne;
 He who died has gone before you,
 Trod de wine-press all alone.
 He whose thunders shake creation;
 He who bids the planets roll;
 He who rides upon the temple, (tempest)
 An' his scepter sways de whole.
 Dark and thorny is de desert,
 Through de pilgrim makes his ways,
 Yet beyon' dis vale of sorrow,
 Lies de fiel's of endless days.

I give these words exactly as Harriet sang them to me to a sweet and simple Methodist air. "De first time I go by singing dis hymn, dey don't come out to me," she said, "till I listen if de coast is clar; den when I go back and sing it again, dey come out. But if I sing:

Moses go down In Egypt,
 Till ole Pharo' let me go;

Hadn't been for Adam's fall,
Shouldn't hub to died at all,

den dey don't come out, for dere's danger in de way." And so by night travel, by hiding, by signals, by threatening, she brought the people safely to the land of liberty. But after the passage of the Fugitive Slave law, she said, "I wouldn't trust Uncle Sam wid my people no longer; I brought 'em all clar off to Canada."

Of the very many interesting stories told me by Harriet, cannot refrain from telling to my readers that of Joe, who accompanied her upon her seventh or eighth journey from Maryland to Canada. Joe was a noble specimen of a negro, and was hired out by his master to a man for whom he worked faithfully for six years, saving him the expense of an overseer, and taking all trouble off his hands. At length this man found him so absolutely necessary to him, that he determined to buy him at any cost. His master held him proportionately high. However, by paying a thousand dollars down for him, and promising to pay another thousand in a certain time, Joe passed into the hands of his new master. As may be imagined, Joe was somewhat surprised when the first order issued from his master's lips, was, "Now, Joe, strip and take a whipping!" "Mas'r," said he, "habn't I always been faithful to you? Habn't I worked through sun an' rain, early in de mornin', and late at night; habn't I saved you an oberseer by doin' his work; hab you anything to complain of agin me?" "No, Joe; I've no complaint to make of you; you're a good nigger, and you've always worked well; but the first lesson my niggers have to learn is that I am master, and that they are not to resist or refuse to obey anything I tell 'em to do. So the first thing they've got to do, is to be whipped; if they resist, they get it all the harder; and so I'll go on, till I kill 'em, but they've got to give up at last, and learn that I'm master." He stripped off his upper clothing, and took his whipping without a word; but as he drew his clothes up over his torn and bleeding back, he said, "Dis is de last!"

That night he took a boat and went a long distance to the cabin of Harriet's father, and said, "Next time Moses comes, let me know." It was only a week or two after that, that the mysterious woman whom no one could lay their finger on appeared, and men, women, and children began to disappear from the plantations. One fine morning Joe was missing, and his brother William, from another plantation; Peter and Eliza, too, were gone; and these made part of Harriet's next party, who began their pilgrimage from Maryland to Canada, or as they expressed it, from "Egypt to de land of Canaan."

They were taken in by Sam Green, the man who was afterwards sent to State Prison for ten years for having a copy of "Uncle Tom's Cabin" in his house; and so, hunted and hiding and wandering, they came at last to the long bridge at the entrance of the city of Wilmington, Delaware. The rewards posted up everywhere had been at first five hundred dollars for Joe, if taken within the limits of the United States; then a thousand, and then fifteen hundred dollars, "an' all expenses clar an' clean, for his body in Easton Jail." Eight hundred for William, and four hundred for Peter, and twelve thousand for the woman who enticed them away. The long Wilmington Bridge was guarded by police officers, and the advertisements were everywhere. The party were scattered, and taken to the houses of different colored friends,

and word was sent secretly to Thomas Garrett, of Wilmington, of their condition, and the necessity of their being taken across the bridge.

Thomas Garrett is a Quaker, and a man of a wonderfully large and generous heart, through whose hands, Harriet tells me, two thousand self-emancipated slaves passed on their way to freedom. As soon as Thomas Garrett heard of the condition of these poor people, his plan was formed. He engaged two wagons, filled them with bricklayers, whom of course he paid well for their share in the enterprise, and sent them across the bridge. They went as if on a frolic, singing and shouting. The guards saw them pass, and of course expected them to re-cross the bridge. After nightfall (and fortunately it was a dark night) the same wagons went back, but with an addition to their party. The fugitives were on the bottom of the wagons, the bricklayers on the seats, still singing and shouting; and so they passed by the guards, who were entirely unsuspecting of the nature of the load the wagons contained, or of the amount of property thus escaping their hands. And so they made their way to New York. When they entered the anti-slavery office there, Joe was recognized at once by the description in the advertisement. "Well," said Mr. Oliver Johnson, "I am glad to see the man whose head is worth fifteen hundred dollars." At this Joe's heart sank. If the advertisement had got to New York, that place which it, had taken them so many days and nights to reach, he thought he was in danger still. "And how far is it now to Canada?" he asked. When told how many miles, for they were to come through New York State, and cross the Suspension Bridge, he was ready to give up. "From dat time Joe was silent," said Harriet; "he sang no more, he talked no more; he sat wid his head on his hand, and nobody could "muse him or make him take any interest in anyting." They passed along in safety, and at length found themselves in the cars, approaching Suspension Bridge.

The cars began to cross the bridge. Harriet was very anxious to have her companions see the Falls. William, Peter, and Eliza came eagerly to look at the wonderful sight; but Joe sat still, with his head upon his hand. "Joe, come look at de Falls! Joe, you fool you, come see de Falls! its your last chance." But Joe sat still and never raised his head. At length Harriet knew by the rise in the center of the bridge, and the descent on the other side, that they had crossed "the line." She sprang across to Joe's seat, shook him with all her might, and shouted, "Joe, you've shook de lion's paw! Joe, you're free!" Then Joe's head went up, he raised his hands on high, and his face, streaming with tears, to heaven, and broke out in loud and thrilling tones: "Glory to God and Jesus too, One more soul is safe! Oil, go and carry de news, One more soul got safe."

When asked, as she often is, how it was possible that she was not afraid to go back, with that tremendous price upon her head, Harriet always answers, "Why, don't I tell you, Missus, t'wan't me, 'twas de Lord ! I always tole him, 'I trust to you. I don't know where to go or what to do, but I expect you to lead me,' an' he always did."

* * * * *

Araminta Ross, now known by her married name of Tubman, with her sounding Christian name changed to Harriet, is the grand-daughter of a slave imported from Africa, and has not a drop of white blood in her veins. Her parents were Benjamin Ross and Harriet Greene, both slaves, but married and faithful to each other. . . .

When Harriet was six years old, she was taken from her mother and carried ten miles to live with James Cook, whose wife was a weaver, to learn the trade of weaving. While still a mere child, Cook set her to watching his musk-rat traps, which compelled her to wade through the water. It happened that she was once sent when she was ill with the measles, and, taking cold from wading in the water in this condition, she grew very sick, and her mother persuaded her master to take her away from Cook's until she could get well. . . .

Soon after she entered her teens she was hired out as a field hand, and it was while thus employed that she received a wound which nearly proved fatal, from the effects of which she still suffers. One of the slaves of a farmer named Barrett, left his work, and went to the village store in the evening. The overseer followed him, and so did Harriet. When the slave was found, the overseer swore he should be whipped, and called on Harriet, among others, to help tie him. She refused, and as the man ran away, she placed herself in the door to stop pursuit. The overseer caught up a two-pound weight from the counter and threw it at the fugitive, but it fell short and struck Harriet a stunning blow on the head. It was long before she recovered from this, and it has left her subject to a sort of stupor or lethargy at times. After this she lived for five or six years with John Stewart, where at first she worked in the house, but afterwards 'hired her time,' and Dr. Thompson, son of her master's guardian, 'stood for her,' that is, was her surety for the payment of what she owed. She employed the time thus hired in the rudest labors—drove oxen, carted, plowed, and did all the work of a man,—sometimes earning money enough in a year, beyond what she paid her master, 'to buy a pair of steers,' worth forty dollars.

In 1849 the young man died, and the slaves were to be sold, though previously set free by an old will. Harriet resolved not to be sold, and so, with no knowledge of the North—having only heard of Pennsylvania and New Jersey—she walked away one night alone. She found a friend in a white lady, who knew her story and helped her on her way. After many adventures, she reached Philadelphia, where she found work and earned a small stock of money. With this money in her purse, she traveled back to Maryland for her husband, but she found him married to another woman, and no longer caring to live with her. In December, 1850, she had visited Baltimore and brought away her sister and two children, who had come up from Cambridge in a boat, under charge of her sister's husband, a free black. In December of [1851], she returned, and led out a party of eleven, among them her brother and his wife. With these she journeyed to Canada, and there spent the winter, for this was after the enforcement of Mason's Fugitive Slave Bill in Philadelphia and Boston, and there was no safety except 'under the paw of the British Lion,' as she quaintly said.

In the spring she returned to the States, and as usual earned money by working in holds and families as a cook. From Cape May, in the fall of 1852, she went back once more to Maryland, and brought away nine more fugitives. Up to this time she had expended chiefly her own money in these expeditions—money which she had earned by hard work in the drudgery of the kitchen. But it was not possible for such virtues long to remain hidden from the keen eyes of the Abolitionists. She became known to Thomas Garrett, the large-hearted Quaker of Wilmington, who has aided the escape of three thousand fugitives; she found warm friends in Philadelphia and New York, and wherever she went. These gave her money, which she never spent

for her own use, but laid up for the help of her people, and especially for her journeys back to the 'land of Egypt,' as she called her old home. By reason of her frequent visits there, always carrying away some of the oppressed, she got among her people the name of 'Moses,' which it seems she still retains.

Source: Bradford, Sarah H. *Scenes in the Life of Harriet Tubman*. Auburn, NY: W.J. Moses, 1869, 24–27.

ANALYSIS

There are many sung and unsung heroes in the Underground Railroad, but most would agree that Harriet Tubman has become the iconic symbol of this movement in the United States. The Underground Railroad is described by the American Heritage Dictionary as a series of escape routes and hiding places that fugitive slaves used to escape the South before and during the Civil War. They were operated by abolitionists and Christians (mostly Quakers, Congregationalists, Wesleyans) but also by ex-slaves and fugitive slaves, and ran from the South to the North throughout the 19th century, providing a concrete road to freedom for Southern slaves. Tubman was a fearless leader in the Underground Railroad, going back and forth from North to South to rescue not just her own family but many other slaves. The account above is one of the few contemporary records written by author and historian Sarah H. Bradford, from extensive conversations with Harriet herself. In addition to recording Tubman's story, Bradford helped Tubman raise funds for her many trips. She was one of the first white authors to write about African American themes, and her books sold well then and are still in print today. Although she has been criticized by contemporary historians for her lack of historical methodology, she was a precursor to the current oral history tradition and attempted to keep as closely as she could to Harriet's own story and way of telling her story and this authenticity is apparent in her work.

Harriet Tubman's story clearly exemplifies the terrible exploitation, violence, brutality, abuse, suffering, and senseless loss of life resulting from the enslavement of one people by another. Today, we take for granted the horrifying nature of slavery: it is both a crime and a human rights abuse. But in Tubman's day it was neither, and to challenge the institution of slavery was to challenge the law of the land, the powerful and the institutions and systems that allowed the subordination of one man to another. Harriet Tubman, one lone female slave, with recurring health problems, stood up to this early on, when it was unusual for women, let alone black women, let alone a black woman slave, to do so. For this reason, she has become a beloved symbol in the United States of freedom and the fight against slavery.

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JOSEPHINE BUTLER'S CONTAGIOUS DISEASE ACT BATTLES (1869–1886)

- **Document:** *Josephine Butler: An Autobiographical Memoir*
- **When:** 1913
- **Where:** London, England
- **Significance:** Josephine Butler is described by many as an early feminist. She presented the first cogent arguments against sex trafficking and commercial sexual exploitation of women and children. At the time, women and girls suspected of being prostitutes were subjected to government-mandated vaginal exams ostensibly to control the spread of disease. These two documents are significant for their stark description of the sex trade and the British government's participation in it.

WOMEN ABOLITIONISTS AND THE WOMEN'S RIGHTS MOVEMENT IN THE 1800s

Many women were early abolitionists, and the backlash that they experienced as females speaking out against slavery led them to an early feminism. For example, Elizabeth Margaret Chandler published many articles decrying slavery. She also organized the first antislavery society in Michigan in 1832, and borrowed from the seal that Josiah Wedgwood designed in England of a male slave, changing the image to a female, and adding the now famous slogan, "Am I not a Woman and a Sister?" The Grimke sisters, Sarah and Angelina, were born in South Carolina into a wealthy family of slave owners. They moved North to separate themselves from their family, and began speaking across the United States. They were constantly criticized for speaking in public because of their sex. In a series of Letters, Angelina Grimke spelled out her belief, anchored in the Bible, that there are "no rights but Human Rights," and making the point that in God, there is no male or female. Other famous women abolitionists, such as Lucretia Mott, spent three decades protesting slavery and organizing boycotts of the products of slave labor. In 1840, she attended the World Anti-Slavery Convention in London with her husband, but was not allowed to participate because she was a woman. This led to her leadership in the first Women's Rights Convention in Seneca Falls in 1848.

DOCUMENT

In different towns and from many, I heard the same tale: some said they had suffered no discomfort, others only extreme discomfort and difficulty walking, others real and great pain. One whose case I have written down used to be lifted from the rack quite unconscious every time from what she suffered. I cannot tell you much about the instruments used, not having seen the process. I can only tell you what the poor things, in simple manner, constantly say to me. What they chiefly complain about is the great size of the instruments. The same size ones seem to be used for small delicate girls of 15, and for slight women, as for larger women who have had children. These are the words I hear so often, "IT IS SUCH AWFUL WORK. THE ATTITUDE THEY PUSH US INTO FIRST IS SO DISGUSTING, AND SO PAINFUL AND THEN THESE MONSTROUS INSTRUMENTS,—OFTEN THEY USE SEVERAL. THEY SEEM TO TEAR THE PASSAGE OPEN FIRST WITH THEIR HANDS, AND EXAMINE US, AND THEN THEY THRUST IN THESE INSTRUMENTS AND THEN THEY PULL THEM OUT AND PUSH THEM IN; AND THEY TURN AND TWIST THEM ABOUT; AND IF YOU CRY OUT THEY STIFLE YOU WITH A TOWEL OVER YOUR FACE." These are the very words they use. Also these: "It causes pain like labor, across the back and loins, you feel the

instruments pressing up to your stomach, making you quite sick; THEY PUSH THEM UP SO FAR.” Many whom I saw walking home after it, stooped and wept as they walked, with flushed faces and a look of pain, which no woman who has ever suffered such pain can mistake.

Source: *Josephine Butler: An Autobiographical Memoir*, edited by George W. and Lucy A. Johnson. London: Bristol, J.W. Arrowsmith Ltd., 1913, pp. 149–151.

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- **Document:** “Address by Mrs. Josephine Butler” at the Annual Meeting of the Ladies National Association for the Abolition of Government Regulation of Prostitution
 - **When:** October 19, 1876
 - **Where:** Hull, England
 - **Significance:** The Contagious Disease Acts were implemented between 1864 and 1869. In this speech Josephine Butler describes how the British government became complicit in the buying and selling of young women and children, by setting up systems to register them as prostitutes and to examine only the females (not the male purchasers of sex) for contagious diseases.
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DOCUMENT

At the Annual Meeting of the “Ladies’ National Association for the Abolition of Government Regulation of Prostitution,” held at Hull, October 19th, 1876, the following Resolution was moved and seconded:

That this meeting regards the Government Superintendence and Regulation of Vice as embodied in the Contagious Diseases Acts of 1866–9, as in the highest degree immoral, and calculated to degrade the character and life of both men and women: the meeting also protests against the Acts as a gross infringement of the liberty of women, and a serious danger to their honour and virtue. Having regard to the great importance of promoting an equal standard of morality in both sexes, this meeting moreover earnestly calls upon women of every section of society to insist upon purity of life in men, as well as women, as a necessary condition of personal friendship and esteem.

Mrs. Butler supported the Resolution, Mrs. Butler evidently felt that, in spite of all the earnest addresses made that afternoon, it was probable that many of those present did not yet clearly understand the true nature of this evil thing, this unjust legislation, which we are banded together to destroy. She, therefore, explained the nature and purpose of the Acts, or rather explained the whole system of State regulation throughout the world in its broad and hideous lines. An audible sign or shudder passed through the whole meeting from time to time; the subject had taken hold of all present; the situation was realized, the danger to our country, and the necessity to be up and doing; and the sense of pity for the wronged, and indignation against the wrong, were touchingly and audibly expressed.

Mrs. Butler said, it has struck me as the meeting went on, that after all, there may be many here who have not a very clear idea of what these laws are which we are fighting against. Now I will try to explain to you, very simply and very briefly, what it

is we are fighting against, and I am prepared to prove by all the experience and all the knowledge gained in the last seven years in this work, that what I say is the absolute truth. You all know, friends, what is the meaning of the awful word “prostitution.” You know that prostitution is, perhaps, of all evils that have scourged humanity, the greatest and the darkest. Oh! what woes, what wrongs, what sorrows, what agonies, what diseases, what suicides, murders, assassinations, deaths, are wrapped up in the one terrible word, “prostitution,”—prostitution, the scourge of humanity, the typical crime of the universe from the beginning till now. Now, in these latter days men have grown wise, according to the world, but not in the “wisdom that is from above.” In these latter days, on the Continent and in England, men have looked at this great evil of prostitution, and they have said to themselves, “Let us put out our hand, and try to do something to diminish,” not the sin, but “the physical scourge” which follows the sin,—for there is a horrible disease which is the accompaniment of this sin. Therefore, “practical men” of the world have said to themselves, “Go to! let us try to cure this disease;” they care little about the sin. It is well they should try to cure the disease, and I am not finding fault with the medical men and law-makers who wished to do so. I would not say that the motives of all of them were bad; but I will say that they were blind, they had not the wisdom from above, they knew not what they did when they attempted merely to cure the disease whilst they not only let the sin alone, but adopted measures which increase the vice. Their act was folly in the highest degree.

Now these men, looking at the great scourge of prostitution, what should they have done! Should they not have said, “Let us band ourselves together; let us consult and act to the best of our power to lessen this evil on all sides. Let us give to women more work and better wages, so that they may not fall into evil ways. Let us protect young girls; let us throw open more avenues of employment to poor women who have to maintain themselves, and often their families, too; let us make war against drunkenness; let us protect the young and the unprotected; let us punish the seducers of little children; and, above all, let us teach our young men, those in our schools and colleges and workshops, that they are bound as much as women to live pure and decent lives.” This is what these wise men should have said and done; but they did not. I am telling you the truth; what they said in Paris, in Vienna, in Rome and Berlin, and later in London, was this, “Let us legalize prostitution,”—yes, *legalize*, I say,—“wherever it exists,” and they acted accordingly.

Now the mode of legalizing it is this: In the first instance, it is provided that a great register is to be made of all women who may come under the denomination of “common prostitutes,”—a diabolical record is opened, the register of hell! But how and why do they get them on to this register, and what do they do with them when they are on it? The motive is to get them on the register and keep them always under the eye of the police and certain State-appointed doctors, and thus to maintain them in good health in order that they may go on in their sin, and that in doing so they may not, forsooth, infect the vicious men who come voluntarily to sin with them. Vicious men are the worst of the two. Hundreds of women sin because they are so poor, and it is easier to get money by this vice than by honest work; but when the man sins he has no such excuse. Women are registered and kept in good

health by Government surgeons, by means too awful and horrible for me to speak of in your presence. They are kept—some in brothels, some living in their own private lodgings, looked after night and day; brought into hospital-prisons when sick, not sent out till cured, when—with the Government stamp upon them as Government harlots—they are believed to provide men with safe vice; their occupation is protected and patented as if it were an honest industry. Now, how do they get them on to the register? If you traverse any of the streets of our great cities in this country, you see numbers of poor people, women and girls of every shade of character and degree of poverty. Spy policemen in plain clothes are sent from London, from Scotland Yard, to walk about the streets by day and night, with absolute powers over all these women of the poorer classes whom they meet. Under this law, a policeman has power to lay his hand on the shoulder of any woman whom he chooses to suspect of not being moral in her life; and instead of having a fair trial as a thief or robber or assassin has, she has no trial, for she is taken (if she resents) before a magistrate, and the oath of a policeman is sufficient for his proceedings to be confirmed. But far more often she is taken off and registered a common prostitute, without ever seeing the face of a magistrate, and on the suspicion of a spy policeman only. He does not need to swear that he has seen her do anything wrong; he does not need to swear that he knows she is a common prostitute, but only that he has reason to believe that she is one. This is the way in which they get the register filled, and it is for their interest to get as many as possible on it.

You know wherever there is a slavery there must be a slave trade, because you need slaves to fill up the market; and so in this case, women are sent from one country to another as slaves, bought and sold, a “morals” policeman sometimes going with them and taking their tickets. At Liege two trucks were found at the railway station crowded with young girls—quite young, many of them not more than thirteen, “crowded like cattle.” They were under the charge of one of the policemen of the system. He was conveying them from a certain brothel in Liege to hand them over wholesale to another brothel in Paris (because these people find it desirable to have an exchange of slaves, to have a constant circulation, for it secures variety to the purchasers). These poor girls did not wish to be taken to Paris. Some of them perhaps hoped, wished, to get free, and some of them began to cry, and the infection spread, and, they all became more or less hysterical, and said they would not go. This policeman thereupon put manacles upon their hands and fastened them behind their backs, and they were thus taken as slaves in chains from one brothel to the other, in Christian Europe. This is with the knowledge and permission of the authorities. This is an illustration of what will come to us if we don’t prevent it, and indeed now we are not free from it in England, for girls are here already bought and sold under this system.

We call ourselves the New Abolitionists, to abolish this horrible slavery of women all over the world. The women under this system are entirely the slaves of the police and the doctors, and that vile class of people the brothel keepers.

Source: State Regulation of Vice: Address by Mrs. Butler. At the Annual Meeting of the “Ladies’ National Association for the Abolition of Government Regulation of Prostitution. . . .” October 19, 1876. <https://archive.org/details/b21450274>.

ANALYSIS

Josephine Butler laid a good deal of the blame for the trafficking of women into sex slavery on state-regulated prostitution. The purpose of the regulation was to protect the health of military men, particularly the British Army and Royal Navy, by requiring all women and girls thought to be in prostitution to undergo regular examinations by doctors. Britain accomplished this by passing the Contagious Disease Acts, a series of laws drafted and passed between 1864 and 1869. The passage of this Act forced any woman who a policeman thought might be a prostitute to register and undergo biweekly vaginal examinations to monitor their health. If the examination revealed symptoms of disease, the women were locked in hospitals until they were cured. Abolitionists called them “lock hospitals” or “prison-hospitals.” This change in the law gave policemen and other law enforcement agencies, as well as men, in general, power over women and girls, especially those who were impoverished, sick, and orphaned. There quickly arose a small cottage industry of policemen pulling women and girls from the street to be examined by doctors, and often, held against their will. Upper-class women rode in carriages and were untouched by these laws, but any female walking on the streets was a possible target. As Butler quickly pointed out, the abuse was also twofold: first, the abuse of being exploited in prostitution, and then the state-institutionalized abuse, which supported and enforced the trafficking of women and girls for sex.

Butler was appalled by the systemic injustice she witnessed firsthand against women and girls and wondered aloud why only women were required to undergo compulsory examinations. She began working to repeal the Contagious Disease Acts. For 20 years, she traveled around the country, calling meetings, giving speeches, and organizing to educate British citizens about the problem. She created a “New Abolitionist” movement against the “State Regulation of Vice” as she called the Contagious Disease Acts.

Because her parents had been active in the earlier antislavery efforts she had met abolitionists working to abolish African chattel slavery, Butler quickly saw that it was crucial for the general public to understand the horror of this new enslavement. She sought to make the voices of the victims heard by giving firsthand accounts of the brutal conditions they endured, and in this way her work was a precursor to trafficking survivor accounts in the 21st century. She understood that only by making the harm visible would she move people to action. By several accounts, her detailed descriptions of the compulsory checks were gruesome and shocking. She called the inspections “surgical rape,” and urged Christians, women, and rights activists to protest the double standard in treatment of men and women. In her diary, she wrote that in 1870 when she described the degradation, humiliation, and pain of women suspected, interrogated, inspected, and arrested under the law, Hugh Price Hughes, Superintendent of the West Long Mission, “burst into tears and rushed from the platform.” In 1886 the Contagious Disease Acts were repealed.

In 1885, she began work on another important campaign that foreshadowed the anti-trafficking work being done today. A colleague and friend, William B. Stead, editor of the *Pall Mall Gazette*, and a champion of child welfare reform, began an

investigation into children trafficked into prostitution. Stead set out to buy a child for sex. He did so successfully with the assistance of Josephine Butler. Stead launched his attack with the first in his series of articles entitled *The Maiden Tribute of Modern Babylon*. Under the subheading “A Child of Thirteen Bought for £ 5,” he described the story of Eliza Armstrong and the conditions of prostitution. The *Gazette* articles created publicity, which Josephine Butler used to campaign for new laws raising the age of consent to sex from 12 to 16.

Butler spent her final decades taking the battles international to (at that time) British India and to France, Belgium, Switzerland, Germany, and the Netherlands. Her last organizing effort was the founding of the International Abolitionist Federation in 1875. This venerable institution is still involved today in fighting commercial sexual exploitation of women and children.

FURTHER READING

Works by Josephine Butler

(ed.) *Woman's Work and Woman's Culture*, 1869

The Constitution Violated, 1871

A Voice in the Wilderness, 1875

The Hour before the Dawn, 1882

Personal Reminiscences of a Great Crusade, 1898

Truth before Everything, 1898

Prophets and Prophetesses, 1898

Her books are out of print, but are available in libraries, especially the Women's Library, based since 2013 at the London School of Economics. [<http://www.lse.ac.uk/library/Home.aspx>]. The Women's Library also holds the largest collection of her letters (ref: 3JBL), which are accessible via the online catalogue. Other important archival collections are held in Liverpool University Library. [<http://www.lse.ac.uk/library/Home.aspx>]

Sharp, Ingrid, and Jane Jordan (eds.). *Josephine Butler and the Prostitution Campaigns*. London and New York: Routledge Press, 2002. It is a five-volume anthology of letters, documents, and books relating to Josephine Butler's campaigns, arranged thematically. It includes a full bibliography of Josephine Butler's publications (Vol. 1, pp. 24–26).

2

EARLY VISIONARIES (1900–1990)

INTRODUCTION

Traveling along parallel tracks in the early 1900s, two movements were emerging that would eventually meet at the dawn of the 21st century. The first was an international movement to address forced labor and child labor. The second was a movement to address the traffic in women and girls for purposes of prostitution. Several important international conventions grew out of these two campaigns and created frameworks that would later be used in the drafting of the watershed Trafficking Victims Protection Act (2000). In the United States in the 1900s the boom in manufacturing, creation of large factories, migration of people from rural to urban areas, and other factors resulted in largely unsupervised working conditions rife with exploitation, including forced labor and child labor. Long hours, hazardous equipment, and unsafe and unsanitary work areas were common. In the international arena, colonization of some countries by others also increased the potential for forced labor, child labor and intergenerational debt bondage, involuntary servitude and peonage. Two early conventions, one on child labor in 1919 and one on forced labor, were the first attempts to address the serious problem of “work or service exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”

The second movement was an international movement to curb sexual exploitation of women and children. Josephine Butler’s work in the late 1800s to bring the exploitative nature of prostitution to the attention of the British government continued to develop in fits and starts, with conventions in 1905 and 1910 and finally culminating in the middle of the century with a unique Convention for the Suppression of Traffic in Persons that created a foundation for later work to end sex trafficking. The 21st-century modern slavery campaigns have their roots in the documents featured in this chapter.

THE SUPPRESSION OF WHITE SLAVERY (1905)

- **Document:** Excerpts, “International Agreement for the Suppression of the White-Slave Traffic”
 - **When:** May 18, 1904, entered into force July 18, 1905
 - **Where:** Paris, France
 - **Significance:** This international agreement was the first piece of international legislation to focus on sex slavery. While scholars have argued about the focus on “white slavery” when clearly there was trafficking of women and children of many races, creeds, nationalities, and ethnicities, this document is significant for capturing basic concepts of the crime of trafficking in persons.
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DOCUMENT

Article 1

Each of the Contracting Governments undertakes to establish or name some authority charged with the coordination of all information relative to the procuring of women or girls for immoral purposes abroad; this authority shall be empowered to correspond direct with the similar department established in each of the other Contracting States.

Article 2

Each of the Governments undertakes to have a watch kept, especially in railway stations, ports of embarkation, and en route, for persons in charge of women and girls destined for an immoral life. With this object instructions shall be given to the officials, and all other qualified persons, to obtain, within legal limits, all information likely to lead to the detection of criminal traffic.

The arrival of persons who clearly appear to be the principals, accomplices in, or victims of, such traffic shall be notified, when it occurs, either to the authorities of the place of destination, or to the diplomatic or consular agents interested, or to any other competent authorities.

Article 3

The Governments undertake, when the case arises, and within legal limits, to have the declarations taken of women or girls of foreign nationality who are prostitutes, in order to establish their identity and civil status, and to discover who has caused them to leave their country. The information obtained shall be communicated to the authorities of the country of origin of the said women and girls, with a view to their eventual repatriation.

The Governments undertake, within legal limits, and as far as can be done, to entrust temporarily, and with a view to their eventual repatriation, the victims of a criminal traffic when destitute to public or private charitable institutions, or to private individuals offering the necessary security.

The Governments also undertake, within legal limits, and as far as possible, to send back to their country of origin those women and girls who desire it, or who may be claimed by persons exercising authority over them. Repatriation shall only take place after agreement as to identity and nationality, as well as place and date

AN EARLY CASE OF SEX SLAVERY

Chinese Slave Girl Plot Foiled

The very assurance with which [the trafficker] walked ashore from the [ship] accompanied by the Chinese girls, who were disguised as men, leads officials to believe that “the way had been greased,” and that the only reason why the “Celestial slaves” are not now occupying dens in Chinatown is because the arrangement [of the traffickers] miscarried.

With the capture late Monday night of Leong Moon, interpreter on the Japanese liner *Nippon Maru*, and four Chinese girls, the immigration authorities are confronted with one of the most brazen attempts at smuggling and bribery they have ever had to deal with. When questioned by the officials the girls said they had been drugged at Hong Kong and lured aboard the ship. They were placed in a compartment in the coal bunkers, and during the long voyage across the Pacific food was lowered to them in the bin. They suffered greatly. . . .

Source: San Francisco Chronicle, November 27, 1912.

of arrival at the frontiers. Each of the Contracting Countries shall facilitate transit through its territory.

Correspondence relative to repatriation shall be direct as far as possible.

Article 4

Where the woman or girl to be repatriated cannot herself repay the cost of transfer, and has neither husband, relations, nor guardian to pay for her, the cost of repatriation shall be borne by the country where she is in residence as far as the nearest frontier or port of embarkation in the direction of the country of origin, and by the country of origin as regards the rest.

Article 6

The Contracting Governments undertake, within legal limits, to exercise supervision, as far as possible, over the offices or agencies engaged in finding employment for women or girls abroad.

Source: International Agreement for the Suppression of the “White Slave Traffic,” May 18, 1904, 35 Stat. 1979, 1 L.N.T.S. 83, entered into force July 18, 1905.

ANALYSIS

The terms “white slave trade” and “white slave traffic” arose mid-19th century. As cities began to industrialize and as migration and immigration boomed, old societal structures changed and destabilized. Many countries began to notice that young women and children were being transported from one country to another for purposes of prostitution by a third party. This phenomenon of trading or trafficking in young female bodies was generally considered exploitive, due in large part to awareness-raising of “new abolitionists” like Josephine Butler. After the repeal of the Contagious Diseases Acts in 1886, these feminists continued to lobby for changes in national laws and for international agreements to ban the traffic in women. The term “white slave” trade was first used at the 1902 conference in Paris. This meeting led to the International Agreement for the Suppression of the White Slave Traffic, which was ratified by 12 nations in 1904, later amended in 1910 in the International Convention for the Suppression of the White Slave Traffic. It was the first international commitment to action against trafficking of women and girls for purposes of prostitution.

As with all international conventions, this one set an international standard or norm. Conventions have no international law enforcement capability, therefore it is up to individual countries to draft and pass laws that contain the provisions outlined in the Convention. In the International Agreement of 1904, countries struggled to identify the nature of the crime, and the action needed to counter it. They settled on having “a watch kept, especially in railway stations, ports of embarkation, and en route, for persons in charge of women and girls destined for an immoral life,” and agreed that “instructions shall be given to the officials, and all other qualified

persons, to obtain, within legal limits, all information likely to lead to the detection of criminal traffic.” By 1910, however, the problem had been clearly delineated, and the 1910 Convention stated the crime clearly in Article 1: “Whoever, in order to gratify the passions of another person, has procured, enticed, or led away, even with her consent, a woman or girl under age, for immoral purposes, shall be punished.” A second article of the convention prohibited the use of fraud, violence, threats, or abuse of authority to compel a woman or girl into “immoral acts.”

Not long after the ratification of the International Agreement for the Suppression of the White Slave Traffic, the United States created the White-Slave Traffic Act of 1910 (36 Stat. 825), commonly referred to as the Mann Act because of its congressional sponsorship by Representative James R. Mann of Illinois. The Act codified many of the provisions in the international conventions on white slave traffic. Over the next twenty years, other countries also followed suit, passing similar laws, and an examination of the body of law on commercial sexual exploitation in many European countries (and later in Africa, Asia, and South America) features at least one statute prohibiting international movement of young women and children from one country to the next for prostitution.

The 1904 Agreement and the 1910 Convention refer to white slavery and to females. It was not until the International Convention for the Suppression of the Traffic in Women and Children in 1921 that all trafficking of women and children, with no reference to race, was included in the definition. This convention also included boys, and raised the age of consent to sex. Later iterations of the Convention hold that trafficking occurs regardless of whether consent had been given by the female. These early “white slave traffic conventions” outlaw the recruitment and transportation of women and children for purposes of prostitution. It is important to note that they are aimed at the exploitation of females by others, a concept championed by Josephine Butler in the 1800s.

FURTHER READING

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- Donovan, Brian. *White Slave Crusades*. Chicago: University of Illinois Press, 2006.
- International Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. May 4, 1949.
- International Convention for the Suppression of the “White Slave Traffic,” May 4, 1910.
- O’Callaghan, Sean. *The White Slave Trade*. London: Hale, 1965.

THE MANN ACT (1910)

- **Document:** The White Slave-Traffic Act, popularly known as the Mann Act
 - **When:** Passed by the 61st Congress on June 25, 1910
 - **Where:** Washington, D.C.
 - **Significance:** The Mann Act is a U.S. federal law named after James Robert Mann, sponsor of the bill. In its original form, the act made it a felony to engage in interstate and/or foreign commerce transport of any woman or girl for the purpose of prostitution. The Act went into effect at the height of the international movement to stop white slavery and the traffic in persons. It is significant as it created the first U.S. law on sex trafficking and aimed at the traffickers (here “transporters”) who move people across states lines for purposes of prostitution. It defined in some detail the suspect activities involved in such traffic (including persuading, inducing, enticing, or compelling a female into prostitution).
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DOCUMENT

(a) CHAP. 395—An Act to further regulate interstate commerce and foreign commerce by prohibiting the transportation therein for immoral purposes of women and girls, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the term “interstate commerce,” as used in this Act, shall include transportation from any State or Territory or the District of Columbia, and the term “foreign commerce,” as used in this Act, shall include transportation from any State or Territory or the District of Columbia to any foreign country and from any foreign country to any State or Territory or the District of Columbia.

SEC. 2. That any person who shall knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, or in transporting, in interstate or foreign commerce, or in any Territory or in the District of Columbia, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice; or who shall knowingly procure or obtain, or cause to be procured or obtained, or aid or assist in procuring or obtaining, any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, or in any Territory or the District of Columbia, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent or purpose on the part of such person

to induce, entice, or compel her to give herself up to the practice of prostitution, or to give herself up to the practice of debauchery, or any other immoral practice, whereby any such woman or girl shall be transported in interstate or foreign commerce, or in any Territory or the District of Columbia, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment of not more than five years, or by both such fine and imprisonment, in the discretion of the court.

SEC. 3. That any person who shall knowingly persuade, induce, entice, or coerce, or cause to be persuaded, induced, enticed, or coerced, or aid or assist in persuading, inducing, enticing or coercing any woman or girl to go from one place to another in interstate or foreign commerce, or in any Territory or the District of Columbia, for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution or debauchery, or any other immoral practice, whether with or without her consent, and who shall thereby knowingly cause or aid or assist in causing such woman or girl to go and be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or any Territory or the District of Columbia, shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine of not more than five thousand dollars, or by imprisonment for a term not exceeding five years, or by both fine and imprisonment, in the discretion of the court.

ANALYSIS

The Mann Act was enacted to prohibit the transportation of females (women and girls) for prostitution in interstate or foreign commerce, or in any territory including the jurisdiction of the United States. It was the first U.S. law to address the trafficking of women and children. In the early 1900s, as urbanization led young women to enter the workforce in large numbers, and as immigration increased across the United States, trafficking for prostitution was uncovered. Scholars are divided on whether “white slavery” was a true phenomenon or scare-mongering. However, it is generally agreed that the rapidly changing social atmosphere, including more women entering the work world, expedited the concern over “white slavery”. New retrospective research of police reports, investigations, arrests, and prosecutions of traffickers suggests that while the term “white slavery” was a misnomer, the practice of moving women and girls into prostitution was a serious problem at the time the Mann Act went into effect.

Unfortunately, over the years, the Mann Act became a weapon used by prosecutors to go after anyone they considered unscrupulous. As an example, African American heavyweight champion Jack Johnson was accused of violating the Mann Act twice, for transporting his white girlfriend across state lines allegedly for the purpose of prostitution and debauchery. He was convicted the second time. It is widely acknowledged now that Johnson angered some by flouting conventions, particularly racial conventions separating whites and blacks when he married a white woman. He further upset white supremacists when he beat white heavyweight

champion James L. Jeffries. Many believe the Mann Act was inappropriately used against Johnson, and in recent years Mike Tyson and Harry Reid started a change.org petition to obtain a Presidential pardon for Johnson.

In the 1960s, the Mann Act was amended in order to ensure that it would not be misused. It now reads: “Whoever knowingly transports any individual in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than 10 years, or both.” It is utilized to prosecute traffickers, pedophiles, and others who transport any individual—man, woman, or child—across state lines for purposes of prostitution and is considered an important part of the toolkit for investigators and prosecutors working to stop trafficking of persons.

FURTHER READING

Burns, Ken. *Unforgivable Blackness: The Rise and Fall of Jack Johnson*. PBS Documentary, 2005. <http://www.pbs.org/unforgivableblackness/knockout/>.

McCoy, Kelly Ann. *Claiming Victims: The Mann Act, Gender, and Class in the American West*. University of California EScholarship, 2010.

THE MINIMUM AGE CONVENTION— CHILD LABOUR (1919)

- **Document:** Excerpt, “Convention Fixing the Minimum Age for Admission of Children to Industrial Employment,” Convention No. 5
 - **When:** 1919
 - **Where:** Washington, D.C.
 - **Significance:** The International Labor Conference convened in 1919, and one of its first efforts was a Convention addressing child labor. The Convention limited child labor in “industrial undertakings,” which it defined as mining, construction work, and other hard labor. It is significant because it was the first time an international organization set a minimum age (14 years) for employing children in such work. It established an international norm for safeguarding children from working in settings that were dangerous and life-threatening. Since then, the convention has gone through a number of iterations, and the minimum age has risen from 14 to 18 years of age. Before this Convention, no such limits were in place, and children were routinely exploited. Of course, as with all such conventions and treaties, there is no international enforcement capability. The ILO depends upon the cooperation of each country for adoption, implementation, and enforcement of its conventions.
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DOCUMENT

Article 1

1. For the purpose of this Convention, the term *industrial undertaking* includes particularly—
 - (a) mines, quarries and other works for the extraction of minerals from the earth;
 - (b) industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed; including shipbuilding, and the generation, transformation, and transmission of electricity and motive power of any kind;
 - (c) construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal,

- inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, water work, or other work of construction, as well as the preparation for or laying the foundations of any such work or structure;
- (d) transport of passengers or goods by road or rail or inland waterway, including the handling of goods at docks, quays, wharves, and warehouses, but excluding transport by hand.
2. The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

Article 2

Children under the age of fourteen years shall not be employed or work in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed.

Article 3

The provisions of Article 2 shall not apply to work done by children in technical schools, provided that such work is approved and supervised by public authority.

Article 4

In order to facilitate the enforcement of the provisions of this Convention, every employer in an industrial undertaking shall be required to keep a register of all persons under the age of sixteen years employed by him, and of the dates of their births.

Article 5

1. In connection with the application of this Convention to Japan, the following modifications of Article 2 may be made:
 - (a) children over twelve years of age may be admitted into employment if they have finished the course in the elementary school;
 - (b) as regards children between the ages of twelve and fourteen already employed, transitional regulation may be made.
2. The provisions in the present Japanese law admitting children under the age of twelve years to certain light and easy employments shall be repealed.

Article 6

The provisions of Article 2 shall not apply to India, but in India children under twelve years of age shall not be employed—

- (a) in manufactories working with power and employing more than ten persons;

- (b) in mines, quarries, and other works for the extracting of minerals from the earth;
- (c) in the transport of passengers or goods, or mails, by rail, or in the handling of goods at docks, quays, and wharves, but excluding transport by hand.

Source: Minimum Age (Industry) Convention, 1919. ILO Convention No. 5, adopted November 28, 1919, entered into force June 13, 1921. Used by permission of the International Labour Organization.

ANALYSIS

The purpose of this convention was to limit child employment in industrial workplaces. At the time of the Convention, even in the United States, very young children were exploited in dangerous work environments. For example, in the United States, in the 1800s, over 2 million children were working 70-hour work weeks in hazardous jobs such as coal mining, mills, and factories. In Massachusetts, children as young as 7 and 8 years old worked in glass factories carrying molten glass. Some factories had barbed wire to keep child workers from running away. Photographer Lewis Hine documented child laborers as young as 2 and 3 years old in the United States and helped to change U.S. law. Progressive politicians campaigned on changes to the minimum age requirements for child workers in dangerous working conditions. The United States borrowed from the ILO Convention for some of its early laws and twice tried to pass federal laws prohibiting young children from working. This Convention set an age of 14, below which children are restricted from employment in any public and/or private industrial undertaking. Industrial undertaking includes mines, industries in which articles are manufactured, altered, and/or cleaned, construction companies, and other dangerous and hazardous kinds of employment. It is up to the discretion of each country to draw the line between industry and commerce/agriculture. This unique document is an early, fundamental contribution to the rights of children. It provided children with basic protections from exploitation in the workplace, and cemented an international framework that has protected millions of children from unsafe, unsanitary, and unfitting conditions.

Yet though this international treaty did provide an international norm for child labor and child exploitation, the work was far from done. Scholars point out that human rights treaties and conventions are easy for governments to sign and just as easy to flout. UN treaties ask for compliance, but as some experts point out, compliance is not enforcement. To this day, India, one of the largest democracies in the developing world, has not yet signed the Minimum Age Treaty. Some argue that the countries that least need these treaties are the ones most likely to sign them, while the countries that most need the treaties to help them draft and pass legislation, develop and enforce regulations, rarely sign and ratify. The most recent Trafficking in Persons Report confirms that child labor and child exploitation are still a serious problem in many countries in the world. The United States has incorporated child labor law into its Labor Code and a series of agencies oversee enforcement

and regulation of these laws. For example, in the United States now children cannot be employed during school hours. They are also prohibited from working in any dangerous or hazardous workplace conditions, including mining, manufacturing, power-driven machinery, construction, loading and unloading, and many other types of work where they might incur injuries. Is the United States free of child labor? Human Rights Watch found that hundreds of thousands of children under the age of 18 are working in agriculture in the United States and that children as young as seven are working 10 and 12 hour days, operating dangerous machinery, being exposed to pesticides. While the United States adheres to child labor law in most industries, there are still some industries in which we have as serious a problem as other countries.

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THE CONVENTION CONCERNING FORCED OR COMPULSORY LABOUR (1930)

- **Document:** Excerpt, Forced Labour Convention 1930, No. 29
 - **When:** 1930
 - **Where:** Geneva
 - **Significance:** This is one of the fundamental conventions initiated by the International Labor Organization. Forced Labor Convention No. 29 prohibits the use of forced labor by all member states. The convention was adopted in Geneva and became effective in 1932. One key component of the Convention was the international agreement in Article 2 on the definition of forced labor—any work exacted from a person by penalty or threat of penalty—and for which the person has not offered voluntarily.
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DOCUMENT

Article 1

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.
2. With a view to this complete suppression, recourse to forced or compulsory labour may be had, during the transitional period, for public purposes only and as an exceptional measure, subject to the conditions and guarantees hereinafter provided.
3. At the expiration of a period of five years after the coming into force of this Convention, and when the Governing Body of the International Labour Office prepares the report provided for in article 31 below, the said Governing Body shall consider the possibility of the suppression of forced or compulsory labour in all its forms without a further transitional period and the desirability of placing this question on the agenda of the Conference.

Article 2

1. For the purposes of this Convention the term “forced or compulsory labour” shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.
2. Nevertheless, for the purposes of this Convention the term “forced or compulsory labour” shall not include:
 - (a) Any work or service exacted in virtue of compulsory military service laws for work of a purely military character;

- (b) Any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
- (c) Any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;
- (d) Any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;
- (e) Minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

Article 3

For the purposes of this Convention the term “competent authority” shall mean either an authority of the metropolitan country or the highest central authority in the territory concerned.

Article 4

1. The competent authority shall not impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies or associations.
2. Where such forced or compulsory labour for the benefit of private individuals, companies or associations exists at the date on which a Member’s ratification of this Convention is registered by the Director-General of the International Labour Office, the Member shall completely suppress such forced or compulsory labour from the date on which this Convention comes into force for that Member.

Article 5

1. No concession granted to private individuals, companies or associations shall involve any form of forced or compulsory labour for the production or the collection of products which such private individuals, companies or associations utilise or in which they trade.
2. Where concessions exist containing provisions involving such forced or compulsory labour, such provisions shall be rescinded as soon as possible, in order to comply with article 1 of this Convention.

Article 6

Officials of the administration, even when they have the duty of encouraging the populations under their charge to engage in some form of labour, shall not put constraint upon the said populations or upon any individual members thereof to work for private individuals, companies or associations.

Article 7

1. Chiefs who do not exercise administrative functions shall not have recourse to forced or compulsory labour.
2. Chiefs who exercise administrative functions may, with the express permission of the competent authority, have recourse to forced or compulsory labour, subject to the provisions of article 10 of this Convention.
3. Chiefs who are duly recognised and who do not receive adequate remuneration in other forms may have the enjoyment of personal services, subject to due regulation and provided that all necessary measures are taken to prevent abuses.

Article 8

1. The responsibility for every decision to have recourse to forced or compulsory labour shall rest with the highest civil authority in the territory concerned.
2. Nevertheless, that authority may delegate powers to the highest local authorities to exact forced or compulsory labour which does not involve the removal of the workers from their place of habitual residence. That authority may also delegate, for such periods and subject to such conditions as may be laid down in the regulations provided for in article 23 of this Convention, powers to the highest local authorities to exact forced or compulsory labour which involves the removal of the workers from their place of habitual residence for the purpose of facilitating the movement of officials of the administration, when on duty, and for the transport of Government stores.

Article 9

Except as otherwise provided for in article 10 of this Convention, any authority competent to exact forced or compulsory labour shall, before deciding to have recourse to such labour, satisfy itself:

- (a) That the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;
- (b) That the work or service is of present or imminent necessity;
- (c) That it has been impossible to obtain voluntary labour for carrying out the work or rendering the service by the offer of rates of wages and

conditions of labour not less favourable than those prevailing in the area concerned for similar work or service; and

- (d) That the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work.

Article 10

1. Forced or compulsory labour exacted as a tax and forced or compulsory labour to which recourse is had for the execution of public works by chiefs who exercise administrative functions shall be progressively abolished.
2. Meanwhile, where forced or compulsory labour is exacted as a tax, and where recourse is had to forced or compulsory labour for the execution of public works by chiefs who exercise administrative functions, the authority concerned shall first satisfy itself:
 - (a) That the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;
 - (b) That the work or the service is of present or imminent necessity;
 - (c) That the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work;
 - (d) That the work or service will not entail the removal of the workers from their place of habitual residence;
 - (e) That the execution of the work or the rendering of the service will be directed in accordance with the exigencies of religion, social life and agriculture.

Article 11

1. Only adult able-bodied males who are of an apparent age of not less than 18 and not more than 45 years may be called upon for forced or compulsory labour. Except in respect of the kinds of labour provided for in article 10 of this Convention, the following limitations and conditions shall apply:
 - (a) Whenever possible prior determination by a medical officer appointed by the administration that the persons concerned are not suffering from any infectious or contagious disease and that they are physically fit for the work required and for the conditions under which it is to be carried out;
 - (b) Exemption of school teachers and pupils and of officials of the administration in general;

- (c) The maintenance in each community of the number of adult able-bodied men indispensable for family and social life;
 - (d) Respect for conjugal and family ties.
2. For the purposes of subparagraph (c) of the preceding paragraph, the regulations provided for in article 23 of this Convention shall fix the proportion of the resident adult able-bodied males who may be taken at any one time for forced or compulsory labour, provided always that this proportion shall in no case exceed 25 per cent. In fixing this proportion the competent authority shall take account of the density of the population, of its social and physical development, of the seasons, and of the work which must be done by the persons concerned on their own behalf in their locality, and, generally, shall have regard to the economic and social necessities of the normal life of the community concerned.

Article 12

1. The maximum period for which any person may be taken for forced or compulsory labour of all kinds in any one period of twelve months shall not exceed sixty days, including the time spent in going to and from the place of work.
2. Every person from whom forced or compulsory labour is exacted shall be furnished with a certificate indicating the periods of such labour which he has completed.

Article 13

1. The normal working hours of any person from whom forced or compulsory labour is exacted shall be the same as those prevailing in the case of voluntary labour, and the hours worked in excess of the normal working hours shall be remunerated at the rates prevailing in the case of overtime for voluntary labour.
2. A weekly day of rest shall be granted to all persons from whom forced or compulsory labour of any kind is exacted and this day shall coincide as far as possible with the day fixed by tradition or custom in the territories or regions concerned.

Article 14

1. With the exception of the forced or compulsory labour provided for in article 10 of this Convention, forced or compulsory labour of all kinds shall be remunerated in cash at rates not less than those prevailing for similar kinds of work either in the district in which the labour is employed or in the district from which the labour is recruited, whichever may be the higher.

2. In the case of labour to which recourse is had by chiefs in the exercise of their administrative functions, payment of wages in accordance with the provisions of the preceding paragraph shall be introduced as soon as possible.
3. The wages shall be paid to each worker individually and not to his tribal chief or to any other authority.
4. For the purpose of payment of wages the days spent in travelling to and from the place of work shall be counted as working days.
5. Nothing in this article shall prevent ordinary rations being given as a part of wages, such rations to be at least equivalent in value to the money payment they are taken to represent, but deductions from wages shall not be made either for the payment of taxes or for special food, clothing or accommodation supplied to a worker for the purpose of maintaining him in a fit condition to carry on his work under the special conditions of any employment, or for the supply of tools.

Article 15

1. Any laws or regulations relating to workmen's compensation for accidents or sickness arising out of the employment of the worker and any laws or regulations providing compensation for the dependants of deceased or incapacitated workers which are or shall be in force in the territory concerned shall be equally applicable to persons from whom forced or compulsory labour is exacted and to voluntary workers.
2. In any case it shall be an obligation on any authority employing any worker on forced or compulsory labour to ensure the subsistence of any such worker who, by accident or sickness arising out of his employment, is rendered wholly or partially incapable of providing for himself, and to take measures to ensure the maintenance of any persons actually dependent upon such a worker in the event of his incapacity or decease arising out of his employment.

Article 16

1. Except in cases of special necessity, persons from whom forced or compulsory labour is exacted shall not be transferred to districts where the food and climate differ so considerably from those to which they have been accustomed as to endanger their health.
2. In no case shall the transfer of such workers be permitted unless all measures relating to hygiene and accommodation which are necessary to adapt such workers to the conditions and to safeguard their health can be strictly applied.
3. When such transfer cannot be avoided, measures of gradual habituation to the new conditions of diet and of climate shall be adopted on competent medical advice.

4. In cases where such workers are required to perform regular work to which they are not accustomed, measures shall be taken to ensure their habituation to it, especially as regards progressive training, the hours of work and the provision of rest intervals, and any increase or amelioration of diet which may be necessary.

Article 17

Before permitting recourse to forced or compulsory labour for works of construction or maintenance which entail the workers remaining at the workplaces for considerable periods, the competent authority shall satisfy itself:

- (1) That all necessary measures are taken to safeguard the health of the workers and to guarantee the necessary medical care, and, in particular, (a) that the workers are medically examined before commencing the work and at fixed intervals during the period of service, (b) that there is an adequate medical staff, provided with the dispensaries, infirmaries, hospitals and equipment necessary to meet all requirements, and (c) that the sanitary conditions of the workplaces, the supply of drinking water, food, fuel, and cooking utensils, and, where necessary, of housing and clothing are satisfactory;
- (2) That definite arrangements are made to ensure the subsistence of the families of the workers, in particular by facilitating the remittance, by a safe method, of part of the wages to the family, at the request or with the consent of the workers;
- (3) That the journey of the workers to and from the workplaces are made at the expense and under the responsibility of the administration, which shall facilitate such journeys by making the fullest use of all available means of transport;
- (4) That, in case of illness or accident causing incapacity to work of a certain duration, the worker is repatriated at the expense of the administration;
- (5) That any worker who may wish to remain as a voluntary worker at the end of his period of forced or compulsory labour is permitted to do so without, for a period of two years, losing his right to repatriation free of expense to himself.

Article 18

1. Forced or compulsory labour for the transport of persons or goods, such as the labour of porters or boatmen, shall be abolished within the shortest possible period. Meanwhile the competent authority shall promulgate regulations determining, inter alia, (a) that such labour shall only be employed for the purpose of facilitating the movement of officials of the administration, when on duty, or for the transport of Government stores, or, in cases of very urgent necessity, the transport of persons other than

officials, (b) that the workers so employed shall be medically certified to be physically fit, where medical examination is possible, and that where such medical examination is not practicable the person employing such workers shall be held responsible for ensuring that they are physically fit and not suffering from any infectious or contagious diseases, (c) the maximum load which these workers may carry, (d) the maximum distance from their s to which they may be taken, (e) the maximum number of days per month or other period for which they may be taken, including the days spent in returning to their s, and (f) the persons entitled to demand this form of forced or compulsory labour and the extent to which they are entitled to demand it.

2. In fixing the maxima referred to under (c), (d) and (e) in the foregoing paragraph, the competent authority shall have regard to all relevant factors, including the physical development of the population from which the workers are recruited, the nature of the country through which they must travel and the climatic conditions.
3. The competent authority shall further provide that the normal daily journey of such workers shall not exceed a distance corresponding to an average working day of eight hours, it being understood that account shall be taken not only of the weight to be carried and the distance to be covered, but also of the nature of the road, the season and all other relevant factors, and that, where hours of journey in excess of the normal daily journey are exacted, they shall be remunerated at rates higher than the normal rates.

Article 19

1. The competent authority shall only authorise recourse to compulsory cultivation as a method of precaution against famine or a deficiency of food supplies and always under the condition that the food or produce shall remain the property of the individuals or the community producing it.
2. Nothing in this article shall be construed as abrogating the obligation on members of a community, where production is organised on a communal basis by virtue of law or custom and where the procedure or any profit accruing from the sale thereof remain the property of the community, to perform the work demanded by the community by virtue of law or custom.

Article 20

Collective punishment laws under which a community may be punished for crimes committed by any of its members shall not contain provisions for forced or compulsory labour by the community as one of the methods of punishment.

Article 21

Forced or compulsory labour shall not be used for work underground in mines.

Article 22

The annual reports that Members which ratify this Convention agree to make to the International Labour Office, pursuant to the provisions of article 22 of the Constitution of the International Labour Organisation, on the measures they have taken to give effect to the provisions of this Convention, shall contain as full information as possible, in respect of each territory concerned, regarding the extent to which recourse has been had to forced or compulsory labour in that territory, the purposes for which it has been employed, the sickness and death rates, hours of work, methods of payment of wages and rates of wages, and any other relevant information.

Article 23

1. To give effect to the provisions of this Convention the competent authority shall issue complete and precise regulations governing the use of forced or compulsory labour.
2. These regulations shall contain, inter alia, rules permitting any person from whom forced or compulsory labour is exacted to forward all complaints relative to the conditions of labour to the authorities and ensuring that such complaints will be examined and taken into consideration.

Article 24

Adequate measures shall in all cases be taken to ensure that the regulations governing the employment of forced or compulsory labour are strictly applied, either by extending the duties of any existing labour inspectorate which has been established for the inspection of voluntary labour to cover the inspection of forced or compulsory labour or in some other appropriate manner. Measures shall also be taken to ensure that the regulations are brought to the knowledge of persons from whom such labour is exacted.

Article 25

The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

Source: Forced Labour Convention, 1930. ILO Convention No. 29, adopted June 28, 1930, entered into force May 1, 1932. Used by permission of the International Labour Organization.

ANALYSIS

The Forced Labor Convention is a fundamental framework committing parties to prohibit use of forced labor. At the time when this Convention went into effect, many countries in Africa and South and Southeast Asia were still under colonial

rule, and those under such rule were forced to labor in mines, construction, agriculture, and other labor-intensive sectors. In and after World War I, many countries instituted practices of forced labor and involuntary servitude. For example, in Germany over 60,000 Belgian and French civilians were forced to work in brutal conditions, without adequate food or clothing, for long hours, and without pay. The purpose of the 1930 Convention was to move countries toward complete prohibition of forced labor, but to do it in steps, which is why there are provisions for it going into effect after two years. The Convention called on member countries to:

- develop comprehensive national policies and action plans for the effective and sustained suppression of forced labor;
- provide victims with protection and effective access to remedies, such as compensation, irrespective of their presence or legal status in the territory;
- sanction perpetrators;
- strengthen and apply labor laws and policies to all sectors as well as inspection services; and
- provide for international cooperation between and among States.

The Forced Labor Convention was a vital document that paved the way for labor rights. It built on slavery and involuntary servitude laws of the late 19th century and created an international norm for right to work and right to the fruits of one's labor. In many ways a quite modern document, we see here a determined effort to urge, encourage, and press countries to suppress forced labor. In addition, it contributed an early "victim-centered approach," which calls for member states to provide victim protections and remedies. As we shall see, this approach is further developed 70 years later in the fight against modern-day slavery.

FURTHER READING

International Labour Organization. Forced Labor, Human Trafficking and Slavery. <http://www.ilo.org/global/topics/forced-labour/lang—en/index.htm>.

THE CONVENTION FOR THE SUPPRESSION OF THE TRAFFIC IN PERSONS AND OF THE EXPLOITATION OF THE PROSTITUTION OF OTHERS (1949)

- **Document:** “Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others,” 96 U.N.T.S. 271
 - **When:** Approved by the UN General Assembly December 2, 1949, signed March 21, 1950, and entered into force July 25, 1951
 - **Where:** Lake Success, NY
 - **Significance:** Although there were earlier conventions addressing the trafficking of women and children, the 1949 convention was the first to conceptualize the problem differently—most critically, for the first time prostitution and trafficking are linked, the 1949 Convention notes that both are “incompatible with the dignity and worth of the human person.” Also important is the identification of those in prostitution as victims, and the concomitant identification of exploiters of those in prostitution as criminals. Another significant change was the move from the misnomer “white slavery” to the phrase “traffic in persons.” This gender-neutral language was an important shift and acknowledged that any person (man, woman, child) could be a victim. It also established that even with consent of the trafficked person, this exploitation was not legal. These changes set the stage for a 50-year battle between those who believed that voluntary prostitution is acceptable and those who believed that prostitution is harmful and accompanied by or linked to trafficking.
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DOCUMENT

Preamble

Whereas 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 and endanger the welfare of the individual, the family and the community,

Whereas, with respect to the suppression of the traffic in women and children, the following international instruments are in force:

- (1) International Agreement of 18 May 1904 for the Suppression of the White Slave Traffic, as

TRAFFICKING AND TRAFFICKERS IN THE EARLY 20TH CENTURY

- In 1912, police in Hamburg listed 402 known traders in women and identified another 644 in Eastern Europe.
- The U.S. Immigration Bureau investigated traffic in women in London, Berlin, and Hamburg, and identified 578 individuals involved in the trade.
- An investigation on the “Importation and Harboring of Women for Immoral Purposes” in the United States from 1908 to 1909 showed that

thousands of alien women and girls were being brought to the country to be distributed for the purpose of prostitution. The investigation, carried out by a special committee of the Immigration Commission, used undercover agents posing as buyers to uncover extensive organized criminal networks. The investigation took place over a two-year period in 12 cities across the United States (New York, Chicago, New Orleans, Boston, San Francisco, Seattle, Portland, Butte, Salt Lake City, Ogden, Denver, and Buffalo).

The report covered methods of recruiting, transporting, harboring, as well as the types of places to which they were sold ("mainly disorderly houses"). It documented the kinds of force, fraud, and coercion used, from kidnapping, drugging, and assault, to luring with false promises of employment or marriage.

amended by the Protocol approved by the General Assembly of the United Nations on 3 December 1948,

- (2) International Convention of 4 May 1910 for the Suppression of the White Slave Traffic, as amended by the above-mentioned Protocol,
- (3) International Convention of 30 September 1921 for the Suppression of the Traffic in Women and Children, as amended by the Protocol approved by the General Assembly of the United Nations on 20 October 1947,
- (4) International Convention of 11 October 1933 for the Suppression of the Traffic in Women of Full Age, as amended by the aforesaid Protocol, Whereas the League of Nations in 1937 prepared a draft Convention extending the scope of the abovementioned instruments, and

Whereas developments since 1937 make feasible the conclusion of a convention consolidating the above-mentioned instruments and embodying the substance of the 1937 draft Convention as well as desirable alterations therein:

Now therefore
The Contracting parties
Here by agree as hereinafter provided:

Article I

The Parties to the present Convention agree to punish any person who, to gratify the passions of another:

- (1) Procures, entices, or leads away, for purposes of prostitution, another person, even with the consent of that person;
- (2) Exploits the prostitution of another person, even with the consent of that person.

Article 2

The Parties to the present Convention further agree to punish any person who:

- (1) Keeps or manages, or knowingly finances or takes part in the financing of a brothel;
- (2) Knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others.

Article 3

To the extent permitted by domestic law, attempts to commit any of the offences referred to in articles 1 and 2, and acts preparatory to the commission thereof, shall also be punished.

Article 4

To the extent permitted by domestic law, international participation in the acts referred to in articles I and 2 above shall also be punishable.

To the extent permitted by domestic law, acts of participation shall be treated as separate offences whenever this is necessary to prevent impunity.

Article 5

In cases where injured persons are entitled under domestic law to be parties to proceedings in respect of any of the offences referred to in the present Convention, aliens shall be so entitled upon the same terms as nationals.

Article 6

Each Party to the present Convention agrees to take all the necessary measures to repeal or abolish any existing law, regulation or administrative provision by virtue of which persons who engage in or are suspected of engaging in prostitution are subject either to special registration or to the possession of a special document or to any exceptional requirements for supervision or notification.

Article 7

Previous convictions pronounced in foreign States for offences referred to in the present Convention shall, to the extent permitted by domestic law, be taken into account for the purpose of:

- (1) Establishing recidivism;
- (2) Disqualifying the offender from the exercise of civil rights.

Article 8

The offences referred to in articles 1 and 2 of the present Convention shall be regarded as extraditable offences in any extradition treaty which has been or may hereafter be concluded between any of the Parties to this Convention.

The Parties to the present Convention which do not make extradition conditional on the existence of a treaty shall henceforward recognize the offences referred to in articles I and 2 of the present Convention as cases for extradition between themselves.

Extradition shall be granted in accordance with the law of the State to which the request is made.

Article 9

In States where the extradition of nationals is not permitted by law, nationals who have returned to their own State after the commission abroad of any of the offences referred to in articles I and 2 of the present Convention shall be prosecuted in and punished by the courts of their own State.

This provision shall not apply if, in a similar case between the Parties to the present Convention, the extradition of an alien cannot be granted.

Article 10

The provisions of article 9 shall not apply when the person charged with the offence has been tried in a foreign State and, if convicted, has served his sentence or had it remitted or reduced in conformity with the laws of that foreign State.

Article 11

Nothing in the present Convention shall be interpreted as determining the attitude of a Party towards the general question of the limits of criminal jurisdiction under international law.

Article 12

The present Convention does not affect the principle that the offences to which it refers shall in each State be defined, prosecuted and punished in conformity with its domestic law.

Article 14

Each Party to the present Convention shall establish or maintain a service charged with the coordination and centralization of the results of the investigation of offences referred to in the present Convention.

Such services should compile all information calculated to facilitate the prevention and punishment of the offences referred to in the present Convention and should be in close contact with the corresponding services in other States.

Article 15

To the extent permitted by domestic law and to the extent to which the authorities responsible for the services referred to in article 14 may judge desirable, they shall furnish to the authorities responsible for the corresponding services in other States the following information:

- (1) Particulars of any offence referred to in the present Convention or any attempt to commit such offence;
- (2) Particulars of any search for any prosecution, arrest, conviction, refusal of admission or expulsion of persons guilty of any of the offences referred to in the present Convention, the movements of such persons and any other useful information with regard to them.

The information so furnished shall include descriptions of the offenders, their fingerprints, photographs, methods of operation, police records and records of conviction.

Article 16

The Parties to the present Convention agree to take or to encourage, through their public and private educational, health, social, economic and other related services, measures for the prevention of prostitution and for the rehabilitation and social adjustment of the victims of prostitution and of the offences referred to in the present Convention.

Article 17

The Parties to the present Convention undertake, in connection with immigration and emigration, to adopt or maintain such measures as are required, in terms of their obligations under the present Convention, to check the traffic in persons of either sex for the purpose of prostitution.

In particular they undertake:

- (1) To make such regulations as are necessary for the protection of immigrants or emigrants, and in particular, women and children, both at the place of arrival and departure and while en route;
- (2) To arrange for appropriate publicity warning the public of the dangers of the aforesaid traffic;
- (3) To take appropriate measures to ensure supervision of railway stations, airports, seaports and en route, and of other public places, in order to prevent international traffic in persons for the purpose of prostitution;
- (4) To take appropriate measures in order that the appropriate authorities be informed of the arrival of persons who appear, prima facie, to be the principals and accomplices in or victims of such traffic.

Article 18

The Parties to the present Convention undertake, in accordance with the conditions laid down by domestic law, to have declarations taken from aliens who are prostitutes, in order to establish their identity and civil status and to discover who has caused them to leave their State. The information obtained shall be communicated to the authorities of the State of origin of the said persons with a view to their eventual repatriation.

Article 19

The Parties to the present Convention undertake, in accordance with the conditions laid down by domestic law and without prejudice to prosecution or other action for violations there under and so far as possible:

- (1) Pending the completion of arrangements for the repatriation of destitute victims of international traffic in persons for the purpose of prostitution, to make suitable provisions for their temporary care and maintenance;

- (2) To repatriate persons referred to in article 18 who desire to be repatriated or who may be claimed by persons exercising authority over them or whose expulsion is ordered in conformity with the law. Repatriation shall take place only after agreement is reached with the State of destination as to identity and nationality as well as to the place and date of arrival at frontiers. Each Party to the present Convention shall facilitate the passage of such persons through its territory.

Where the persons referred to in the preceding paragraph cannot themselves repay the cost of repatriation and have neither spouse, relatives nor guardian to pay for them, the cost of repatriation as far as the nearest frontier or port of embarkation or airport in the direction of the State of origin shall be borne by the State where they are in residence, and the cost of the remainder of the journey shall be borne by the State of origin.

Article 20

The Parties to the present Convention shall, if they have not already done so, take the necessary measures for the supervision of employment agencies in order to prevent persons seeking employment, in particular women and children, from being exposed to the danger of prostitution.

Source: Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. GA Resolution 317 (IV), December 2, 1949, entered into force July 25, 1951. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/TrafficInPersons.aspx>.

ANALYSIS

The 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others was both a compilation of all previous international agreements to fight “white slavery” and a broader and more definitive framework against trafficking in persons.

This Convention had three main aims: first, to prohibit trafficking, defined as the exploitation of others in prostitution; second, to encourage international coordination and collaboration; and third, and perhaps most important, to recognize that when human beings are trafficked, there are victims, and therefore there is a need for services (social measures for trafficked persons).

The single biggest change in this convention was the understanding that the criminals were the traffickers and the people they were trafficking were the victims. According to Article 1 of the Convention, any person who “(1) Procures, enticed, or leads away, for purposes of prostitution, another person, even with the consent of that person; (2) Exploits the prostitution of another person, even with the consent of that person” will suffer punishment. It was not necessary to cross state lines. The attempt to traffic was also criminalized. Countries were also required to establish an authority to coordinate national efforts to prevent and prosecute trafficking in persons.

In many ways, the 1949 Convention foreshadows the 3P formulation (Prevention, Prosecution, and Protection and Assistance) of the Trafficking Victims Protection Act, which would pass half a century later: It called for prevention of trafficking in persons through better education, health, social and economic measures (Article 16); it requires member states to prosecute and punish trafficking in persons (Articles 2, 3, 4, 5, and 12); and it suggested services for victims for “rehabilitate and social adjustment for victims” (Article 16). Although it dealt almost exclusively with sex trafficking, it was by far the strongest set of anti-trafficking provisions created to date. Unfortunately, the Convention fell short in terms of signatories and ratifications needed for the Convention to go into force. Partly this was due to growing debate over voluntary versus involuntary prostitution: the phrase attempting to eliminate consent as a defense in trafficking was problematic, and many countries where prostitution was legal refused to sign. Thus, it languished for 40 years until a new effort to eradicate human trafficking began in the late 20th century.

FURTHER READING

Malkovich, Malka. “Guide to the UN Convention of 2 December 1949 for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.” Self-Published. Accessed October 10, 2017. <http://www.catwinternational.org/Content/Images/Article/88/attachment.pdf>.

THE INTERNATIONAL TRIBUNAL ON CRIMES AGAINST WOMEN (1976)

- **Document:** “Crimes Against Women: Proceedings of the International Tribunal,” compiled and edited by Diana E. H. Russell and Nicole Van de Ven
 - **When:** 1976
 - **Where:** Palais des Congres in Brussels, Belgium
 - **Significance:** Over 2,000 women from 40 countries participated in the first International Tribunal on Crimes Against Women, which took place from March 4–8, 1976. This tribunal was the first international gathering to feature women’s testimonies on violence against women in order to raise awareness about the problem. Held at the height of the second wave of feminism in the 20th century, the organizers noted, “Women’s struggle to combat all man-made crimes is an international struggle, and the International Tribunal on Crimes Against Women was a giant step towards recognizing and actualizing this fact.” This document is significant because it identifies prostitution as a crime against women.
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DOCUMENT

Prostitution

No one at the Tribunal offered testimony about young girls and women sold into prostitution by their families or slave traders, though this is still happening in many parts of the world today. The testimony from Japan and Korea indicates that women are forced into prostitution because of the lack of alternative jobs. This horrendous situation is nevertheless a little better than the literal enslavement of women for sex that still flourishes undercover in many places.

Of course, the deliberate choice to become a prostitute is an entirely different situation. But the conscious choice to become a prostitute often turns out to be based on a lack of alternative job opportunities or extremely poorly paid ones. In these cases, whether or not prostitution is a genuine choice, is rather questionable.

Testimony on prostitution follows from Japan, Korea and the U.S.A.

Witness 1: Japan

Abolition of state-regulated prostitution and the coming into effect of the Anti-Prostitution Act of 1958 liberated many prostitutes who had been the victims of a centuries-old flesh traffic. Nevertheless, the continued demand of men for slave-like sexual service, combined with the oppressed status of women, allowed an

underground prostitution market to survive, and today in Japan, the Turkish baths are among the most common places where “controlled prostitution” is performed under the guise of the public baths business. I would like to denounce this exploitative system which has survived in spite of our repeated protests. Turkish bath houses usually charge customers between 2,000 and 5,000 Yen (\$7—\$17) depending on the class of the house. This is only the amount for taking a bath and having your body washed and massaged by a masseuse called “Miss Turkey.” Of course they are Japanese, not Turkish. These women are not licensed masseuses, but no one cares because the customer’s purpose in going to a Turkish bath is not just to take a bath and be massaged. According to one of the Miss Turkeys with whom I talked, her bath house charged 2500 Yen (\$8) per customer, and out of this 2500 Yen, her share is supposed to be one-third—800 Yen (\$2.70). But of her 800 Yen she has to pay herself for the soap, towels, and all other utensils she uses for her work. Some refreshment such as cola is served to each customer, often at the expense of the women, depending on the system of the house.

I learned that a certain house charged the Miss Turkeys 60 Yen for one bottle of cola when its original price was 30 Yen. They also charged 60 Yen for a rented towel, when the laundry charges only 10 Yen for its rental. Five towels are used for one customer. Not only are these costs laid on the women but the houses also rake off additional profits on other indispensable expenses. One set of gowns and uniforms has to be covered by the Miss Turkey herself. Another payment she has to make every day is 500 Yen (\$1.70) to the manager who allots customers. If she doesn’t give this money to the manager, the manager might give her regular customers to her colleagues. After everything, because of these expenditures, not more than 500 Yen (\$1.70) is left as pay for their 50 minutes of physical labor. What do you think you can buy with 500 Yen in Japan? A cup of coffee in a typical coffee shop in Tokyo costs 250 or 300 Yen. How can you make your living with this? This is how the masseuses are forced to make money by extra work, that is, prostitution. A compartment with a closing door is provided for each Miss Turkey, where she can fulfill the requests of her customers. Again Miss Turkey has to pay—4,000 Yen (\$13) for the compartment, which amounts to more than her regular income. Then the employers order the women to keep the charges for the prostitution as low as possible so that customers will not move away to rival houses. So, the Miss Turkeys have to take as many customers a night as possible to keep up with the excessive payments to the house they belong to.

Another means of exploiting the Miss Turkeys is the strict time charge. Even for 5 minutes overtime, the Miss Turkeys themselves have to pay the charge to the bathhouse. I know of a case where the over-time charge snowballed day by day, and in order to wipe out the debt, the woman came to depend on a drug to keep her awake until she totally broke down after a few months.

So, Turkish baths in Japan, actually prostitution houses, profit off the sacrifice of women’s slave-like labor. Some of you might wonder why these women do not quit such a hard and unfair job. Nobody, including the Miss Turkeys, wants to do unprofitable work if there are other possibilities. But in Japan, big enterprises use every possible means to discourage women from continuing to work. They try never to employ women over 30, or even in their 20’s. Being forced to quit their jobs at an

early age, women in general try to get the position of “wife” which is regarded as the most respectable position for a woman. Thus, economically dependent women are mass-produced by a system of “retirement at marriage,” and without the total breakdown of this system, we cannot get rid of forced prostitution and exploitation in any profession.

Witness 2: Korea

Everyday hundreds and thousands of Japanese men travel to Korea with large wads of money which they use to violate women in our neighboring country. The number of Japanese tourists going to South Korea has doubled yearly since 1965. By 1973 over 80% of the 500,000 foreign tourists to Korea were Japanese. Since the great majority of them were and continue to be men, it is like a giant parade of lechers. At Seoul’s Kimpo Airport, jumbo jets completely filled with Japanese men land in a steady stream. In this way, upwards of two thousand Japanese men a day enter the country. These men have been lured by prestigious Japanese travel agencies who advertise, for example, “Complete Kisaeng service; a man’s paradise.” (Korean prostitutes are referred to as kisaeng.) As a “morale booster,” Japanese companies reward their outstanding branch office managers and salesmen with all-expenses-paid tours of South Korea’s brothels. One or two nights of kisaeng parties are invariably included in the schedule, but recently, as a matter of courtesy, an “optional feature” has been written into the tour brochures. Chartered tours of two nights and three days cost no more than \$200—including the price of sex.

“I go to Korea two or three times a year with my co-workers, telling my wife that I’m going to visit Kyushu,” says a taxi driver. “You can’t find a decent geisha in Japan, even at a hot springs resort. South Korea’s much better,” claims the owner of a small factory. “In South Korea the spirit of rendering oneself completely to a man still exists among the women, and their exhaustive service is irresistible,” claims a white-collar worker, his eyes glistening. Many Japanese men fall for stories of kisaeng girls in their colorful native dress waiting on men at parties and even putting food into the customer’s mouth for him. It is advertised that the kisaeng spirit is so self-sacrificing and dedicated that when a man brings a kisaeng girl back to his hotel, she will even do his laundry if he will leave her a big tip. Tales abound of Japanese tourists sallying forth to a kisaeng party in one bus and then returning to their hotel in two buses, each man accompanied by a young woman who has changed into her street clothes. They are truly sex-hungry males, swaggering about without any concern for where they are.

There are said to be more than 8,000 of these kisaeng who act as “receptacles for Japanese men’s . . . discharges.” Approximately 2,000 of them are reported to be authorized prostitutes who hold official registration certificates and undergo tests about twice a month to check for venereal disease. The South Korean Minister of Education has decreed that “the sincerity of girls who have contributed with their c—to their fatherland’s economic development is indeed praiseworthy.” This statement about national pimping has become notorious in the Korean community in Japan. It is even reported that prospective kisaeng must endure lectures by male university professors on the crucial role of tourism in the South Korean economy before they can get their prostitution licenses. If the women who become kisaeng were to work

in a factory, their salary might not even reach thirty dollars a month. But as kisaeng they receive a larger income for the labor of spending a night in a luxury hotel. South Korea has no social security or public health insurance, so when a working person loses his or her job or becomes ill, the whole family faces the specter of literal starvation. Under these circumstances some women are forced to sell their bodies just to stay alive.

An angry reaction against Japanese kisaeng tours has been spreading quietly but steadily inside South Korea. In December 1973, students from Ehwa Women's University demonstrated against Japanese men arriving on kisaeng tours at Seoul's Gimpo Airport. They demanded, "Behind the facade of promoting tourism in our country our fellow women are being made into commodities and their precious human rights are being ignored. We can no longer permit our sisters' bodies to be sold to bring in foreign capital. What good will come of corrupting the spirit in order to earn dollars? Many years have passed since our country was liberated from Japanese colonial rule. Why must our women still act as commodities to be sold for filthy Japanese money? We demand an immediate end to brothel tourism which is making our country into a sexual playground for Japanese men."

For a while the Japanese women who opposed kisaeng tours were unsure about what action to take, but the powerful appeals made by Korean women had a galvanizing effect. In December 1973, the "Women's Group Opposing Kisaeng Tourism" was established in Tokyo. Two days after the demonstration held by the students at Ehwa Women's University, Japanese women demonstrated at Tokyo's Haneda Airport on Christmas Day. About 50 women—students, housewives, and workers of all ages—confronted the Japanese male tourists leaving on kisaeng tours with leaflets and with slogans painted on their vests, including: "Aren't you ashamed to go on group brothel tours?" and "Go to hell, sex animals!" Indignantly they also stated: "Previously, Japan colonized and pillaged Korea, raping many of her daughters as army prostitutes. Now they go back to the same land and disgrace her women again, this time with money. The Japanese government, under the name of economic assistance, is actively cooperating with the institution of brothel tours. We must not permit our husbands, lovers, brothers, and associates to go to South Korea to buy women." Even this small demonstration was suppressed by the Japanese police; but their power could not crush the budding solidarity between women of both countries. The distorted and numb sensitivities of Japanese men can be seen in their relationships with women in general. For most of them the word "women" means only domestic servants who, under the label of wife, are driven relentlessly with housework; or it means prostitutes who, labelled "bar girls" or "massage parlor girls," act as instruments to drain off the fluids of the lower male body. Because Japanese men debase their own women as house slaves or prostitutes, Japanese men feel no compunction about raping foreign women with their money.

Witness 3: U.S.A.

I am Margot St. James from the United States. I am a whore. I was labelled a whore in 1962 when I was forcibly arrested. I am obliged to remain a whore for the rest of my life. I have never been able to get a job since I was so labelled, even though a higher court found me innocent two years later. Streetwalkers in America

are the most oppressed women, the most oppressed workers in the country. They are mostly minority women, and they are discriminated against by the hotels and the parlor owners, who I call legalized pimps. The parlor owners take at least 60 to 75% of the money, and give the women no benefits and no job security. Forty-eight thousand women in the United States are arrested every year for prostitution. They are so labelled by the police, by the courts, by the traditional sexist legal system, for providing sex for establishment men. Seventy percent of the women in prison in the United States today were first arrested for prostitution. They learn other ways of earning money faster once they go to jail. They learn how to steal and sometimes they go into drugs. Eighty percent of juveniles—girls under 18 years—who become prostitutes, were first incest victims in their own families. This is something that is never talked about. If we are to do something about the juveniles in prostitution, we must go after the men who buy those girls. In the U.S.A, only the women are arrested. In France, only the women are arrested. Everywhere it is the same. Only the women are put in jail or arrested for prostitution. The enforcement of prostitution laws against women makes the prostitute an object lesson to all women that they had better stay home and they had better live within the roles defined by men. The illegality of prostitution, the laws which are enforced against the women, make the women easy victims for any sadistic man who wants to go and rip her off and brutalize her, or even murder her. Twelve prostitutes were murdered in San Francisco in 1974. That is one a month, but not one of them got a story in the paper. Yet, when one policeman gets shot it is a headline for three days! On Mother's Day in 1973, I started an organization to combat this black-labelling process, to combat the divide-and-conquer technique used by men. I called it COYOTE: Call Off Your Old Tired Ethics. Men call prostitution the oldest profession. I call it the oldest injustice. The enforcement against women only promotes the rape ideology. As the woman from Japan pointed out, the women themselves get hardly any of the money. Ninety percent of their income is taxed away informally by anyone who is in a position to know what they do, and that what they do is illegal: the landlord, the hotel manager, the policeman. The problems are the same in whatever country I have been to. They charge you for soliciting even when being a prostitute is not against the law. They arrest your boyfriend or your husband and say he is living on your earnings, which is immoral. Yet many countries, like Germany, want to have government-run houses. But the government is the worst pimp of all!

Source: "Crimes Against Women: Proceedings of the International Tribunal," compiled and edited by Diana E. H. Russell and Nicole Van de Ven. http://womenaction.org/wp-content/uploads/2013/09/Crimes_Against_Women_Tribunal.pdf.

ANALYSIS

During the 1970s, a new wave of feminism emerged. It arose first from consciousness-raising groups where women sought to understand the sexism inherent even in the antiwar protest movement of the 1960s. Shortly after, a series of books, one after another, challenged the male prerogative of the 20th century. Robin Morgan's *Sisterhood Is Powerful*, Kate Millett's *Sexual Politics*, and Germaine Greer's *The Female*

Eunuch (all ca. 1970) called women to examine sexism at home and abroad. In 1975 Susan Brownmiller wrote *Against Our Will*, a powerful analysis of rape as a conscious process of intimidation by which all men keep all women in a state of fear. The first domestic conference on Violence against Women was held in San Francisco, and the International Tribunal on Crimes Against Women was organized in Europe. The tribunal was inspired by Bertrand Russell's format for International War Crimes Tribunal in 1954, a people's tribunal on crime committed in the Vietnam War. The idea was to have a private body of concerned individuals who testified about the kinds of crimes men committed against women. It was first suggested during the FemO international feminist camp in Denmark, August 1974, which was a feminist response to the United Nations–declared International Women's Year.

The tribunal heard testimony on many forms of abuse against women. Among them were those on "Rape," "Woman Battering," "Assault," "Femicide," "Castration of Females: Clitoridectomy, Excision and Infibulation," "Violent Repression of Nonconforming Girls," "Torture of Women for Political Ends," "Brutal Treatment of Women in Prison," "Sexual Objectification of Women," "Prostitution," "Pornography" "Double Oppression of Third World Women," "Double Oppression of Immigrant Women," "Double Oppression of Women from Religious Minorities," and 15 other topics. In all, over 2,000 women from 40 countries attended the tribunal in Brussels. The tribunal was a hallmark for women's rights at the time and has been a starting point for women's right movements and particularly for a focus on violence against women, and also the first-ever first-person accounts of sex trafficking in a public forum.

In these three testimonies about prostitution run a common theme about the exploitation and victimization of the female not just by the males selling her and buying her, but also by the nation-states themselves. Although they don't use the words, sex trafficking and sex tourism are clearly described in two of the testimonies as the women are moved across international borders, and the men travel to other countries. Also clear is the sense of women as products and men as the consumers. Fascinatingly, the testimony from Margo St. James of the United States gives many of the arguments now championed by feminists—that women in prostitution are often from vulnerable communities, that the focus is on the arrest of the women and girls instead of the pimps and purchasers, that 8 percent of those in prostitution were victims of rape in their own families, and that if we want to stop juvenile prostitution we must go after the demand—the men who buy them. These testimonies lay the groundwork for future feminist work to end this traffic in women's bodies.

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- Morgan, Robin. *Sisterhood Is Global: The International Women's Movement Anthology*. New York: Anchor Press/Doubleday, 1984.
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KATHLEEN BARRY'S NOTES ON FEMALE SEXUAL SLAVERY (1979)

- **Document:** Kathleen Barry, *Female Sexual Slavery*
- **When:** 1979
- **Where:** Berkeley, California
- **Significance:** Barry's first book, *Female Sexual Slavery* (1979), brought international awareness to the problem of sex trafficking. At a time when the mainstream feminist movement was focused on domestic violence and reproductive rights, Barry described the worldwide problems of prostitution, pornography, and commercial sexual exploitation of women and children, and argued that they are a part of a cultural construct to force women into submission to men. She coined the term "sexual slavery" to describe these conditions. This book is now recognized as the preeminent authority on the widespread international practices of modern day slavery.

FURTHER READING

Barbara Amaya. *Nobody's Girl: A Memoir of Lost Innocence, Modern Day Slavery, & Transformation*. Pittsburgh: Animal Media Group, 2015.

BARBARA'S STORY

My brother and father started abusing me when I was 7 or 8 years old. My mother didn't believe me when I told her so I ran away to D.C. That was in 1968 when I was 12 years old. I was hanging out on the street when a woman picked me up and invited me to stay with her. I didn't realize it at the time, but she turned out to be a trafficker and she groomed me for prostitution. She and her boyfriend took me to the "track" in D.C. and began selling me for sex. I never saw any of the money.

When I was 14, they sold me to an extremely vicious pimp who took me to New York. He put me on a circuit there and set a huge quota for me to make. If I didn't make it, he beat me with a wire coat hanger until I was bloody. During that time, I was hit, kicked, punched, stabbed, threatened with guns. I survived violent johns, crazy serial killers and violent pimps. I started using drugs to numb the pain and quickly became addicted to

DOCUMENT

From my research, I found the women may be purchased, kidnapped, drawn in through syndicates or organized crime, or fraudulently recruited by fronting agencies which offer jobs, positions with dance companies, or marriage contracts that don't exist. Or they may be procured through seduction by being promised friendship and love. Conning a girl or young woman feigning friendship or love is undoubtedly the easiest and most frequently employed tactic of slave procurers (and one that is also used for procuring young boys) and it is the most effective. Young women readily respond to male attention and affection and easily become dependent on it. Once a procurer has drawn a young woman in by his attention to her and she commits her affection to him it is relatively easy for him to transport her to a brothel. Sometimes she can quickly be turned out on the streets by simply being asked to; he tells her that if

she really loves him she will do it for him. If that fails, if she resists his request, traditional seasoning tactics are employed—beating, rape, torture. Either way she gets hooked.

When a friend first suggested that I write a book on what I was describing to her as female sexual slavery, I resisted the idea. I had gone through the shock and horror of learning about it in the late 1960's when I discovered a few paternalistically written books documenting present-day practices. During that same period I found a biography of Josephine Butler, who single-handedly raised a national and then international movement against forced prostitution in the nineteenth century but who is now virtually unknown. I realized that Josephine Butler's current obscurity was directly connected to the invisibility of sex slavery today. And so I wrote a few short pieces on the subject and incorporated my limited information into the curriculum of the women's studies classes I taught.

But to write a book on the subject—to spend two or three years researching, studying female slavery—that was out of the question. I instinctively withdrew from the suggestion; I couldn't face that. But as the idea settled over the next few weeks, I realized that my reaction was typical of women's response: even with some knowledge of the facts, I was moving from fear to paralysis to hiding. It was then that I realized, both for myself personally and for all the rest of us, that the only way we can come out of hiding, break through our paralyzing defenses, is to know the full extent of sexual violence and domination of women. It is knowledge from which we have pulled back, as well as knowledge that has been withheld from us. In *knowing*, in facing directly, we can learn how to chart our course out of this oppression, by envisioning and creating a world which will preclude female sexual slavery. In knowing the extent of our oppression we will have to discover some of the ways to begin immediately breaking the deadly cycle of fear, denial-through-hiding, and slavery.

...

To determine the nature and extent of the slave trade *today*, I decided that except for the historical example of the nineteenth century sex slavery, I would keep my research to reports of incidents that took place within then ten years prior to beginning my research (this is, since 1966). I would use earlier material as background to substantiate patterns I found. Shortly after I began, I realized that the sex slave trade is so clandestine a practice that what I would find would only be an indication of a much vaster problem. In addition, I soon realized that my assumption that traffic in women and children was different from prostitution was invalid. From interviews and other research I learned that virtually the only distinction that can be made between traffic in women and street prostitution is that the former involves crossing international borders. The practices used to force women into prostitution are the same whether they are trafficked across international boundaries or from one part of a city to another. It is currently estimated that over 90 percent of street prostitutes are controlled by pimps. I found that street pimp strategies and goals do not differ

heroin. I got out ten years later in 1978. I'd been trapped in the trafficking my whole adolescence. By the time I got out, my arrest record was lengthy. During those first six years, no one in the courts or jails noticed I was just a child. I only had a sixth-grade education but I developed street smarts and had a strong survival instinct. It was a drug addiction clinic that finally helped me escape, and I went on to build a new life, writing a book about my ordeal and becoming a survivor advocate.

With permission from Barbara Amaya.

significantly from those of international procurers. Female sexual slavery then refers to international traffic in women *and* forced street prostitution taken together.

...

Once I was convinced of the pervasiveness of the problem, the immediate question facing me was why and how female sexual slavery has remained invisible. First, there is direct suppression of the evidence by authorities. In addition, it is invisible as a problem to those who handle practices of female sexual slavery every day. When I would illustrate to an authority how a particular situation fit the most rudimentary definition of slavery, generally I found that they saw the abuse but accepted sexual exploitation and violence as normal for particular groups of women under specific conditions. I noted how, *after* women are enslaved in their homes or in prostitution, they are accepted as part of the group of women destined for that life. When I challenged authorities, I ran up against the “don’t confuse me with the facts” attitude. Despite the evidence of force and dehumanizing violence in many cases, they were incredulous that anyone would question prostitution or see it as other than a necessary for a particular group of women to perform.

Yet other, more subtle effects have contributed to the invisibility of the slave trade. For example, most research on prostitution looks at female motivation rather than the objective conditions which bring many women into prostitution, shifting the causal assumptions from those who traffic women to the psychological states of the women themselves. To those who study the victims of the practice I have called female sexual slavery, these women are the exceptions for whom exceptional behavior is normal; to sociologists they are deviants, to psychologists they are sadomasochists. Their life and experiences are construed as normal for them while they are supposedly different from the rest of us. It is in this kind of contradiction that feminists have learned to look for larger truths about female experience. It is in female sexual slavery that I have found conditions which affect all women. Because of these problems it was necessary for me to develop a perspective for analyzing both the documentation of female sexual slavery and the attitudes that define it as normal, which would reveal self-interest on the part of those who label it. That self-interest may range from the actual profit from the traffic in women to a general participation in the sexual power that accrues to men from female sexual slavery. As I studied the attitudes that accept female enslavement, I realized that a powerful ideology stems from it and permeates the social order. I have named that ideology cultural sadism.

...

Not all thinking on prostitution accepts violence as normal for prostitutes. Prostitution is both an indication of an unjust social order and an institution that economically exploits women. But when economic power is defined as the causal variable, the sex dimensions of power usually remain unidentified and unchallenged. Consequently, economic analysis has often functioned to undermine the feminist critique of sexual domination that has gone since the beginning of the women’s movement. Feminist analysis of sexual power is often modified to make it fit into an economic analysis which defines economic exploitation as the primary instrument of female oppression. Under that system of thought, institutionalized sexual slavery, such as is found in prostitution, is understood in terms of economic exploitation which results in the lack of economic opportunities for women, the result of an unjust economic

order. Undoubtedly economic exploitation is an important factor in the oppression of women, but here we must be concerned with whether or not economic analysis reveals the more fundamental sexual domination of women. As unjust as the economic order may be, this analysis spins off a set of beliefs which again contradict fact. Those beliefs assume:

1. That prostitution is an economic alternative for women who are the objects of discrimination in the larger equitable job market—despite the fact that pimps are known to take all or almost all of the money earned by prostitutes.
2. That only lower-class or poor women and girls turn to prostitution—despite the knowledge that most pimps recruit girls who are runaways, many of whom are from middle-class homes.
3. That only ethnic minority women are trapped in prostitution—despite the fact that many white women and girls are visible hooking on the streets, and despite the fact that pimps recruit women based on customer demand and availability.
4. That black men from the ghetto have no economic alternatives to pimping—despite the fact that a) most black men from the ghetto do not become pimps; b) that not all pimps are black or from the ghetto; and c) that exploitation, abuse and enslavement cannot be justified by someone's economic conditions.

By appearing to critique the conditions which lead to prostitution these assumptions actually obscure recognition of sexual domination, which is the first case of sexual power.

...

The political climate has created arbitrary and false distinctions and definitions. Child prostitution has always been a part of the sex slave trade. Separating the enslavement of children from that of women distorts the reality of the practices and conveys the impression that on some level it is tolerable to enslave women while child slavery is still reprehensible. Within that distinction lies the implication that one form of slavery is intolerable and worth attention while the other is not.

On the other hand, including male prostitution (teenage boys and adult men) with female prostitution assumes that they are the same phenomenon and thereby obscures the fundamental sex-object role of women in masculinist society. The sex-power relationship between men and women makes male prostitution quite a different practice than female prostitution. The victimization and enslavement to which women are subject in male-dominated society find no equivalent in male experience.

Finally, sensationalism has made the traffic invisible. The tendency of writers on this subject to render already horrible events in the format of a lurid novel leaves the impression that the material is less than believable, that it is fiction. Not all slave markets are lustful events where whips crack over writhing, naked bodies. Often they are subdued business transactions. Sensationalism was the method that many turn-of-the-century workers used to bring attention to the traffic in women. The net result of their paternalistic, highly dramatized concern was to characterize the

victims as such poor, sweet young things as to make stories about them unbelievable, the very effort to dramatize and create attention casts suspicion on the veracity of the stories. The issue is not whether a child, teenager, or adult woman is a poor, innocent, sweet young thing. It is rather, that no one should have the right to force anyone into slavery.

As my research progressed, I realized that the bias that makes forced prostitution invisible as a form of slavery comes from the tendency to focus on how a girl gets into it. If she is kidnapped, purchased, fraudulently contracted through an agency or organized crime, it is easy to recognize her victimization. But if she enters slavery having been procured through love and befriending tactics, then few, including herself, are willing to recognize her victimization. Seeing this problem led me to develop a working definition which became the criterion of my research, the basis on which I decided whether or not a particular incident was one of female sexual slavery. That definition focuses on the procuring strategies as well as the objective conditions of enslavement in which a woman is held, conditions from which she cannot escape and in which she is sexually exploited and abused. Once the objective conditions of sexual slavery are recognized and analyzed, the violence that victimizes women forced into prostitution cannot go by unnoticed. Consequently, instead of accepting women's self-acceptance of their slavery, we must question whether those circumstances are tolerable for any human being.

Sexual terrorism is a way of life for women even if we are not its direct victims. It has resulted in many women living with it while trying not to see or acknowledge it. This denial of reality creates a form of hiding. One woman, overcome at hearing about some practices of sexual slavery, suggested that I put them in the Appendix of this book to allow the reader to choose whether or not to look at them. Another friend wrote, "Be patient with me about your book; it really strikes a terror in me a paralysis and I don't know when I'll be ready to read it."

Often in hearing about sexual slavery, some people hid in disbelief denying its reality, when we do recognize the terrorism, we may simply put it out of our minds, not wanting to acknowledge it. Or we sometimes hide by sitting judgment on the victim. When faced with examples of how women are procured for slavery, there are those who will draw themselves up and instinctively distance themselves from the situation by passing uninformed, albeit ponderous, judgments on how a girl should have behaved if she really meant to prevent herself from being procured (or raped). "I would have . . ." "She could have . . ." "Why didn't she . . ." instantly divide protagonist from listener. Those who hide by sitting in judgement are making the assumption not that the victim did wrong, but that she just didn't do everything she could to prevent it or to get away. The judgment is that it didn't have to happen, that the victim had control she didn't exercise.

Women are bullied into denying the existence of sexual violence; when we expose it, we are called crazy by those who have a quiet interest in its continuation and therefore in its secrecy. Or we are confronted by kindhearted men who would never think of committing such acts themselves and therefore incredulous that members of their sex could be thought of as carrying out such transgressions.

Hiding has helped keep female sexual slavery from being exposed. But worse than that, it has kept us from understanding the full extent of women's victimization,

thereby denying us the opportunity to find our way out of it through political confrontation as well as through vision and hope. Vision of a society that does not enslave women involves the pain of recognizing the worst of women's oppression. But with hope there is the opportunity to create a new political structure and social order. To have this vision means demanding and finding a world that will be free of sexual terrorism. Knowing the worst frees us to hope and strive for the best.

Source: Barry, Kathleen. *Female Sexual Slavery*. New York and London: New York University Press, 1979. Used by permission of New York University Press.

ANALYSIS

In 1979 when Kathleen Barry published *Female Sexual Slavery*, she was the first feminist to identify female commercial sexual exploitation as a violation of human rights. Her investigative research documented real instances of female sexual abuse in every corner of the world, from brothels in Thailand where women were chained to the beds, to runaway girls picked up by pimps in the United States. She was the first to identify this international sex trade as an industry, and the first to understand the vast and chilling organized criminal activity involved in the buying and selling of women and children.

Her work catalyzed the creation of the Coalition Against Trafficking Women, unique at the time for its focus on commercial sexual exploitation of women and children. Barry did not differentiate between prostitution, sex trafficking, physical assault, or domestic violence: she argued that they are all perpetrated by men for one purpose: to break female body and spirit in order to control and enslave females. For Barry, there was no difference between “forced” or “free” prostitution or any situation where sexual power was used against females. This bold concept was almost immediately challenged by feminists who had a different vision of female power, and began a 30-year polarized debate about voluntary versus coerced prostitution which has continued to this day.

Barry continued to fight for a wider understanding of female sexual exploitation. She made the connection between pornography with that of real-life female sexual slavery found in prostitution and trafficking. Through a collaboration with UNESCO, Barry assisted in the development of The Convention Against Sexual Exploitation, whereupon prostitution, pornography, and sex trafficking would all be considered human rights violations according to international law. In her second book, *Prostitution of Sexuality: Global Exploitation of Women* published in 1996, she articulated model law for criminalizing the demand side of the sex trade.

FURTHER READING

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3

SOUNDING THE ALARM: THE PROBLEM EMERGES (1990–2000)

INTRODUCTION

In the last 10 years of the 20th century, a small band of dedicated women and men worked quietly in the trenches on issues of modern-day slavery. Much like the individuals who first spoke out against African Chattel slavery in the 1600s, they worked alone, or in small groups. A number were survivors who had suffered tremendously and began to put what had happened to them in a larger context. Suddenly they realized that what they had endured was happening to thousands, hundreds of thousands, indeed millions, of others in the United States and around the globe. Few had platforms of any kind. They conducted research, wrote, and spoke about the problem. Then in the 1990s, in meetings and conferences, they began to come together and formed organizations to combat the problem. This tumultuous decade saw the articulation of the issue and the creation of a handful of organizations that would birth a national and international movement to address human trafficking and later go on to shape law, policy, and programs to eradicate modern-day slavery. Unfortunately, it also saw a series of splits in a fledgling movement around the problem of free versus forced prostitution; around whether to concentrate on labor trafficking or sex trafficking, children, or adults; and even around the very words we use to conceptualize the nature and scope of the problem: Was it human trafficking? Sex trafficking? Forced labor? Sex work? Modern-day slavery?

RACISM, SEXISM, AND PROSTITUTION (1992)

- **Document:** Vednita Nelson, “Prostitution: Where Racism and Sexism Intersect”
 - **When:** 1992
 - **Where:** Minneapolis, Minnesota
 - **Significance:** This article, from a speech given at the *Michigan Journal of Gender & Law* Symposium entitled *Prostitution: From Academia to Activism* (October 31, 1992) at the University of Michigan Law School, provided a first examination of the crossroads of racism, sexism, and trafficking. It is still timely today, as minority, poor, and/or economically disadvantaged communities continue to struggle with the problem of sex trafficking.
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DOCUMENT

Black women find themselves in a unique and extremely difficult position in our society.

They are forced to deal with the oppression that arises from being Black in a white-supremacist culture and the oppression that arises from being female in

a male-supremacist culture. In order to examine the experience of being Black and female, this paper attempts to describe that very difficult, tight space where Black women attempt to survive—that space where racism and sexism intersect.

Late in the spring of 1992, America was glued to the television watching East Los Angeles go up in flames in response to a courtroom verdict that acquitted four white police officers of the savage beating of an African-American man. When the verdict was handed down, white America learned what Black Americans have always known: who counts, and who does not. From one end of the country to the other, whites and Blacks marched together to protest the brutality of the L.A. police force and the racism of the criminal justice system that protected and exonerated the officers. Of course, I too was outraged.

Yet, while liberal America paraded banners and sported T-shirts reading “Justice for Rodney,” while Black radicals and academics alike proclaimed that the Black male was an endangered species in America—done in by the police done in by drugs, or done in by himself—eleven Black women were quietly being murdered in Detroit. Eleven Black women were strangled. Eleven Black women were sexually mutilated. The bodies of eleven Black women were dumped in abandoned buildings under piles of trash in a period of nine months.

I had to ask myself. Where was the outrage? Why wasn’t the community up in arms? Clearly there was a pattern here. All of the women were poor. All of the women were Black. All of the women were used in prostitution. There was no reason to believe that the killer would not strike again. So, I had to ask myself, where was the outrage? One Black male is beaten up by four white police officers and every Black community activist in the country, including the Reverend Jesse Jackson, is crying out against racist violence and the culture of poverty that precipitated the L.A. riots. Eleven poor, Black women are murdered and mutilated, their bodies are thrown away like so much trash, and the only thing we hear, besides the deafening silence, is a local Baptist minister mourning that these women “were already among the walking dead.” Where do racism and sexism meet? If you ask me, they meet in a trash pile, in an abandoned building, in Detroit.

Racism makes Black women and girls especially vulnerable to sexual exploitation and keeps them trapped in the sex industry. It does this by limiting educational and career opportunities for African-Americans in this country. It does this through a welfare system that has divided the poor Black family. If a mother works, or her children’s father contributes to their support, her check and food stamps are cut by that amount. Thus, poor Black women are left alone to fend for themselves and their children on inadequate Aid to Families with Children grants.

Racist stereotypes in the mainstream media and in pornography, portray Black women as wild animals who are ready for any kind of sex, any time, with anybody. Additionally, strip joints and massage parlors are typically zoned in Black neighborhoods, which gives the message to white men that it is alright to solicit Black women and girls for sex—that we are all prostitutes. On almost any night, you can see them slowly cruising around our neighborhoods, rolling down their windows, calling out to women and girls. And we got the message growing up, just like our daughters are getting it today, that this is how it is, this is who we are, this is what we are for.

Many people have said that prostitution is tolerated in the Black community. They are wrong. We do not tolerate prostitution; it has been imposed upon us. It has been imposed upon us since the days of slavery, when the master came out to the field and chose whichever Black woman he wanted to have sex with. Light-skinned slaves, known as “fancy girls,” were sold at high prices in the marketplace and later “rented out” or sold to Brothels.

Today, middle-class white men from the suburbs drive through the ghettos of America to pick out whichever Black women or girls they want to have sex with, as if our cities were their own private plantations. No, prostitution is not tolerated in the Black community any more than African-American slaves tolerated it on the plantation; it is imposed upon us.

Once a Black woman gets into prostitution, it becomes harder for her to get out than for a white woman. Racism in the courts results in Black women paying higher fines and doing more jail time than white women. Racist probation officers and child protection workers can create nearly impossible case plans for Black women, setting them up to fail and resulting in their being returned to jail or losing custody of their children.

The lack of culturally sensitive services designed by members of the Black community, for women in the Black community, keeps women trapped in prostitution. Black women who are seeking to escape abusive and exploitative situations are forced to go to white agencies for help. This creates a double bind. First, there is a strong taboo in the Black community about talking to outsiders, particularly whites, about problems within the Black community. Second, even if women overcome that obstacle, white-dominated agencies are ill-equipped to understand and deal with the problems of poor Black women.

The problem can be as simple as a language barrier. Black women who use ghetto slang as a form of expression are viewed as “stupid” because many social workers have difficulty understanding them. On the other hand, the problem can be as complex as “appropriate parenting skills.” To spank or not to spank has become a bone of contention between white, child-protection workers—and often white, battered-women’s advocates who view spanking as child abuse, and African-American mothers who believe it is an appropriate and necessary form of discipline.

A deeper problem is the failure to understand Black emotional pain, the pain that African-Americans experience due to their inability to acknowledge, take pride in, and be at peace with their own individual African-American identities. The root cause of Black emotional pain is white racism. Other causes are the subtle and overt ways that Blacks have internalized the values of the white culture: straight hair is “good” hair; thick, tightly curled hair is “bad” hair. Light skin is “good”; dark brown or black skin is “bad.” Programming developed by and for white women is not necessarily useful to Black women, even when provided by a Black professional who has adopted the agency’s approach to problem solving. For example, traditional “talk” therapy or groups that require disclosure on the part of the client have proven unsuccessful with African-Americans. Additionally, class differences between the middle-class Black professional and the poor client can often foster distrust.

An African-American underclass has developed in the United States which has at its core a culture shaped by the legacy of slavery and which is defined by drug

and alcohol abuse and addiction. The Black underclass includes second- and third-generation welfare recipients, has gangs as a social institution, and has an underground economy built on drug traffic and prostitution. Today, the Black underclass includes increasing numbers of the rural poor, as well as those who were raised in large urban environments.

The Black underclass, along with some members of the poor of other races, makes up the culture of poverty. Its members share a common system of values and behaviors. They lack access to legitimate economic resources and adequate medical treatment, forcing them to resort to emergency room health care. They are alienated from most social institutions except those that perpetuate the cycle of poverty and despair: welfare, corrections, and the underground economy. Most Black women used in prostitution were born into the Black underclass. They lost their childhoods to the streets. Many came of age in juvenile detention centers and matured in adult correctional facilities. They raised some of their children in-and lost some of their children to the culture of poverty, and if we do not do something quickly, they will raise, and lose, their grandchildren too.

So what is the solution? That depends on what we see as the problem. If we see the problem as helping Black women get out of prostitution, then we will continue to design “helping” programs for individual women. That is not a bad thing to do, except that the culture keeps creating more prostitutes, who need more programs to get more help. The feminist movement, as I understand it, is supposed to be a liberation movement. Instead, what we have today is a “M.A.S.H. unit,” which, while it is somewhat helpful to some white women who have been victims of the ongoing war on women, is woefully inadequate to heal the deep wounds of misogyny that are infected with racism.

From my perspective, the problem is rooted in that very difficult, tight space where Black women attempt to survive, that space where racism and sexism intersect. The liberation of Black women then requires two courses of action. First, the predominantly male leaders in the Black community must commit to ending violence against women with the same vigor that they apply to ending racism. They must begin to realize that we, African-American women, are just as vital to their survival as they are to the survival of the African-American community.

Second, white women must make a concerted effort to end racism, beginning with an examination of their own racism, and from there to work within their own communities. Feminist organizations must be willing to take active stands against racial injustice in society. Few, if any, feminist organizations condemned the treatment of Rodney King and the subsequent exoneration of the officers who assaulted him. How can mainstream feminists claim to care about African-American women and racism, yet not take action when our sons, partners, and fathers are subjected to daily harassment and abuse by the police? How can mainstream feminists claim to care about Black women and racism when they fail to speak out against the white men who pay for the right to sexually abuse our daughters and sisters, or against the police who target these same women for arrest and imprisonment, while their abusers, the johns that prey on our community, go free? It is time for white feminists to stand beside US, to fight racist and sexist oppression, and to take the same risks we do. The mainstream feminist community must

actively fight to end both systems. If not, the cry “sisterhood is powerful” will remain an empty slogan for Black women.

Source: Carter, Vednita. “Prostitution: Where Racism and Sexism Intersect.” *Michigan Journal of Gender & Law* 1 (1993): 81–89. Used by permission of Vednita Carter.

ANALYSIS

While the battle lines over the definition of sex trafficking were being drawn in Geneva, Washington, D.C., and other political and policy centers around the world, a small newly formed organization called Breaking Free emerged. Its voice was unique. It said aloud for the first time what was obvious but had not been articulated: that much of the use and abuse and exploitation of women and children took place in poor, economically underdeveloped neighborhoods in the United States, and that African American and other minority women bore the brunt of the violence. In a few areas in St. Paul, Minnesota, North Minneapolis, and parts of South Minneapolis, where there were large African American communities, women and children were sold on the street to well-off men who drove in from the suburbs. Breaking Free started here, as a grassroots organization, and vowed to serve this neglected population of trafficked persons. Vednita Carter, a survivor of sex trafficking, first set out to create a drop in center in the midst of the trafficking—somewhere that women could come to talk, to get a hot meal, to hide from an angry pimp. Before long, the Center was well known in the community as the place to come for any and all kinds of help. In the first year of its formation, Carter gave this speech that pointed out the ways in which racism existed even within an anti-trafficking community, and the ways in which what was done to women in prostitution mirrored the sexism in the larger society. Quiet and determined, Carter worked over the next 10 years to build Breaking Free into a nationally renowned survivor-led service provider. At the same time, she became a leading figure in the growing anti-trafficking movement, providing an early role model for other African American survivors. Her work is still important today as we struggle with stereotypical victim and perpetrator profiles. Carter has always been clear that traffickers are equal opportunity exploiters, and that they come from all ethnicities, nationalities, races, and cultures and that they will exploit vulnerable human beings from any community. At the same time, she has not been afraid to call out every community for its hypocrisy, judgment, or inaction. Her role in building an honest anti-trafficking movement that works from what it knows and sees—not just the abstract arguments that can be all-consuming, has been invaluable.

FURTHER READING

Butler, Cheryl Nelson. “The Racial Roots of Human Trafficking.” *UCLA Law Review* 62 (2015): 1464.

Chong, Natividad Gutierrez. “Human Trafficking and Sex Industry: Does Ethnicity and Race Matter?” *Journal of Intercultural Studies* 35(2) (2014): 196–213.

COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN (1996)

- **Document:** “Commercial Sexual Exploitation of Children” a report on the implementation of the Agenda for Action adopted by the first World Congress Against Commercial Sexual Exploitation of Children
- **When:** August 28, 1996
- **Where:** Stockholm, Sweden
- **Significance:** The early conferences that the Coalition Against Trafficking in Women (CATW) and Global Alliance Against Trafficking in Women (GAATW) held were dueling conferences concerning the definition of sex trafficking. However, they catalyzed yet another debate in the anti-trafficking movement about whether the focus should be on women or children or both. ECPAT (End Child Prostitution and Trafficking) was founded in Australia and grew into an international NGO with chapters in dozens of countries. The genius of the organization was its early linking to UNICEF and its insistence that young children were the most vulnerable to trafficking and the most important focus of a worldwide anti-trafficking movement.

It held its first conference, co-sponsored with UNICEF and the government of Sweden in 1996 and emerged with an Agenda for Action.

DOCUMENT

The Agenda for Action asks governments in cooperation with IGOs and relevant members of the civil society to work together to face the growing challenge of child prostitution, child pornography and the trafficking of children for sexual purposes. It reiterates its commitment to the rights of the child, bearing in mind the Convention on the Rights of the Child and accords high priority to action. Recognising the globalisation of these issues, it promotes stronger cooperation between States and all sectors of society both at the national and international level.

The Agenda for Action proposes a five pronged approach to the eradication of commercial sexual exploitation of children:

- 1) The coordination of actions at local, national, the regional and international levels.
- 2) The taking of preventative measures through the formal and informal education sector, sensitising relevant target groups to their rights and to the issue.
- 3) The protection of children already caught in the horror of the sex trade through the strengthening or development of relevant laws and policies and the strengthening of law enforcement programmes and international cooperation.

- 4) The recovery and reintegration of children into society through non-punitive, gender-sensitive support systems and
- 5) To promote the participation of children, including child victims and their families, so that they are able to express their views to take action to protect children from commercial sexual exploitation.

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The first world Congress against the Commercial Sexual Exploitation of Children was held in Stockholm, Sweden, August 27–31, 1996. Official government delegations attended the Congress from 122 countries (see Appendix) and were joined by other delegates representing Non-Governmental Organisations (NGOs) and inter-governmental bodies and the commercial sector. Attendance at the Congress totaled 1,300 persons.

The Congress was called to consider the three areas of commercial sexual exploitation of children listed in the UN Convention on the Rights of the Child

- the prostitution of children
- child pornography and
- trafficking in children for sexual purposes

On August 28, 1996 the participants unanimously adopted an Agenda for Action which confirmed the commitment of governments “to a global partnership against the commercial sexual exploitation of children.” Unfortunately neither the Agenda for Action nor the subsequent Congress statements made any provision for a follow-up mechanism to monitor the actions of governments and NGOs in fulfilling the mandate of the Agenda.

The Congress itself was planned and organised by the Swedish Government in cooperation with three agencies:

- ECPAT, the international NGO working to end child prostitution which initiated the idea of the Congress and approached the Swedish government to organise the Congress
- The United Nations Children’s Fund (UNICEF) through its division on Children in Especially Difficult Circumstances (CEDC) which is mandated to work in the area of the commercial sexual exploitation of children.
- The Geneva-based NGO Group for the Convention on the Rights of the Child which represents 41 non-governmental bodies working in the area of children’s rights.

On December 12, 13, 1996 a meeting of these three bodies took place at UNICEF headquarters in New York. This meeting considered the need for follow-up to the Congress and agreed on two specific actions:

- a) In order to assist the Committee on the Rights of the Child and the Special Rapporteur of the UN Commission on Human Rights on the Sale of Children, Child Prostitution and Child Pornography, it was agreed that an Advisory Group would be established with special responsibility to

make recommendations to UN bodies on the commercial sexual exploitation of children. The NGO Group for the Convention on the Rights of the Child agreed to coordinate the functioning of this Advisory Group and they expect to have their first meeting in October 1997.

- b) The second agreed initiative was that ECPAT would be asked to establish a major information data-base which will store and share information on developments in all of the countries concerned with this issue. This information will provide ideas and background so that countries and organisations seeking to take action will have a central bank of data immediately available for their use.

United Nations General Assembly: A resolution passed at the 52nd General Assembly, November 1996, on “Prevention and eradication of the sale of children and of their sexual exploitation, including child prostitution and child pornography” welcomed the convening of the Congress in Sweden and described the Agenda for Action as an important contribution to the global efforts aimed at the eradication of such practices. The UN called on all States to implement “on an urgent basis” measures outlined in the Agenda. It makes mention of the need for improving laws and specifically urges the adoption and implementation of extraterritorial laws in the area of child sex abuse.

Source: End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes. 1997. *Commercial Sexual Exploitation of Children: A Report on the Implementation of the Agenda for Action Adopted at the First World Congress against Commercial Sexual Exploitation of Children Stockholm, Sweden, August 28, 1996.* ECPAT International (4,6,21). Accessed July 26, 2016. <http://www.childsrights.org/vbulletin5/filedata/fetch?id=1460>. Used by permission of ECPAT International.

ANALYSIS

While one set of activists worked to bring general awareness of the worldwide nature and scope of human trafficking, another set of organizations was forming to work only on the commercial sexual exploitation of children: End Child Prostitution and Trafficking (ECPAT). In May 1990, an advocate from the Philippines, a Christian leader from Thailand, a researcher from Sri Lanka, and a children’s rights advocate from Germany were among the 22 people who gathered in Chiang Mai, northern Thailand. The common thread that connected them was their disgust at a burgeoning business of sex tourism—men from developed countries traveling to underdeveloped countries to purchase children as young as seven years old for sex. One high-profile case in particular catalyzed the new worldwide movement: a child named Rosario Baluyot who was born in Manila, the Philippines. She died at age 12, the victim of a European sex exploiter. Rosario was the youngest of eight children in a poor family. Like many other poor children, she became a street child when she was 8 years old. She was picked up one night by Heinrich Stefan Ritter, an Austrian physician. Sex with minors is illegal in his country, so he traveled to the Philippines to find what he wanted. A practiced predator, Ritter knew exactly where to go to

find what he was looking for. He paid a young Filipino boy of 12, Lauro, to find him a little girl to take to the movies. Ritter said he would buy her a good dinner and some toys. Lauro got a finder's fee of \$5.00.

Lauro told Rosario that a European doctor wanted some company. He was a nice man who would buy her dinner, some clothes, and some toys. He led her to Ritter, and Ritter gave him the finder's fee and told him to pick up Rosario around midnight. Ritter bought Rosario dinner and then took her to his hotel room, promising her money and clothes. There he had sex with her and then forcibly inserted a vibrator into her vagina. The object broke, fragmented, and lodged inside Rosario's cervix. In pain and frightened, she dressed and ran out of his hotel room. A day later he packed and left for Austria.

Out of shame and fear, Rosario told no one what had happened. Back on the street the next day, she felt sick and dizzy. She was in terrible pain, but she gritted her teeth and bore it. She and Lauro went back to scavenging for food and money, but the pain didn't go away. Lauro got some aspirin for her but it didn't help.

A week later, Lauro took Rosario to one of the local medical clinics run by the Catholic nuns. She was running a fever and complaining of "stomach" pain, but she didn't tell the doctor who examined her of the rape the week before. The doctor prescribed antibiotics and sent her back out onto the street. The antibiotics temporarily addressed the infection, but not the piece of plastic lodged in her cervix. Two weeks later the fevers and pain started again. Rosario had seven months of agonizing pain and infection before being admitted to the local hospital. Three days before she died, she told one of the nurses what had happened. By then it was too late to save her. An autopsy revealed that the piece of the vibrator had pierced through her abdomen.

The nurse reported what Rosario had told her to the Filipino police. An investigation was mounted, evidence gathered, and in the first transnational sex tourism case, Ritter was extradited from Austria to the Philippines and tried in court. During the trial, witnesses testified that he was a well-known tourist in that part of the Philippines. They also testified about his predilection for very young girls. Several other young victims came forward and prosecutors built a case against him. He was found guilty and sentenced to life imprisonment by a Philippine court for the rape and death of a child, but the charges were reversed on a technicality. He returned to Austria where he is still free today.

Rosario's story became a symbol for an international movement to stop sex tourism and child sexual exploitation. She is only one of hundreds of thousands of children used in child prostitution and child pornography in Southeast Asia, the Caribbean, South America, Mexico, Eastern Europe, the Middle East, and many other regions. And Ritter is but one of thousands of men from the United States, Canada, Japan, France, Italy, Sweden, Denmark, and many other developed nations who have traveled from their home countries, where sex with young girls and boys is prohibited, to countries that have no laws or laws that are rarely enforced against child sexual abuse.

From this first case, came many others of European, American, Australian, Japanese, and other men traveling to poor countries for cheap sex with children. ECPAT campaigned furiously for changes in international law and national laws in each

country that would protect children from being sold for sex. They partnered with the UN and with other countries that showed an early interest in the problem, and hosted three World Congresses to End Commercial Sexual Exploitation of Children. The first was in Sweden, the second in Japan, and the third in Brazil. Their leadership helped catalyze a new international treaty attached to the Convention on the Rights of the Child. In addition, they were instrumental in getting a number of countries, including the United States, the United Kingdom, Australia, and Canada, to pass specific sex tourism laws prohibiting their citizens from traveling to engage in commercial sexual exploitation of children.

The work was critically important, but it created yet another split in the fledgling anti-trafficking movement—separating those who wanted to work only on issues of commercial sexual exploitation and sex trafficking of children from those who wanted to work to stop all forms of human trafficking.

FURTHER READING

- Direct link to report. www.ecpat.org/wp-content/uploads/legacy/ECPATWCIIIRreport_FINAL.pdf.
- First World Congress against Commercial Sexual Exploitation of Children, Stockholm, Sweden, August 28, 1996.
- Healy, Margaret. "Prosecuting Child Sex Tourists at Home: Do Laws in Sweden, Australia, and the United States Safeguard the Rights of Children as Mandated by International Law?" *Fordham International Law Journal* 18 (5) (1994): Article 24.
- Second World Congress against Commercial Sexual Exploitation of Children, Yokohama, Japan, December 17–20, 2001. <http://www.unicef.org/events/yokohama/>.
- Third World Congress against Commercial Sexual Exploitation of Children, Rio De Janeiro, Brazil, November 25–28, 2008. <http://resources.ecpat.net/worldcongressIII/overview2.php>.

THE SEX SECTOR (1998)

- **Document:** *The Sex Sector: The Economic and Social Bases of Prostitution in Southeast Asia*
 - **When:** 1998
 - **Where:** Geneva, Switzerland
 - **Significance:** Lin Lean Lim was hired by the International Labour Organization (ILO) to report on the burgeoning sex industry in Southeast Asia. In Thailand and Cambodia, reports of women and children being trafficked into brothels and sold to foreigners from Europe, the United States, Canada, Australia, and New Zealand. On the surface, most advocates were opposed to especially sex trafficking. But sub-surface, a debate about forced versus free prostitution was beginning. Lim's report was the first clear articulation, published by a venerated intergovernmental organization, that sex trafficking was one thing and prostitution was another. Although the article skirts the issue of legalization of prostitution, its bent was clear: recognize the sex industry as a legitimate form of labor, count it in the GNP (gross national product) of a country, and let women have "the right to work" in this "field." It was a practical approach that argued, "Whether we approve or disapprove, prostitution is now a booming business in Southeast Asia and we should recognize its economic value." Lim contrasts this with sex trafficking, in which women are being forced into prostitution. This report was a significant step for ILO, and placed it squarely on one side of a growing debate about whether prostitution is a form of work and deserves protection under the UN treaties about the basic human "right to work," or whether it is per se violence against women and thus a crime that needs to be addressed as such.
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DOCUMENT

[*The Sex Sector: The Economic and Social Bases of Prostitution in Southeast Asia*] examines the social and economic forces driving the growth of the sex industry in four Southeast Asian countries: Indonesia, Malaysia, the Philippines and Thailand. It says that the provision of sexual services has assumed the dimensions of a full scale commercial sector, one that provides direct and indirect employment to millions of workers and contributes substantially to national incomes throughout the region.

Ms. Lim, an ILO researcher and employment policy expert, said that she hoped "the award would focus attention on the many misunderstandings and the huge public policy void surrounding the sex sector, as well as on the plight of its many innocent victims, including trafficked women and children."

She said that “the growing scale of prostitution raises alarming questions, not only about public health, morality and gender discrimination, but about the basic human rights of the ever-increasing numbers of commercial sex workers, most of whom would appear to enter the business willingly, but many of whom are forced, trafficked, tricked or exploited into sex work.” She said that migrant women were a particularly vulnerable group and evidence abounds of “ruthlessly efficient international networks directing trafficking of migrant prostitutes throughout Asia and beyond.”

Lin Lim added that while the conditions of adult sex workers differ greatly, ranging from freely chosen and highly remunerative to exploitation and virtual slavery, “there is no such ambiguity concerning child prostitution,” which she said should be considered as a much more serious problem than adult prostitution.

“Adults can choose to become prostitutes or to work in pornography. Children cannot. Children are much more vulnerable and helpless against the established structures and vested interests of the sex sector and much more likely to be victims of debt bondage, trafficking, physical violence or torture. They are much more susceptible to diseases, including HIV/AIDS and suffer lifelong physical and psychological trauma. While there is a range of possible options for coping with the increase in adult prostitution, there should be only one goal for child prostitution—to eliminate it.”

The report estimates that anywhere between 0.25 per cent and 1.5 per cent of the total female population in the study countries are engaged in prostitution. Related activities (including the numerous bars, hotels, entertainment facilities and tourist agencies which thrive on prostitution), employ literally millions more workers. Large segments of the population in Southeast Asia—notably the rural-poor families who often send their daughters to work as prostitutes—rely upon remittances from prostitution for their well-being, if not for their outright survival. However, in spite of the size and economic importance of prostitution, it is almost entirely unregulated and goes unrecognized in official statistics, development plans and government budgets of almost all countries worldwide.

The report emphasizes the economic bases of prostitution, highlighting the strong economic incentives which drive women to enter the sector, despite the social stigma and danger attached to the work. Sex work is often better paid than most of the options available to young, often uneducated women. The report also highlights the many vested economic interests which derive profit from these activities rather than the women and children who are the ones commercially and sexually exploited.

The report stresses that in order to come to terms with the problems of prostitution, it is necessary to tackle these various vested interests. These include a wide range of social actors, including the families of the women and children who depend on the revenues generated by prostitution and who sometimes sell their children into prostitution, the various sex establishments which include large swathes of the entertainment and travel and tourism industries, and corrupt officials without whom international trafficking networks could not operate with impunity.

The report argues that the growth of prostitution is probably linked, albeit inadvertently, to the macroeconomic policies of governments which have a tendency

to spawn rapid urbanization at the expense of rural development, to promote cheap labour for industrialization, to facilitate the export of female labour for overseas employment and to promote tourism as a foreign exchange earner. All these features of modern, export oriented economies, combined with the pervasive lack of social safety nets and deep-rooted gender discrimination against females, probably contribute to the growth of the sex sector.

The report says that “measures targeting the sex sector have to consider moral, religious, health, human rights and criminal issues in addressing a phenomenon that is mainly economic in nature.” However, the report states categorically that it is outside the purview of the ILO to take a stand on whether countries should legalize prostitution. According to Lin Lim, “recognition of prostitution as an economic sector does not mean that the ILO is calling for the legalization of prostitution.” The book takes pains to explain the different possible legal approaches—criminalization and total prohibition, legalization which involves registration and regulation of the sex establishments and the prostitutes, and decriminalization which treats the prostitutes as victims and imposes stronger criminal sanctions on those who traffic in, exploit or abuse prostitutes. The ILO insisted that it is for countries themselves to decide on their legal stance [with regard to prostitution and related activities].

Source: Lim, Lin Lean, ed. Press Release on Report: *The Sex Sector: The Economic and Social Bases of Prostitution in Southeast Asia*. Geneva: International Labour Office, 1998. [http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_007999/lang—en/index.htm#N_1_](http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_007999/lang-en/index.htm#N_1_). Used by permission of the International Labour Organization.

ANALYSIS

The preface to *Sex Sector*, the study conducted by Lin Lean Lim, states that ILO was not prepared to take a stance on the legalization of prostitution, but that they would never condone the prostitution of children. It also recognized an enormous economic potential if voluntary prostitution were to be classified as work. Although this categorization had been suggested before, and the debate had begun in private circles, never before had an intergovernmental organization taken this stand. In fact, in the 1949 Convention for the Suppression of Trafficking and Exploitation of Others, the Preamble makes it clear that prostitution is inherently degrading. What had changed in the 50 years since the Convention? Although Lin’s report carefully caveats the “problem of prostitution” as the result of a wide range of vested interests (the families who depend upon revenues generated by prostitution, the sex establishments that make money from it, the travel and tourism business, and corrupt governments who benefit from it) by positioning prostitution in the context of “human rights, employment and working conditions, gender discrimination and commercial exploitation,” the report essentially changes the filter through which prostitution is seen and creates the basis for the recognition of prostitution as sex work. Even though it only addresses the sex sector in Southeast Asia, all the

arguments for this approach are visited in this document, including the five most compelling:

1. Prostitution can be voluntarily chosen by adult women.
2. Women should be able to control their own bodies and use them as they wish.
3. If cleaned up and regulated, prostitution could be economically empowering for women.
4. Women can make far more money in this sector than they can in low, entry-level work.
5. Women have the human right to work, a basic tenet of the ILO.

In the next several years, human rights and labor rights advocates around the world would differentiate between “sex work,” which they argued was freely chosen and potentially lucrative, and sex trafficking, in which migrants are “forced, trafficked, tricked or exploited into sex work.” They would recognize the “ruthlessly efficient international networks directing trafficking of migrant prostitutes throughout Asia and beyond” but insist on separating them from those who said they had chosen to work in the commercial sex sector.

FURTHER READING

Lim, Lin Lean, ed. *The Sex Sector: The Economic and Social Bases of Prostitution in Southeast Asia*. Geneva: International Labour Organization, 1998.

HUMAN RIGHTS STANDARDS FOR THE TREATMENT OF TRAFFICKED PERSONS (1999)

- **Document:** Human Rights Standards for the Treatment of Trafficked Persons by Global Alliance Against Traffic in Women, Foundation Against Trafficking in Women, and the International Human Rights Law Group
- **When:** January 1999
- **Where:** Washington, D.C.
- **Significance:** This document draws from classic international human rights law to outline a perspective of trafficking as a problem of forced labor. As such, it situates sex trafficking as a form of labor trafficking, a position with which radical feminists and some faith-based organizations took issue. Even so, it is an elegant recitation of the problem of trafficking, and sets out a human rights approach to human trafficking.

OLD AND NEW SLAVERY

In his book, *Disposable People*, Kevin Bales makes the argument that modern-day slavery differs from slavery in times past. He notes:

Where old-style slavery is still practiced, bondage lasts forever. A Mauritanian woman born into slavery has a good chance of remaining so for the rest of her life. Her children, if she has any, will also be slaves. But today most slaves are temporary; some are enslaved for only a few months. It is simply not profitable to keep them when they are not immediately useful. Under these circumstances, there is no reason to invest heavily in upkeep and indeed little reason to ensure that they survive their enslavement. While slaves in the American South were often horribly treated, there was nevertheless a strong incentive to keep them alive for many years. Slaves were like valuable livestock: the plantation owner needed to make back his investment. There was also pressure to breed them and produce more slaves, since it was usually cheaper to raise new slaves oneself than to buy adults. Today no slaveholder wants to spend money supporting

DOCUMENT

Introduction

These Standards are drawn from international human rights instruments and formally-recognized international legal norms. They aim to protect and promote respect for the human rights of individuals who have been victims of trafficking, including those who have been subjected to involuntary servitude, forced labour and/or slavery-like practices. Victims of trafficking are treated as objects or commodities by traffickers who use coercion, deception or debt bondage to deprive victims of their fundamental freedoms, such as their ability to control their own bodies and labour. To remedy this injustice and address the needs of the victims, the Standards adopt a victim-rights perspective. They protect the rights of trafficked persons by providing them with an effective legal remedy, legal protection, non-discriminatory treatment, and restitution, compensation and rehabilitation.

States have a responsibility to provide protections to trafficked persons pursuant to the Universal Declaration of Human Rights (UDHR) and through ratification or accession to numerous other international and regional instruments. These and other instruments to

which states have acceded or ratified are binding, while non-treaty declarations and standards adopted by the General Assembly have a strong hortatory nature and establish a standard by which national practices can be and are measured. International human rights instruments impose a duty upon states to respect and ensure respect for human rights law, including the duty to prevent and investigate violations, to take appropriate action against the violators and to afford remedies and reparation to those who have been injured as a consequence of such violations. Nonetheless, as yet, few states have fulfilled their obligation to implement these commitments or to provide adequate human rights protections to trafficked persons.

The protections called for in these Standards apply to all trafficked persons—women, men and children. However, it should be noted that trafficking disproportionately affects women and girls. The overwhelming majority of the persons trafficked to work in sweatshops and brothels are women and girls due to their inferior and vulnerable status in most societies. The gendered nature of trafficking derives from the universal and historical presence of laws, policies, customs and practices that justify and promote the discriminatory treatment of women and girls and prevent the application of the entire range of human rights law to women and girls.

The historical linkage of ‘women and children’ has proven problematic in multiple ways. Linkage often encompasses the treatment of women as if they are children and denies women the rights attached to adulthood, such as the right to have control over one’s own life and body. The linkage also serves to emphasize a single role for women as caretakers for children and to deny the changing nature of women’s role in society, most notably, women’s increasing role as the sole supporter of dependent family members and, consequently, as economic migrants in search of work. Nearly half of the migrants today are women. Consequently, the Standards focus upon the rights and needs of adults and pay particular attention to the concerns and needs of female victims of trafficking.

The Standards do not contain specific provisions addressing the special status, rights and needs of the girl child or children generally. Adults, particularly women, have legal positions and require legal remedies that are not always consistent with the legal positions and needs of children. The special rights and needs of children should be protected according to the principles contained in the Convention on the Rights of the Child.

The second component of the Standards is effective prosecution of traffickers, which depends upon the cooperation of victims. However, trafficked persons typically fear authority and are unwilling to trust the police. Traffickers exploit persons who are trapped in conditions of poverty and subordinated by conditions, practices or beliefs, such as gender discrimination, gender violence and armed conflict. Their

useless infants, so female slaves, especially those forced into prostitution, suffer violent, involuntary abortions. And there is no reason to protect slaves from disease or injury—medicine costs money, and it’s cheaper to let them die. The key differences between the old and new slavery break down like this:

<i>Old Slavery</i>	<i>New Slavery</i>
Legal ownership asserted	Legal ownership avoided
High purchase cost	Very low purchase cost
Low profits	Very high profits
Shortage of potential slaves	Glut of potential slaves
Long-term relationship	Short-term relationship
Slaves maintained	Slaves disposable
Ethnic difference important	Ethnic differences not important

Source: Bales, Kevin. *Disposable People*. Berkeley: University of California Press, 1999, 15. Used by permission.

ability to operate further depends upon the existence of lax or corrupt law enforcement officials and traffickers themselves are often corrupt officials. Thus, a critical component in the effective detection, investigation and prosecution of traffickers is the willingness of trafficked persons to assist in prosecutions. In recognizing and protecting the rights of trafficked persons, the Standards provide an incentive to trafficked persons to report to the authorities and act as witnesses.

In furtherance of achieving the full implementation of the rights of trafficked persons, we urge states to take all necessary measures to adopt and amend laws, where necessary, and to implement laws and policies extending the universally-accepted basic human rights of all persons to all trafficked persons. At a minimum, those laws and policies should contain the provisions set out below.

I. Definitions

States shall adopt and/or implement and periodically review and analyse legislation to ensure its conformity with the following definitions:

Trafficking: All acts and attempted acts involved in the recruitment, transportation within or across borders, purchase, sale, transfer, receipt or harbouring of a person

- (a) involving the use of deception, coercion (including the use or threat of force or the abuse of authority) or debt bondage
- (b) for the purpose of placing or holding such person, whether for pay or not, in involuntary servitude (domestic, sexual or reproductive), in forced or bonded labour, or in slavery-like conditions, in a community other than the one in which such person lived at the time of the original deception, coercion or debt bondage.

Commentary: Trafficking can involve an individual or a chain of individuals starting with the recruiter and ending with the last person who buys or receives the victim (such as the owner of the sweatshop) or the person who holds a person in conditions of slavery or subjects such person to slavery-like practices, forced or bonded labour or other servitude. Persons are trafficked into a multitude of exploitative or abusive situations, such as in the garment, agricultural, fisheries, begging, sex and other industries and in domestic labour as servants or through forced ‘marriages’ where they held as virtual prisoners, raped continually by their ‘husbands’ and often forced to become pregnant for the purpose of providing their ‘husbands’ with children. Trafficking does not require the crossing of borders.

A large portion of modern trafficking consists of moving persons from one region to another within one country. The violations and harms suffered by in-country victims are no less than for cross-border victims. For example, the harm suffered by a person trafficked several thousand kilometers within a country can be as great or even greater than the harm suffered by a person trafficked a few hundred kilometers across a border.

The core elements of the act of trafficking are the presence of deception, coercion or debt bondage and the exploitative or abusive purpose for which the deception, coercion or debt bondage is employed. Typically the deception involves the working conditions or the nature of the work to be done. For example, the victim may have agreed to work in the sex industry but not to be held in slavery-like conditions or to work in a factory but not in a brothel.

The nature of the labour or services provided as such, including those in the sex industry, are irrelevant to the question of whether or not the victim's human rights are violated. The trafficker's use of deceit, coercion, or debt bondage to force the victim to work in slavery-like or exploitative or abusive conditions deprive the victim of her or his free will and ability to control her or his body, which constitutes serious violation of the fundamental rights of all human beings.

The definition reiterates existing international human rights standards prohibiting such acts. The Slavery Convention, article 1(1), defines slavery as: "the status or condition of a person over whom any or all of the power attaching to the right of ownership are exercised." The Supplementary Convention to the Slavery Convention, article 1, calls for the elimination of the slavery-like conditions in which many trafficked persons find themselves. It calls for "the complete abolition or abandonment . . . [of] [d]ebt bondage, that is to say, the status or condition arising from a pledge by a debtor of his personal services or those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined," forced marriages, the transfer of a woman "for value received or otherwise," and delivery of a child "to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour." Article 6.2 prohibits the act of "induc[ing] another person to place himself or a person dependent upon him into the servile status resulting from any of the institutions or practices mentioned in article 1. . . ."

The International Labour Organization also condemns such slavery-like practices. Article 2 of ILO No. 29 prohibits the use of forced or compulsory labour, defined as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." Also, article 4 holds that "[t]he competent authority shall not impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies or associations."

Trafficked Person: A person who is recruited, transported, purchased, sold, transferred, received or harboured as described in "Trafficking" above, including a child (as defined by and consistent with the principles in the Convention on the Rights of the Child), whether the child has consented or not.

Commentary: The definition distinguishes between adults who freely agree to travel (within or across borders) and who are fully informed about the type and conditions of work or services they are expected to perform and adults who do not consent at all or whose apparent, implied or express consent is vitiating by the use of deception, coercion or debt bondage. It respects the right of adults to make decisions about their lives, including the decision that working under abusive or exploitative conditions is preferable to other available options. However, even when migrants know the type of difficult and even dangerous work they will be required to perform, they often become victims of trafficking because the traffickers routinely confiscate their passports, hold them in confinement through coercion, and otherwise deprive them of their freedom of movement and choice.

In situations where labour conditions are no worse than those expected by the worker and the worker is not deprived of her or his freedom of movement or choice, the abuser or exploiter remains criminally liable for other crimes, such as assault, unlawful detention, and labour abuses and for appropriate administrative and civil offenses. The existence of consent to work under such conditions does not excuse the abuser or exploiter from being subjected to the full force of domestic laws that prohibit such practices.

Lastly, the definition recognizes that children need special protection and that ‘consent’ can never be a defence to a charge of trafficking in children.

Trafficker: A person who, or an entity that, intends to commit, is complicitous with, or acquiesces to, any of the acts described in “Trafficking” above.

Commentary: The definition is intended to punish only those persons or entities that have the requisite mental element, including persons and entities that intentionally remain ignorant of the manner in which their acts contribute to the trafficking chain. It excludes persons and entities that unwittingly (and without any reason to suspect the existence of trafficking) become a link in the trafficking chain, such as an innocent taxi driver or hotel owner.

II. State Responsibilities

As discussed in the Introduction, all states have obligations to recognize and protect the human rights of all persons in conformity with the Universal Declaration of Human Rights and other international human rights instruments. States are obligated to respect and protect the human rights of the persons within its territorial boundaries, as well as to enable such persons to realise those rights, which includes the concept that human rights encompass not only states’ obligations to respect and protect but also their obligation to provide or make available the means (including information, capacity and structures) to ensure the realisation of rights possible by each person.

In recognition and furtherance of those obligations, all states should adopt and/or implement and periodically review and analyse legislation to ensure its

conformity with international human rights standards and its effectiveness in eliminating trafficking and in protecting all rights of trafficked persons. *Accordingly, states shall:*

Principle of Non-Discrimination

1. Ensure that trafficked persons are not subjected to discriminatory treatment in law or in practice on account of race, colour, gender, sexual orientation, age, language, religion, political or other opinion, cultural beliefs or practices, national, ethnic or social origin, property, birth or other status, including their status as victims of trafficking or having worked in the sex industry.
2. Cease enforcing and repeal all measures targeted at preventing or obstructing the voluntary movement of its citizens or legal residents within the country of residence, into or out of the country upon the ground that the citizen or legal resident might become, might be, or has been a victim of trafficking.

Commentary: Trafficking of women is typically facilitated by the intersection of discriminatory practices and beliefs about women from a particular ethnic, racial, class or other marginalised or disadvantaged group. Anti-trafficking measures must not, in the name of “protecting” all women from harm, deprive any woman of any of her human rights as the principles of non-discrimination and the universality of human rights norms are fundamental and non-derogatory. States have a duty to ensure that all procedural and substantive rights are protected, including the right to non-discriminatory application and interpretation of the law.

Safety and Fair Treatment

3. Ensure access to:
 - a. the embassy or consulate of the country in which the trafficked is a citizen or, if there is no embassy or consulate, ensure access to a diplomatic representative of the State that takes charge of the country’s interests or any national or international authority whose task it is protect such persons, and
 - b. non-governmental organizations that provide services and/or counseling to trafficked persons.
4. Provide protection to trafficked persons and witnesses in a manner that does not subordinate the safety and integrity of trafficked persons or witnesses to the interests of the prosecution, including:
 - a. Before, during and after all criminal, civil or other legal proceedings, measures to protect trafficked persons from intimidation, threats of reprisals and reprisals from traffickers and their associates, including reprisals

- from persons in positions of authority and, where necessary, provide similar protection to family members and friends of the trafficked persons.
- b. A change of identity, where necessary.
 - c. Take into account the need for the safety of the trafficked person, family members and friends in decisions on the arrest, detention and terms of any form of release of the trafficker, and notify the trafficked person prior to the release from custody or detention of persons arrested for, or convicted of trafficking, abusing or exploiting the trafficked person.
5. Provide all trafficked persons, as well as all persons who might be victims of trafficking (such as illegal migrants held in custody) with information about their legal rights and the procedures available for claiming compensation, restitution and rehabilitation as a result of being trafficked.
 6. Not detain, imprison or prosecute any trafficked person for offences related to being a victim of trafficking, including for lack of a valid visa (including a work visa), solicitation, prostitution, illegal stay and/or the use of a false visa or false travel or other documents; and not hold trafficked persons in a detention centre, jail or prison, at any time, prior to, during and after all civil, criminal or other legal proceedings.
 7. Prohibit public disclosure of the names of persons trafficked into the sex industry and/or the use, by any person, of a person's history of being trafficked to discriminate or cause harm to any trafficked person or her or his family or friends in any way whatsoever, particularly with regard to the right to freedom of travel, marriage, or search for gainful employment.
 8. Establish, whenever possible, specialised police and prosecutorial units that are trained to deal with the complexities, gender issues and victim sensitivities involved in trafficking.

Commentary: The above provisions, as well as others, are intended to ensure that trafficked persons are not treated as criminals but as victims of crimes who have suffered serious human rights abuses. The General Assembly recently called upon states [t]o encourage and assist women subjected to violence in lodging and following through on formal complaints. These provisions seek to meet that goal and constitute one leg of the stool upon which successful prosecutions sit. Unfortunately, most governments continue to treat trafficked persons as illegal migrants and criminals, thereby further victimising the victims.

Practice shows that current policies in the majority of states have the effect of deterring trafficked persons from reporting to the authorities, as reporting may result in arrest, detention and/or expulsion. The decision to press charges may have major consequences for the persons concerned, both in relation to their safety, in the light of the risk of retaliation against the person or her/his family (especially in cases of organised crime), and in relation to their future prospects, in the light of the risk of stigmatising exposure, social exclusion and/or harassment by authorities.

In order to obtain successful prosecutions of traffickers, states must implement policies and laws to allay the fear most trafficked persons have towards authority and law and must further provide incentives to encourage trafficked persons to seek help, report to the authorities and, if they wish, act as witnesses. The names of trafficked persons should not be recorded in any court or other public documents, nor should they be released to the press or members of the public, including family members, without the consent of the trafficked persons.

Access to Justice

9. Take all necessary steps to ensure that all trafficked persons, irrespective of their immigration status or the legality or illegality of the work they perform (e.g., begging or sex work) have the right to press criminal charges against traffickers and others who have exploited or abused them. In the case of a trafficker who has diplomatic immunity, states shall make a good faith effort to obtain a waiver of immunity or, alternatively, shall expel the diplomat. States should adopt a mechanism for promptly informing trafficked persons of their rights to seek this and other forms of redress.
10. Provide trafficked persons with a competent, qualified translator and legal representation before and during all criminal, civil, administrative and other proceedings in which the trafficked person is a witness, complainant, defendant or other party, and provide free transcripts or copies of all documents and records related to any and such proceedings, in their own language. Trafficked persons and defendants shall have different translators and legal representatives. If the trafficked person cannot afford to pay, legal representation and translation shall be provided without cost.
11. Recognize that trafficking is often only one of the crimes committed against the trafficked person. In addition to charging defendants with the crime of trafficking, states should consider bringing charges, for example, of:
 - a. Rape, sexual and other forms of assault (including, without limitation, murder, forced pregnancies and abortions) and kidnapping.
 - b. Torture, cruel, inhuman or degrading treatment.
 - c. Slavery or slavery-like practices, involuntary servitude, forced or compulsory labour.
 - d. Debt bondage.
 - e. Forced marriage, forced abortion, forced pregnancy.
12. Ensure that trial proceedings are not detrimental or prejudicial to the rights of the trafficked person and are consistent with the psychological and physical safety of trafficked persons and witnesses. At a minimum, states must ensure that:
 - a. The burden of proof prior to and during any prosecution of a person alleged to be guilty of trafficking lies with the prosecution and not with the trafficked person.

- b. The prosecutor either calls at least one expert witness on the causes and consequences of trafficking and the effects of trafficking on victims or consults with such expert in preparation for the criminal proceedings.
 - c. Methods of investigation, detection, gathering and interpretation of evidence minimise intrusion, do not degrade the victims or reflect gender-bias. For example, officials shall not use the personal history, the alleged 'character' or the current or previous occupation of the trafficked person against the trafficked person or cite them as a ground for disqualifying the trafficked person's complaint or for deciding not to prosecute the offenders.
 - d. Defendants are not permitted to introduce as a defence evidence of the personal history, alleged 'character' or the current or previous occupation (e.g., as a prostitute or domestic worker) of the trafficked person.
 - e. Trafficked persons subjected to, and witnesses of, sexual violence are permitted to present evidence in camera or by electronic or other special means, after taking into consideration all of the circumstances and hearing the views of the victim or witness.
 - f. Trafficked persons are informed of their role and the scope, timing and progress of the proceedings and of the disposition of their cases.
 - g. The views and concerns of trafficked persons are allowed to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system.
13. Ensure that, if a trafficked person is a defendant in a criminal case:
- a. She or he has the opportunity to raise a defence of duress or coercion and the same evidence is considered as a mitigating factor in sentencing, if convicted.
 - b. In cases involving charges of having committed a crime against a trafficker(s), including homicide, she or he has an opportunity to plead self-defence and to present evidence of having been trafficked and the same evidence is considered as a mitigating factor in sentencing, if convicted.
 - c. Trials involving migrant trafficked persons are conducted in accordance with these Standards, relevant provisions of Article 5 of the Vienna Convention on Consular Relations (VCCR) and the articles 16–19 of the ICPRWM. States providing assistance to their nationals under the VCCR shall act, at all times, in the best interests of, and consistent with the views of, the trafficked person.

Commentary: Action to combat trafficking must be targeted at the offenders and not at those who are victim of such practices. The victim too often is forced to stand trial instead of the offender, thus further undermining the victim's belief in the ability of the legal system to bring about justice. Anti-trafficking legislation, which is often more concerned

with illegal migration and criminal prosecutions than with the rights and needs of victims, is often used as an instrument of repression by governments to punish, criminalise and marginalise trafficked persons and to deny trafficked persons their basic human rights.

When laws target typically “female” occupations, they are usually overly protective and prevent women from making the same type of decisions that adult men are able to make. For example, anti-trafficking laws might prohibit women from migrating for work thereby throwing women into the hands of traffickers. Additionally, many women are deterred from reporting due to discriminatory treatment of migrant women, especially women working in the sex industry. Police and prosecutors have exhibited a tendency in many parts of the world to undermine the credibility of female victims of trafficking and to categorize women as “fallen” or “without virtue,” and thereby as not deserving of respect for their human rights.

Therefore, measures are needed to encourage and assist trafficked persons to report to the authorities and to act as a witness and to ensure “fair treatment” by the criminal justice system and the safety and integrity of trafficked persons.

Source: Global Alliance Against Traffic in Women, Foundation Against Trafficking, and International Human Rights Law Group. 1999. Human Rights Standards for the Treatment of Trafficked Persons. http://gaatw.org/books_pdf/hrs_eng1.pdf. Used by permission of the Global Alliance Against Traffic in Women.

ANALYSIS

Relying on earlier human rights documents, the drafters of these standards began with a definitions section and were the first to suggest a list of suspect activities (recruitment, transportation, purchase, sale, transfer, receipt, or harboring of a person) and a set of means to control (deception, coercion, use or threat of force, abuse of authority, or debt bondage) and purpose (placing or holding a person in involuntary servitude, in forced or bonded labor, or in slavery-like conditions). Although the language changed somewhat, this tripartite definition formed the basis of the Trafficking Victims Protection Act definition a year later.

The drafters then went on to define state responsibilities, including, most importantly, criminalizing trafficking in persons, and just as important, creating a victim-centered approach, creating a victims’ right to sue their traffickers, and more. The level of detail in the document makes it clear that the writers are aware of the serious discrimination victims endure in the justice and health and welfare systems in addition to the terrible physical and mental attacks that are a daily part of human trafficking.

The writers seemed to know that they were drafting for both a domestic discussion and an international one. A year later, the first iteration of the Trafficking

Victims Protection Act bill would be circulated in Congress, and much of what is suggested in this document would be adopted as part of the new law.

FURTHER READING

“Human Rights and Human Trafficking,” Office of the United Nations High Commissioner for Human Rights, Fact Sheet No. 36, 2014.

A RESPONSE TO LEGITIMATING PROSTITUTION AS SEX WORK (1999)

- **Document:** Janice Raymond, *Legitimizing Prostitution as Sex Work: UN Labour Organization (ILO) Calls for Recognition of the Sex Industry*
 - **When:** July 12, 1999
 - **Where:** New York, New York
 - **Significance:** A conference in 1988 brought together a dozen advocates and researchers and three or four prominent survivors writing and speaking about trafficking. Out of this conference, the Coalition Against Trafficking in Women was born. The coalition soon established itself as a global organization with chapters and secretariats in six regions of the world. It emerged from the heretofore ignored suffering of women and children trafficked into prostitution, and out of necessity took on the ILO 1998 Report that recommended economic recognition of the sex industry. Its early work was key in documenting commercial sexual exploitation of women and children as a form of violence against women and therefore a human rights abuse. This paper by Janice Raymond was the first response to the ILO Report, “The Sex Sector,” and lays out a series of counterarguments to those Lim made. Citations have been removed.
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DOCUMENT

In a controversial 1998 report, the International Labor Organization (ILO), the official labor agency of the United Nations, calls for economic recognition of the sex industry. Citing the expanding reach of the industry and its unrecognized contribution to the gross domestic product (GDP) of four countries in Southeast Asia, the ILO urges official recognition of what it terms “the sex sector.” Recognition includes extending “labor rights and benefits to sex workers,” improving “working conditions” in the industry, and “extending the taxation net to cover many of the lucrative activities connected with it.” Although the ILO report claims to stop short of advocating legalization of prostitution, the economic recognition of the sex sector that it promotes could not occur without legal acceptance of the industry.

For many years, the sex industry has lobbied for economic recognition of prostitution and related forms of sexual entertainment as sex work. Now the ILO has become the latest and most questionable group urging acceptance of the sex industry. Effectively the ILO is calling for governments to cash in on the booming profits of the industry by taxing and regulating it as a legitimate job. Entitled *The Sex Sector: the Economic and Social Bases of Prostitution in Southeast Asia*, the ILO report echoes the economic determinism of the February 14, 1998 cover story of *The Economist* aptly termed “Giving the Customer What He Wants.” The report

professes to be a survey of the “sex sector” in four countries authored by country-specific writers in Malaysia, Indonesia, Thailand and the Philippines. But the framework, summaries, and conclusions of the report were edited by economist Lin Lean Lim, longtime advocate for governmental acceptance of the “sex sector.”

Southeast Asia is facing its most serious economic crisis in decades. Together with the political uncertainty and instability in many parts of Asia, the economic crisis has exacerbated the recruitment of women into the sex industry. Governments which follow the ILO recommendations to recognize prostitution as legitimate women’s work will thus have a huge economic stake in the sex industry. Consequently, this will foster their increased dependence on the sex sector. The ILO report will be used as a justification for increasing the entry of women into “sex work” to lower the unemployment rate and then for taxing women’s earnings to raise desperately needed capital. As in Latin America, the impact of macro-economic policies in certain countries of Asia will provide these governments with the rationale to expand the sex industry. The government of Belize, for example, has “Recognized prostitution . . . [as] a gender-specific form of migrant labor that serves the same economic functions for women as agricultural work offers to men, and often for better pay.”

Rather than economic opportunity, the most glaring evidence of women’s economic marginalization and social inequality in almost all Asian countries is the rampant commodification of women in prostitution, sex trafficking, sex tourism and mail order bride industries. In this context of severe economic decline, it seems the height of economic opportunism to argue for the recognition of the sex industry based on transforming women’s sexual and economic exploitation into legitimate work.

The ILO report reads as an economic anointment of the sex industry. In this year of the 50th Anniversary of the International Declaration of Human Rights, the ILO report seems to regard human rights concerns about prostitution as an impediment to recognition of the sex industry. As part of its policy recommendations, it concludes that “A stance focusing on individual prostitutes tends to emphasize moralistic and human rights concerns, which are undoubtedly important, but which will not have a major impact on changing or reducing the [sex] sector.” The ILO grossly underestimates the violation and violence that prostituted women endure, dismissing the harm done to women in prostitution by stating that only 20% are badly exploited or kept in some form of bondage.

Contrary to the benign picture of prostitution painted by the ILO report, the violence that prostituted women endure is more acute and much more frequent than that experienced by other women. In a study of Nepali women and girls trafficked for prostitution into India’s brothels, Human Rights Watch/Asia documents that “Most girls and women start out in these cheap brothels where they are ‘broken in’ through a process of rapes and beatings.” In another report on Burmese women trafficked for prostitution into Thailand’s brothels, Human Rights/Asia states that “the brothel owners are profiting off the repeated rape and sexual assault of the Burmese women and girls sometimes over long periods of time. . . .” The report makes clear that rape and sexual assault were not restricted to under-age girls or to the girls’ or women’s initial seasoning into the brothels. “The combination of debt bondage,

illegal confinement and the threat or use of physical abuse force the women and girls into sexual slavery . . . for the duration of their time in the brothel.”

This picture of extreme violence is not restricted to developing countries. In a study of English street prostitutes, 87% of the women had been victims of violence in the past 12 months. The abuse ranged from verbal assault by clients to stabbings, beatings, and rapes. 27% had been raped; and 43% suffered severe physical abuse. Nearly all (73%) of the 87% were multiple victims of abuse (Benson and Matthews, 1995, p. 402). In another U.S. study of 55 survivors of prostitution, 78% were victims of rape by pimps and buyers an average of 49 times a year; 84% were the victims of aggravated assault and were thus horribly beaten, often requiring emergency room attention and hospitalization; 49% were victims of kidnapping and transported across state lines; 53% were victims of sexual abuse and torture; and 27% were mutilated.

In its minimization of the harm of prostitution and in its push to redefine prostitution as sex work by recommending that governments recognize the sex industry as an economic sector, the ILO seems oblivious to recent legislation demonstrating that countries are able to reduce organized sexual exploitation instead of capitulating to it. Two countries which have specifically refused to recognize prostitution as work are Sweden and Venezuela. In May, 1998, Sweden became one of the first countries to prohibit the purchase of sexual services with punishments of fines or imprisonment. In so doing, Sweden has declared that prostitution is not a desirable economic and labor sector.

Also in May, 1998, the government of Venezuela passed legislation rejecting the request of powerful pro-sex industry groups to register a legal union of so-called sex workers. The Ministry of Labor's decision was based on the fact that since the majority of “sex work” is prostitution, rather than being sexual work, it is sexual exploitation. Venezuela ruled that “prostitution cannot be considered work because it lacks the basic elements of dignity and social justice.” It also ruled that since one of the main purposes of forming a labor union is “to promote the collective development of its members and of their profession,” a decision in favor of unionizing so-called sex workers would in fact promote the development and expansion of prostitution.

For over a decade, women's groups worldwide have sought better measurement of women's contribution to national economies calling for the inclusion of work such as child or family care, housekeeping, cooking and shopping—most of which women have traditionally done—in labor force statistics. Since governments use these statistics to assess economic development and to prepare and implement social policies, failure to properly recognize and measure women's role in production distorts and minimizes women's economic contribution to society and impedes their access to economic resources.

Given the lack of recognition and the devaluing of women's work in the systems of national accounts, it is a travesty that the ILO would now be calling for the economic recognition of prostitution as legitimate work. If women in prostitution are counted as workers, pimps as businessmen, and the buyers as customers, thus legitimating the entire sex industry as an economic sector, then

governments can abdicate responsibility for making decent and sustainable employment available to women.

Why specifically is the ILO urging recognition of the sex industry? The report lists a number of reasons which, it says, are based on interviews, conducted mostly by academics and university students, and done with small samples of women in the sex industry in each of these four countries. It is highly questionable whether this small sample of women, interviewed by academics and university students, could get at the truth of prostituted women's lives. For this and other reasons, we think it is important to address these arguments and to offer detailed responses.

Arguments and Answers

1. Prostitution is "mainly economic in nature . . . The stark reality is that the sex sector is a 'big business' that is well entrenched in national economies and the international economy . . . Especially in view of its size and significance, the official stance cannot be one of neglect or non-recognition."

As an economic activity, prostitution institutionalizes the buying and selling of women as commodities in the marketplace. It further removes women from the economic mainstream by segregating them as a class set apart for sexual servitude. It reinforces the definition of women as providers of sexual services, thereby perpetuating gender inequality. And it legitimizes and strengthens men's ability to put the bodies of women at their disposal.

Because the sex industry is integrated into the economic, social and political life of many countries doesn't mean we should passively accept this state of affairs as a kind of economic law. The ILO's dispassionate recommendation to recognize the sex industry as an economic sector capitulates to a conservative laissez-faire market ideology prevalent in many countries. That the sex industry contributes significantly to the economy and GDP of many countries should be taken as a cause for alarm and action against the industry rather than an excuse for acquiescence to it.

2. "The sex business has assumed the dimensions of an industry and has directly or indirectly contributed in no small measure to employment, national income and economic growth. . . ." In Southeast Asia, the sex industry prostitutes "between 0.25 and 1.5 per cent of the total female population in Indonesia, Malaysia, the Philippines and Thailand" and "accounts for between 2 per cent and 14 per cent of the gross domestic product (GDP)." In Thailand, "prostitution was the largest of the underground businesses winning out over drug trafficking, arms trading, contraband in diesel oil, trafficking in human labour and gambling . . . These economic bases underscore the importance of the commercial sex sector in the economies of Southeast Asian countries, and help to explain why the policy issue cannot be seen only from the perspective of the welfare of individual prostitutes . . . It is worth considering . . . the possibility that official recognition of the sector would be extremely useful . . . for extending the taxation net to cover many of the lucrative activities connected with it."

The international narcotics industry contributes significantly to the economy and GDP of several Latin American and Asian countries. Millions of farmers and

families in countries such as Columbia and Burma depend on the income generated by the drug sector. Foreign currency generated by drug trafficking is said to contribute to economic stability. The drug sector involves diverse but highly interrelated establishments such as farming, transportation, bars, gambling, prostitution, tourism, and hotels. The revenues generated by the drug sector, if calculated, would rival the revenues generated by the sex sector. Should we, by the same token, recognize the “drug sector,” redefining harmful drugs as legal marketable commodities and drug traffickers as legitimate businessmen?

The ILO report makes little mention of the harm that accrues to women in prostitution. As the report states, “the welfare of individual prostitutes” cannot be allowed to dictate the policy issue. It is this harm, made visible in the violence and health consequences suffered by women in prostitution, that most strongly refutes the ILO arguments that prostitution should be accepted as work by recognizing the sex industry as an economic sector. Study after study has shown that the lives women in prostitution lead are hazardous and bordering on brutality.

The harm of prostitution is graphically evident in its health consequences. Women in prostitution suffer the same injuries that women subjected to other forms of violence against women endure, including bruises, broken bones, black eyes, concussions, and loss of consciousness. The reproductive health effects include a high incidence of unwanted pregnancies, miscarriage, multiple abortions and infertility. In addition to HIV/AIDS, chronic pelvic pain and pelvic inflammatory disease (PID) from sexually transmitted diseases (STDs) are alarmingly high among women in prostitution. In the study done by Human Rights Watch/Asia of Burmese women prostituted in Thailand, fourteen of the thirty girls interviewed were HIV positive, infected by the men who bought them. The report on Nepali women and girls cites the Indian Health Organization’s estimate that “80 percent of sex workers are infected with a sexually transmitted disease . . . Activists there have also encountered cases of forced sterilization of brothel inmates, hysterectomies during abortion being the most typical.”

Recognition of the sex sector will not change this reality.

3. The ILO report argues that “All the country studies confirm that earnings from prostitution are often more than from alternative employment opportunities open to women with no or low levels of education.”

Rather than accept the unexamined premise that some women earn more in prostitution than anyplace else, the ILO should question why prostitution is the only place where mostly women can turn when all else fails. The ILO report acknowledges that “A striking finding from the survey is that although many women indicated that they would like to move to other jobs, they were conscious of the income loss they would face.” It is a gendered reality that prostitution may be the best of the worst economic options that many women have, and it is understandable that women turn to prostitution in these circumstances. However, the fact that there are often no better job options for women shouldn’t be manipulated to turn many women’s desperate economic plight against them by institutionalizing their exploiters as entrepreneurs. This is to surrender the political battle for women’s right to decent and sustainable work, and to tolerate that women’s bodies are increasingly bought for sex and used as merchandise in the marketplace.

The ILO report conveys the impression that prostitution is a viable and even lucrative economic activity for all, including the women most involved. In a response to the ILO report published in *Businessworld* (Philippines), the author notes that “the majority of the sex workers [in the Philippines] receive only an average of 10% of the total revenue (P54,000 per year or P4,500 per month) that they make for the capitalists, brokers or employers.” Of this total they must spend between P5,000 to P6,000 per month for their clothes, transportation and cosmetics. Another large portion which is not calculated goes to support their families. “At the end of the day (or night), therefore, most of these sex workers . . . usually find themselves helplessly and, worse, perpetually trapped in a debt maze.” They thus end up more unable to cope with economic disadvantage or further impoverished.

These figures mirror the situation of women in the sex industry in other countries who ultimately see very little of the money they earn. In industrialized countries, women in prostitution and related sex industries such as stripping, spend a large portion of their small income to buy drugs which help anesthetize the violence, violation and indignities of the acts that are perpetrated against them. Furthermore, as Dorchen Leidholdt has pointed out, women in prostitution stop being marketable as sexual commodities in their early 30s, since the male demand is for younger women. The fact is that this so-called sex work is temporary, and women end up with no job skills, often so debilitated that they are unable to work, and more destitute than when they began.

4. “On the demand side, recent economic development has created increasing . . . capacity and, very likely, the motivation of men to buy sexual services in a much wider and more sophisticated range of settings . . . This has resulted in the widening of the diversity of settings in which sexual services are offered, and in the establishment of new and more luxurious types of sex establishments.”

The most invisible part of the sex industry is the buyer and his role and responsibility in creating the demand for prostitution. The ILO report offers no criticism of the male entitlement to buy women for the sex of prostitution. Citing the expanding reality of male demand for prostitution, and even acknowledging that “poverty has never stopped men from paying for sexual services,” the ILO’s recommendations implicitly support the view that men need sex and are entitled to have it even if they have to purchase a woman’s body. The body of the prostituted woman is the vehicle with which the male buyer acts out his gender-based dominance. The ILO seems to assume that male biology dictates male sexual behavior, and that thus prostitution is inevitable.

If not biologically inevitable, the ILO report does assume that prostitution is economically inevitable. “Given that the economic and social foundations are not easy to change, the sex sector is not going to disappear in the foreseeable future. Especially in view of its size and significance, the official stance cannot be one of neglect or non-recognition.” The explicit recommendations of the report urge governments to recognize the right of men to buy women in the market sector because male purchasing power is increasing. This is no less than an economic rationalization of male sexual privilege and economic power.

Instead of transforming the male buyer into a legitimate customer who buys women’s bodies with impunity, the ILO should seriously study various innovative

programs which make the buyer accountable for his sexual exploitation, thereby regulating his actions instead of recognizing them as legitimate. For example, the SAGE Program in San Francisco has designed a program to educate those men arrested for soliciting women in prostitution about the risks and impacts of their behavior. Buyers have to listen for eight hours to those most traumatized by male sexual exploitation, especially the prostitution survivors, who tell these men that they wreak havoc on women's lives leaving behind them a wake of danger, degradation, disease and often death. Winner of the prestigious 1998 Ford Foundation/JFK School of Government "Innovations in Government Award," the SAGE Program addresses the reorientation of male clients and is premised on the assumption that men can change, rather than prostitution being inevitable.

5. When the sex sector is recognized as an economic sector, governments may be better able to regulate and monitor the expanding criminal elements of the industry such as organized crime, drug abuse, and especially child prostitution. "Yet governments have found it exceedingly difficult to tackle the problems . . . because . . . The sex sector is not recognized. . . ."

Even if it were possible to remove the criminal element that controls the sex industry, or to limit prohibition only to child prostitution, these "solutions" can be compared to attempts to regulate slavery as a business—a serious proposal at the height of the slave trade. Those who advocated abolition of the slave trade knew that it was/is not possible to legislate against slavery by simply removing abusive slave owners, or by tolerating the slavery of adults but not of children, because slavery itself is the abuse. They knew that these "economic sector solutions" were tantamount to reinforcing slavery as an oppressive institution.

Conclusions

Official recognition of the sex sector is not likely to improve things for women. Those who argue that recognizing prostitution as work will protect women from abuse fail to acknowledge that violence is often done to women in prostitution not just because laws do not protect women or the "work," but because men's use of women in prostitution and the acts women must engage in are sexually and physically degrading, exploitative, and most often violent . . .

The Geneva-based body is the oldest United Nations subsidiary and has been involved with the world of work for decades . . . In many developing countries, the ILO is looked upon with reverence by trade union leaders who believe that the people running the organisation have workers' interests at heart. However . . . the ILO has . . . grossly underestimated not just the integrity of governments in this region but also the intelligence of the South-East Asian people . . . Prostitution and the sex industry are social ills, not legitimate occupations that the ILO claims will bring in better incomes than unskilled labor. For years the governments in this region have been fighting a war against the flesh trade. Their status as newly-impooverished countries should not give the ILO or anybody else the impression that Malaysia, Indonesia, the Philippines or Thailand are desperate and would do anything for economic growth.

Recognizing the legitimacy of the sex sector will reinforce women's subordination and lead to the greater sexual objectification and economic inequality of women. In

countries that have recognized prostitution as work, “there are more brothels than schools.” Do we really want brothels everywhere? Is prostitution a career to which we want young girls to aspire?

Women in prostitution need social services, educational opportunities and economic alternatives—real economic recognition that doesn’t freeze them in a life of prostitution but provides a different future. Women in prostitution need income-generating projects that will provide them with decent livelihoods—the kind of jobs that do not lock them into lives of sexual and economic exploitation. Women in prostitution need to be brought into the economic mainstream, not to have prostitution mainstreamed as legitimate work.

Source: Coalition Against Trafficking in Women. 1999. “Legitimizing Prostitution as Sex Work: UN Labour Organization (ILO) Calls for Recognition of the Sex Industry” by Janice Raymond. Accessed July 26, 2016. <http://www.catwinternational.org/Home/Article/61-legitimizing-prostitution-as-sex-work-un-labour-organization-ilo-calls-for-recognition-of-the-sex-industry>. Used by permission of the Coalition Against Trafficking in Women.

ANALYSIS

Until Lim’s article for the ILO and Janice Raymond’s response, the debate about how prostitution should be viewed and categorized remained a sub-agenda of the growing movement against human trafficking. It is safe to say that the general public was unaware of the bitter divide forming between the two sides on this issue. Both sides were against sex trafficking, but one side believed that prostitution was a form of work as enshrined in the UN’s Universal Declaration of Human Rights, and recognized by international human rights law.

Article 23.1 of the Universal Declaration states, “Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.” Likewise, Article 6 in Part III of the International Covenant on Economic, Social and Cultural Rights states that parties to the treaty “recognize 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, and will take appropriate steps to safeguard this right.” It goes further adding that “countries should take steps to realize this right including technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.”

If prostitution is work, then it should be recognized as such and given the full protections offered to other forms of work. Noting the need for advocacy for this position, several new women’s organizations formed, including the Global Alliance Against Trafficking in Women (GAATW), which distinguished between trafficking, an egregious human rights abuse, and prostitution, a protected form of work for women which should be recognized as such by countries and given full protection under the law. They argued that this would reduce the violence in prostitution,

allow women in prostitution to report crimes committed in prostitution (rape, robbery, and other criminal activities) that were not receiving full protection of the law. They also argued that if recognized by law, more women would work in prostitution because they could make as much as 10 times what they could make in most entry-level jobs open to females. Finally, they argued that, as with abortion, prostitution is a choice that women make about their own bodies, and they need to have the freedom to make this choice.

Raymond took these arguments one by one and produced a blueprint for the opposite side of the argument. Prostitution is trafficking, she argued, and as such it is per se a form of violence against women and a human rights abuse. She contended that the choice argument is a false one, given that early studies on prostitution provide evidence that those in it have endured prior abuse as a child including physical assault, sexual assault, molestation, incest, and other physical and mental abuse that damage them. She also questioned Lim's argument that because an activity is occurring and making money it should be recognized as part of the global economy. Drug trafficking is taking place around the world, she noted, yet we don't make the argument that it should be recognized as a moneymaker and included in the gross national product (GNP), which is an estimate of total value of all the final products and services produced in a given period by the means of production owned by a country's residents.

The two arguments engrossed advocates around the globe, splitting the UN between countries that criminalized prostitution and those that did not; it spilled into academia and generated peer-reviewed articles arguing the right of women to prostitute, and it influenced a generation of feminists and human rights activists and creating a rift in the newly forming anti-trafficking movement that has lasted over three decades. As the years went on, organizations and individuals honed their arguments and lobbied for favor in the laws and policies being established in countries around the world.

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DOCUMENTING INTERNATIONAL LAW (1999)

- **Document:** Testimony of Laura J. Lederer, Hearing before the Subcommittee on International Operations and Human Rights of the Committee on International Relations, House of Representatives, First Session, 106th Congress
 - **When:** September 14, 1999
 - **Where:** Washington, D.C.
 - **Significance:** The phrase “human trafficking” first came into the lexicon in the early 1990s. At the time, understanding of the problem was limited to a few country-specific reports by human rights groups. Lederer was the first to document the global nature and scope of the problem of human trafficking. Her research documented trafficking cases and provided a comparative analysis of the laws in 190 countries and territories around the world, examining whether they had adequate provisions addressing human trafficking and modern-day slavery.
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DOCUMENT

The purpose of The Protection Project is to build a comprehensive database of laws and related materials on the commercial sexual exploitation of women and children. We are documenting the laws on child prostitution, child pornography and prostitution and surrounding activities, including pimping, pandering, procuring, maintaining a brothel, corruption of a minor, forced prostitution, trafficking, slave trade, kidnapping, rape and other laws in all 220 countries and territories worldwide.

We are also documenting the age of majority, the age of consent to sexual relations, legal age for marriage and other ages relevant to commercial sexual exploitation of women and children, and we are examining the range of penalties, defenses to the charges, sentencing patterns, extraterritoriality and extradition treaties, law enforcement capability, victim assistance programs that are government-mandated, and other related matters. The collection of the data is taking place through a series of questionnaires, and the preliminary data base will be complete by the end of this year.

Trafficking is a global human rights problem of which the majority of victims are women and children. Let me illustrate what trafficking is by telling you Lydia's story, one of several true stories of women and girls who have been trafficked in the Eastern European area in recent years. Lydia was 16 and hanging around with friends on the streets, and here you can fill in the name of any of the sender countries, the Ukraine, Russia, Romania, Lithuania, Latvia, and the Czech Republic, when they were approached by an older beautifully dressed woman who befriended

them and told them that they were so nice-looking that she could get them part-time jobs in modeling.

She took them to dinner. She bought them some small gifts, and when dinner was over, she invited them home for a drink. Taking that drink is the last thing that Lydia remembers. The woman drugged her, handed her and her friends over to another agent, who drove them unconscious across the border into, and here you can fill in the name of any of the receiver countries, Germany, the Netherlands, Italy, the Middle East, even as far as Japan, Canada, and the United States.

When Lydia awoke, she was alone. She was in a strange room in a foreign country. Her friends were gone. A while later, a man came into the room, and he told her that she now belonged to him. I own you, he said. You are my property. You will work for me until I say stop. Don't try to leave. You have no papers, you have no passport, you don't speak the language. He told her if she tried to escape, his men would come after her and beat her and bring her back. He told her that her family back home was in danger. He told her that she owed his agency \$35,000 of which she would work off in a brothel by sexually servicing 10 to 20 men a day.

Stunned and angry and rebellious, Lydia refused. The man then hit her, he beat her, he raped her. He sent friends in to gang rape her. She was left in the room alone without food and water for 3 days. Frightened and broken, she succumbed, and for the next 6 months she was held in virtual confinement and forced to prostitute herself. She received no money. She had no hope of escape.

She was rescued when the brothel was raided by police. They arrested the young women and charged them with working without a visa. They arrested the brothel manager and charged him with procuration, but he was later released.

They did not attempt to arrest the brothel owners or to identify the traffickers. The girls were interviewed, and those who were not citizens of the country were charged as illegal aliens and transferred to a women's prison where they awaited deportation. A medical examiner found that Lydia had several sexually transmitted diseases. In addition, she was addicted to a potent form of cough medicine. She was physically weak. She was spiritually broken. There was no one to speak for Lydia. She feared the future because she knew her keepers. They had networks, they had the power, they had the resources to track her down, to kidnap her and bring her back again. She knew they could hurt her family, and they had an interest in doing so. Because unlike drugs where the product can be sold only once, when you can modify a human being, she can be sold over and over and over again. The risk is low, the potential profits are high, and girls like Lydia are a real target.

There was no one who seemed to care about Lydia's life. The authorities didn't have the resources or the interest in tracking down the organizations of individuals in the trafficking chain, from the woman who drugged Lydia to the agent who brought her across the border, to the agent who broke her will, to the brothel managers and brothel owners. In addition, some corrupt law enforcement officials were obviously involved because the process of getting Lydia and her friends across the border and keeping the brothels running involved payoffs to local visa officials, to police in the country of origin, to border patrols for both countries and local police in the destination country. Lydia is without protection. The traffickers have bought theirs.

Now, take Lydia's story and multiply it by hundreds of thousands, and you can get a picture of the scope of the problem. UNICEF is estimating that 1 million children are forced into prostitution in Southeast Asia alone and another million worldwide. An estimated 250,000 women and children in Russia, the Newly Independent States, Eastern Europe are trafficked into Western Europe, the Middle East, Japan, Canada and the United States each year. An estimated 20,000 children from Central American countries such as Guatemala and El Salvador are being trafficked for purposes of commercial sexual exploitation.

The Department of State estimates over 50,000 women are trafficked into the United States, and then there are the countless thousands of women and children in Africa and Central and South America and other countries where we have very little information on the scope of the problem. Of the 155 cases of forced prostitution that were brought to the courts in The Netherlands, one year, 1996, only four resulted in convictions. Thousands more have not been brought to the courts at all. The accounts of arrest that police have made in North America show that women are being sold for as much as 16,000 to brothel owners. When the rescued women tell the stories of debt bondage and sexual slavery in which they are forced to work off \$10-, \$20-, or \$30,000 debt bonds by servicing dozens of men a day, these numbers and the accompanying accounts illustrate the trafficking of women and children for the purposes of prostitution has become a contemporary form of slavery, and the numbers may soon be on par with the African slave trade of the 1700's.

The reason The Protection Project is documenting the laws of individual countries is because trafficking is international, but all of the laws addressing the problem are national. The United Nations conventions, such as the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women and the other conventions, can play an important role in setting international norms, but they do not have any enforcement capability, even when the countries adopt them into their Constitutions.

The countries have to draft and pass criminal code statutes that specifically address each of these crimes if they want their law enforcement people to have tools to arrest, charge and prosecute traffickers. We have found that countries often tell us that they have adopted such and such convention, and so they have taken care of the problem, and they don't go the next step, which is to . . . draft and pass those statutes.

. . . [The] three P's, prevention, prosecution and protection . . . are three necessary ways to attack the problem. [However] if you take any one alone, it is not going to work. [For example, Italy has many protection programs, but [weak laws against trafficking]; if you are not prosecuting, you are just doing a mop-up job.

. . . [T]rafficking often originates in countries with poverty and few opportunities for women and few laws to prosecute traffickers, but that is not the only problem. It is true that economic deprivation is part of it, but there is also a large demand, and if there weren't that demand . . . there wouldn't be as much of the kind of kidnapping and abduction and trickery and deceit that we are seeing. We have to deal with that demand issue as well as with the fact that that the women and children may feel like they need to do this, or that their parents may be selling them into it. There are all those customers on that other end there that are creating the need for the supply.

Based on our preliminary findings, we expect the trafficking will continue to increase in the absence of specific enforceable laws aimed at prevention, prosecution and protection. As someone who has worked in this field for 20 years, it is exciting to see this Subcommittee's work and leadership on this important issue, and I am happy to see it recognized as a major human rights priority. It is time to move beyond the conferences and the meetings and the seminars and the expressions of shock to a coordinated effort to criminalize the conduct of these interlocking rings of businessmen, these modern mafias, these corrupt government officials.

We are the people who can help the young women and girls like Lydia. We can draw attention to their plight. We can help nations strengthen their laws and ultimately find the ways to prevent and protect young women and children from commercial sexual exploitation.

Many countries are looking for leadership from the United States. U.S. leadership is important not only because of [our history as a champion of] human rights, but because it serves the American national interest. One of the hallmarks of the 21st century is going to be the emancipation of women worldwide, and the issue of commercial sexual exploitation of women and children is one of the last [problems], even in the [mainstream] women's movement, but definitely not the least, to be examined by our society. So your efforts, Mr. Chairman and Subcommittee Members, will put America on the right side of history as women gain power and dignity.

Thank you very much.

Source: Trafficking of Women and Children in the International Sex Trade Hearing before the Subcommittee on International Operations and Human Rights of the Committee on International Relations House of Representatives. 106th Congress, 1st Session, 1999 (Statement of Laura J. Lederer, Research Director and Project Manager, The Protection Project, Harvard University, Kennedy School of Government) (36–40). <https://www.gpo.gov/fdsys/pkg/CHRG-106hhrg63274/html/CHRG-106hhrg63274.htm>.

ANALYSIS

While most early efforts in the United States were focused on the victims and the terrible abuses they endured, no organizations were systematically tracking the nature and scope of human trafficking worldwide. Because it is a transnational problem, it needs transnational solutions. Lederer's work focused on the global problem of trafficking, especially the international routes and patterns of traffickers. Using open source materials that reported on specific cases of trafficking, she created a series of world maps that tracked the countries of origin that victims were recruited from, the countries traffickers used to transit them through, and the destination countries—usually resource-rich countries that they were trafficked to. Before the criminal codes of any country had been translated, and before most people realized that each country had a body of law addressing slavery and commercial sexual exploitation, she contacted over 190 countries and territories around the world, cataloguing statutes addressing debt bondage, peonage, involuntary servitude, and slavery, as well as the body of law around commercial sexual exploitation, including

prostitution, pimping, pandering, procuring, maintaining a brothel, and related activities. Most countries in the world had a statute prohibiting child prostitution. Beyond that, the body of law on commercial sexual exploitation of women and children varied greatly, with about half the countries criminalizing prostitution, while the other half permitted it and regulated it or had no statute addressing it. Similarly, most countries had laws prohibited slavery, some of them almost 100 years old, but still good law. Yet, at the time of this first study of the laws on trafficking and slavery, several countries still had not criminalized slavery, including Mauritania and Niger.

The analysis of the laws worldwide reveals fascinating patterns in a century of development of the law. Countries reported serious problems in the early 1900s (for instance, in trafficking of women and children) and the precursor international entities to the UN (the International Peace Conference and the League of Nations) held conferences to draft and pass international instruments (agreements, treaties, conventions, and protocols) to address the traffic in women and children and shortly after, countries drafted and passed laws addressing “white slavery.” For example, after the 1905 and 1910 iterations of the Suppression of White Slavery Convention, many countries in Europe borrowed language from the conventions for laws prohibiting the “international movement of women and children across borders, either into or out of the country for purposes of prostitution.”

Each country’s laws are critical because they give law enforcement the tools necessary to arrest, charge, prosecute, and convict traffickers. Where laws are weak or where laws exist but are not enforced, trafficking can and will flourish.

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SENATE TESTIMONY OF THE INTERNATIONAL JUSTICE MISSION (2000)

- **Document:** Statement of Gary A. Haugen, Hearings on International Trafficking in Women and Children Hearings, U.S. Senate
 - **When:** April 4, 2000
 - **Where:** Washington, D.C.
 - **Significance:** International Justice Mission (IJM) is a Christian organization working to stop modern-day slavery. After a hiatus of over a century, Christian organizations at work in missions around the world began to report incidents that sounded like human trafficking. At the same time, in Washington, D.C., Congress was beginning to work on a draft of a new law that would address trafficking as a form of modern-day slavery. A coalition of feminist and faith-based organizations began meeting to advocate for the passage of a new law. From these meetings with Congress came a call for witnesses and testimony about the nature and scope of human trafficking around the world. This document is significant because it is the first public testimony by a faith-based organization calling for Congress to take action and put a human face on the first congressional hearings on human trafficking.
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DOCUMENT

My name is Gary Haugen and I serve as the President of the International Justice Mission.

In my opinion, it takes extraordinary leadership to look this evil squarely in the face, and to find beyond its ugliness the beauty and worth of these women and girls who are more like us and our own than we dare to imagine, who suffer these abuses one at a time, and who suffer largely because good people do nothing. Accordingly, I am grateful to Senator Brownback and this Committee for the courage manifest in convening this hearing, for listening to the stories of these women and children, and for changing everything by agreeing that we will no longer do nothing.

By way of background, the International Justice Mission (IJM) is an international human rights agency that provides a hands-on, operational field response to cases of human rights abuse referred to us from faith-based ministries serving around the world. Churches in America send out tens of thousands of doctors, teachers, missionaries and humanitarian aid workers around the world. Frequently these workers observe severe human rights abuses in the communities where they serve. These workers refer these cases to us, and then we conduct a professional investigation to document the abuses and mobilize intervention on behalf of the victims.

Many of these cases referred to us involve women and children being held in forced prostitution. Accordingly, we deploy criminal investigators to infiltrate the brothels, use surveillance technology to document where the women and children are being held, and then identify secure police contacts who will conduct extraction actions with us to get the children out. We then coordinate referral of these children for appropriate after care. We find that a significant percentage of these women and children have been trafficked across international borders.

I hope to offer some insights from our experience in the field about the dynamics of international sexual trafficking. Perhaps the best way to do so is by introducing you to three women from South Asia—“Jayanthi,” “Sumita,” and “Anita.”

Jayanthi grew up in a poor rural area in India north of Bombay. When she was 14 years old and riding a train back to her home village, four women tricked her into drinking some drugged tea and transported her unconscious to Bombay. The women knew that they would find a ready buyer for their merchandise within the brothels of Bombay’s red-light district. Indeed, like thousands of other women and girls each year, Jayanthi was sold into a Bombay brothel for a few hundred dollars where she was locked away in a windowless room and beaten until she agreed to provide sex to the customers. Through beatings with plastic pipe, metal rods, and electrical wires, Jayanthi was forced to provide sex to about 20 customers a day for the next three years.

Sumita was 12 years old when she arrived as a penniless runaway at Victoria station in Bombay. Her mother had just died, and when Sumita learned that her father was trying to marry her off to an older man in the village, she jumped on a train for Bombay. Arriving alone and destitute in the city, Sumita was spotted by a man at the train station who offered to get her a job at a restaurant. She eagerly followed him across town and soon found herself not in a restaurant, but in a brothel where she was effortlessly sold into prostitution for less than \$200. After days of beatings Sumita said she felt like “a bird with broken wings” and submitted to the customers.

Anita was a twenty-six year old mother of two in Nepal when she was abducted off a bus while on her way to the vegetable market. The traffickers drugged her and loaded her onto a train bound for India where they knew they could readily sell her into a brothel in Bombay. When Anita regained consciousness across the border, she could feel small plastic bags bound to her waist beneath her garments. Her kidnaper told her that bags of Hashish had been strapped to her body and warned that if she sought help from the police, they would throw her into jail for smuggling drugs across an international border. Accordingly, Anita silently and fearfully endured a five-day train ride to Bombay, where she was indeed sold into a brothel. Amidst crying and howling, Anita was locked away in a windowless second-story room for four days and beaten with metal rods until she submitted to the rape by her first customer. From then on, she was forced to service about four customers per day.

Eventually, the International Justice Mission was able to facilitate the release of these young women from these brothels, and the interrelationship of their stories help us understand the dynamics of international sexual trafficking. Obviously, if we want to help the victims of international sexual trafficking and shut down the business, we need to understand how it works.

1. **International sexual trafficking is driven by what is tolerated in the country of final sale—the country where the customer actually purchases sex for money.** Traffickers abduct and fraudulently transport women and children across national borders because they are confident there is a willing buyer to pay them for their effort. They know there is a brothel owner who will eagerly receive their human contraband and pay handsomely for it. Of course, the brothel keeper eagerly receives the women and children who have been trafficked by force, fraud or coercion because the brothel owner knows that forced prostitution is effectively tolerated. There is a willing buyer for these women and children because the brothel keepers feel perfectly comfortable trading in the sale of human beings. They operate without fear of effective criminal sanction.

It is the sheer ease with which forced prostitution operates in certain countries that creates the financial incentive for international traffickers. This is why the stories of Jayanthi and Sumita—the two victims of domestic sexual trafficking—are so important to Anita's story of international sexual trafficking. The ease and dependability with which Jayanthi and Sumita and thousands like them are sold into forced prostitution provides the international sexual trafficker with the necessary confidence that there will be a thriving market for his merchandise.

In the red-light districts that the IJM infiltrates in South Asia and Southeast Asia, tens of thousands of women and children are bought and sold with the same ease with which you and I might haggle over a used car.

Of course, the coercive nature of the sex trade is powerfully masked behind dark, padlocked doors and hidden corridors. The deprivations of food, the beatings with electrical wires, metal rods, and leather straps, the cigarette burns, and the brutal rapes are conducted in the hidden rooms and upper floors where, if you can get to them, you can find women and children locked in literal cages. This we have seen with our own eyes. Down below and up front, at the more public street level in the red-light district, the girls who have been beaten into resignation mingle with women who have chosen to be prostitutes and together they present a seemingly harmless and willing face for the commercial sex trade. You would utterly miss the point if you began to ask them whether they were working as prostitutes voluntarily, for most would shrug their shoulders and say "Yes." But ask them to tell you about their first customer, and there always is a first customer, and you are likely to get a very different story. A story of abduction and kidnapping. Or a story of fraudulent marriage in which they were taken from their family and simply sold into a brothel. A story of being lured into town with promises of work in a restaurant or hair salon only to be sold into a brothel, beaten into submission, subjected to a nightmare beyond imagining, and in time resigned to their despoiled life.

Obviously, such a vast and brutal industry is able to operate only because it is tolerated by the civil authorities of the country. At the International Justice Mission, we work in jurisdictions in Asia where the police bribe their way within the police department in order to get assigned to the red-light district because that's where they can make the most money protecting the brothels. We sit and watch the police arrive on schedule to pick up their weekly bribes, or find them, without much embarrassment, receiving their payment in-kind. We see police delivering food to

the brothels so the keepers don't have to let the girls out for meals. We know there are doctors that oversee the use of drugs to stupefy trafficking victims, and almost anyone from the highest concierge to the lowest cab driver is eager to help you find "little girls."

This is the environment that provides the dependable market for international sexual trafficking. Ratchet up the cost of doing business in forced prostitution, and you dry up the demand for women and girls who have been coercively or fraudulently trafficked. The brothels won't want them because they will be too much trouble; but, at the moment, they're no trouble at all.

2. Whether forced prostitution is effectively tolerated is driven by the quality and vigor of local, street level, law enforcement.

Brothel keepers are impervious to the power of the international community's resolutions, treaties, covenants and protocols unless they impact the conduct of the police officers or constables in their streets. Unless the brothel keeper actually gets in serious trouble with the civil authorities, he's going to keep doing what he's doing. There is just too much money to be made. In most countries, the problem is not so much with the criminal laws addressing forced prostitution (although important improvements need to be made here as well) the problem is with the enforcement of the law. Ask the victims of sexual trafficking here about the meaning of their country's laws against forced prostitution or international laws against sexual trafficking. They will tell you that the only law they know is the man who walks their streets with a stick and a gun. International sexual trafficking depends upon a flourishing local trade in forced prostitution, and you cannot combat forced prostitution at a distance. Public policy must reach the dirty streets, or it won't reach the victims of sexual trafficking. How then do we invigorate local law enforcement against forced prostitution? This question leads to our third point.

3. The quality and vigor of local law enforcement's response to forced prostitution is driven by: (1) the priorities of senior level political authorities, (2) the clarity and comprehensiveness of the criminal law and (3) the quality of resources and training provided to local law enforcement.

It is possible for U.S. Government policy to affect local law enforcement. Every local law enforcement jurisdiction around the world makes a choice between being the friend of forced prostitution or the enemy of forced prostitution. Of course, choosing to do nothing is choosing to be its friend. Therefore, there must be forces at work to move local law enforcement to change sides, to become the enemy of forced prostitution. In this process, the influence of U.S. policy is limited, but it can be part of a combination of forces that eventually tip the local scales of decision-making toward a decision to fight. As mentioned, however, there are three primary forces working on local law enforcement: (1) political priorities of authorities at the top of the chain of command, (2) clarity and comprehensiveness of the law, and (3) local law enforcement resources and training. This is where an appropriate combination of carrots and sticks in U.S. policy can make a difference. First, every law enforcement officer is part of a chain of command. Eventually, the enforcement officer in the street manifests the priorities of those at the top of the chain of command. If forced prostitution is not an absolutely urgent priority of the most senior political and public authorities in the country, then the powerful market forces at

work on the street will always make local law enforcement the active or passive friend of forced prostitution.

And, as it turns out, U.S. policy toward a country can have a very powerful effect upon the priorities of a nation's most senior authorities who sit on top of local law enforcement's chain of command. And here it must be observed that these public officials will move an issue from the "good idea" column and into the "urgent priority" column only when they think something bad will happen if they don't. This is why senior government authorities may be pushed to the point of making forced prostitution an "urgent priority" through a sense that something bad is going to happen in their relationship with the U.S. Government if they don't.

Let's face it. The victims of forced prostitution generally come from the most powerless and vulnerable sectors of the society. This is especially the case, in developing countries. The victims are first and foremost, the poor, the children, and the women. They simply do not constitute a powerful or even significant political constituency. And yet, if the goodies that flow from a country's relationship with the world's only remaining superpower and the world's largest economy are jeopardized by a failure to respond to an issue, then that issue can take on an utterly fresh sense of urgency. This is where the stick of negative consequences in U.S. policy can have a powerful and occasionally decisive impact. It can reorganize the priorities of senior officials. And they in turn will reorganize the priorities of those who report to them.

The first and most basic reorganization of priorities should be as follows: the U.S. Government should insist that local law enforcement get out of the business of forced prostitution. Everywhere that the IJM confronts forced prostitution in the world we find police taking protection bribes from the brothels, assisting in the harboring of victims, tipping off brothels about police raids, and even occasionally operating the brothels themselves. Active police complicity is not hard to find, it's hard not to find. In countries where there is rampant forced prostitution, credible evidence of police collusion would not be difficult for any U.S. Embassy to document. And on the basis of such a finding, it seems a rather modest requirement to insist that countries that seek aid and good relations with the United States not be active collaborators in the business of rape for profit.

Finally, even urgent law enforcement priorities cannot be vigorously and effectively pursued without clear and comprehensive criminal laws or without resources and training that equips street level law enforcement to be effective. This is the carrot of U.S. policy. We can assist in the development of clear and comprehensive statutory definitions of the crimes of forced prostitution and sexual trafficking. The U.S. Government can provide targeted assistance to foreign governments for resourcing and training special units to fight forced prostitution and international sexual trafficking. All of the work that the IJM has done in physically rescuing women and girls from forced prostitution we have done with the assistance of select trusted contacts within local law enforcement overseas. Local law enforcement can be equipped to respond effectively—and there certainly is no hope of actually addressing the problem if they are not properly equipped and trained to do so.

This calibrated combination of U.S. policy initiatives can make a real difference in the quality and vigor of the response by local law enforcement to forced prostitution.

4. All efforts to combat forced prostitution are impacted by the victims' eagerness to seek help and to cooperate in prosecution.

All law enforcement depends upon the support of the community and the cooperation of victims. But there is no way to reasonably expect victims to cooperate with law enforcement unless two conditions are met: (1) local law enforcement must get out of the business of protecting and profiting from forced prostitution, and (2) victims must be provided with a safe environment in which they can feel freely empowered to participate of their own volition in the justice system.

First, local law enforcement must get out of the business of protecting and profiting from forced prostitution. One must understand that the law enforcement personnel that most victims of sexual trafficking are familiar with are the ones they see turning a blind eye, taking a bribe, or catching and returning the runaway to the brothel. Unless U.S. policy places strong pressure on foreign governments to prosecute vigorously and severely those police who participate in and profit from the sex trade, then one cannot reasonably expect much cooperation from the victims of that environment who are trafficked to our own shores.

Secondly, victims must be provided a safe environment in which they can feel freely empowered to participate of their own volition in the justice system. It is well-known that the greatest ally of international sexual trafficking has been the way government authorities have treated the victims of sexual trafficking as criminals rather than as the vulnerable rape victims that they are. This allows the trafficker to easily coerce his victims with horror stories of what will happen to them if they try to escape or go to the authorities. Here the United States has an opportunity to set a standard of compassion and generosity for the world by the way we treat women and girls who are trafficked into our own country from foreign lands. We can adjust our immigration laws in a way that creates a safe, non-coercive environment for the victims, an environment that vastly enhances the chances of their cooperating in the prosecution of the bad guys. In addition, we can support those vital after care facilities that give these devastated women and children a concrete vision of a life worth living.

Mr. Chairman, members of this Subcommittee: hear their stories. And use the power, wealth and influence entrusted to the United States of America to change the dynamics of abuse, to turn the tide of power to the side of these who need our compassion and protection and against those who prey most brutally upon the vulnerable. Thank you very much.

Source: International Trafficking in Women and Children Hearings before the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations United States Senate. 106th Congress, 2000. (Statement of Gary A. Haugen, Director, International Justice Mission, Washington, D.C.) (36–43). <https://www.gpo.gov/fdsys/pkg/CHRG-106shrg63986/html/CHRG-106shrg63986.htm>.

ANALYSIS

Senator Brownback of Kansas held one of the first hearings on human trafficking. In meetings with advocates before the hearing, he noted the importance of

putting a human face on the problem. It was Gary Haugen's gift to be able to bring home to U.S. legislators the human suffering of sex trafficking victims all around the world. Prior to founding IJM, Haugen worked at the U.S. Department of Justice (DOJ). In 1994, he was sent as a representative to the United Nation's Center for Human Rights to serve as Officer In Charge of the investigation in the Rwandan genocide. While there, Haugen had a transformational experience that led to his starting IJM. He said that the injustice he witnessed in Rwanda became "personal and real." These convictions led him to conduct an international survey in 1996 of 70 Christian missions and organizations from around the world to identify the various types of injustices that they encountered in their work. On that list were child prostitution and forced child labor. These became the central issues on which IJM focused.

IJM was formed in 1998. They worked only in foreign national countries, but their base of operation and support was in the United States. Their approach in the earliest days was search and rescue. This involved finding a place where children were being trafficked, either into prostitution or into forced labor, and then organizing a rescue mission in which they would fly over to the country in question, do basic investigative research on the target, and then move in and rescue those being bought and sold. During the first years, they worked in a few countries with egregious problems of child sex trafficking. Like Global Survival Network, they utilized tie tack cameras to capture real-life exploitation, often posing as sex tourists and negotiating with traffickers to purchase children as young as 10–12 years old for sex. This footage shocked legislators and later the general public and catalyzed action in law, policy, and programming in the United States as well as in other countries. Later, they adjusted their method to work alongside law enforcement from the country in which they were working.

The testimony that Haugen gave at the 2000 International Trafficking in Women and Children Hearings was drawn from the survivor stories that IJM had accumulated from their rescues and from his first-hand experiences working in the field. In this testimony, Haugen makes a case for the United States using its influence as one of the last superpowers to create the political will in countries that had no reason to care about their most vulnerable citizens. He argued for new U.S. legislation that would have foreign policy provisions—both "carrots" and "sticks" that would urge, encourage, indeed press countries into doing the right thing. In this testimony, we can see the some semblance of what would become the Trafficking Victims Protection Act of 2000, including both Trafficking in Persons Report, which assessed and rated every country in the world on its significant progress in addressing human trafficking, and the sanctions that the United States used to provide incentives for countries to work toward eradicating trafficking.

FURTHER READING

Bales, Kevin. *Disposable People*. Berkeley: University of California Press, 1999.

Haugen, Gary, and Gregg Hunter. *Terrify No More: Young Girls Held Captive and the Daring Undercover Operation to Win Their Freedom*. Nashville, TN: Thomas Nelson, 2010.

EXPLOITING AMERICANS ON AMERICAN SOIL (1992 FOUNDING OF SAGE RECOUNTED IN 2005 SPEECH)

- **Document:** Testimony of Norma Hotaling, “Exploiting Americans on American Soil: Domestic Trafficking Exposed.” Commission on Security and Cooperation in Europe (“The Helsinki Commission”), One Hundred Ninth Congress, First Session
- **When:** June 7, 2005
- **Where:** Washington, D.C.
- **Significance:** One of the earliest survivor-led service providers was SAGE (the acronym stands for Standing against Global Exploitation). Founded in 1992 (incorporated in 1995) by the late Norma Hotaling, it offered street outreach, peer counseling, health services, life skills, and job training for survivors of commercial sexual exploitation. At the time, her concept of the one-stop-and-shop services for survivors was unique. Since then it has been replicated across the United States. For 15 years (1994–2008) she traveled the world giving voice to victims of trafficking, and advocating for services for victims of trafficking, and even for men who are “johns” (the slang for buyers of sex). Here she lays out her vision for changing laws and policies that will address some of the root problems of human trafficking.

JANIE’S STORY

I grew up in Minnesota in a poor neighborhood. My Mom got addicted to drugs and sold everything we owned for money for drugs—the cars, the furniture, our clothes. She even sold a ham and some toys the church gave us for Christmas. Then she disappeared. I was 12 years old and had four younger brothers and sisters. I went from door to door in the neighborhood and everyone helped a little bit. I tried to keep the family together as best I could. I met this older guy who gave us food and money and told all the pimps who were hovering, “You stay away from her.” I had help from our community center but right around the corner were a series of crack houses and whore houses. In back you could see women doing it for money behind the dumpsters. When I would walk down the street, there was this guy in a white Cadillac. He would drive

DOCUMENT

Since the First World Congress Against Commercial Sexual Exploitation of Children (CSEC) held in Stockholm, Sweden in 1996, the world has become increasingly aware of the scope and horror of the buying, selling, trafficking and the use of children in prostitution and pornography . . . Testimony after testimony described the long-term effects of commercial sexual exploitation, including mental health disease, substance abuse, stigmatization, homelessness, and ill treatment by law enforcement and social service providers. I was a witness to stories of the hundreds of thousands of children who were having their childhoods brutally ripped away. They [were] left to fend for themselves as they grew into adults and become the thousands of women, girls and men we serve every year at the SAGE Project in SF, the “toss-aways,” the “throw-aways” who are blamed

for their own victimization. There are women and girls today in the United States, my sisters, my friends missing, buried in shallow graves, being raped, beaten, kidnapped, tortured, recruited, trafficked, killed and laying unidentified, unrecognized thus renamed as Jane Doe's in city morgues and in burial plots.

I founded SAGE Project 16 years ago, as I was exiting the criminal justice system. I had been going to juvenile halls, jails, psychiatric hospitals, emergency rooms and drug treatment programs since I was 12. No one ever asked me about my life, about prostitution, being beaten, raped or kidnapped. I was just a whore, a dope fiend, and a criminal. How could I get out? No one ever treated me like a person. No one asked me if I hurt or why. Today, under the TVPA, I would be considered a trafficking victim: I was trafficked into prostitution when I was a child.

I founded SAGE because:

Like 90% of our clients, I experienced sexual abuse including rape as a child through prostitution.

Like 82%, I had been brutally assaulted.

Like 84%, I had been homeless.

Like most of my clients, I suffered severe symptoms of PTSD and I desperately wanted to get out of prostitution and a life that made no sense to me.

Women and girls like myself, if left untreated, cycle endlessly, most often until they die, through medical, mental, social services, criminal justice systems as high users, costing cities billions.

Many of the problems facing women in prostitution are similar to those addressed in other marginalized populations: finding affordable housing; financial planning; creating safe environments and relationships; escaping and healing from the emotional and physical effects of violence; engaging in treatment for drug/alcohol addictions; resuming educational or vocational training. These problems, however, may be exponentially compounded by longstanding, widespread myths and misunderstanding about prostitution. On the one hand, prostitution has been glamorized and romanticized, while on the other, the women themselves have been viewed as criminal, sexually deviant, socially inept and/or mentally deficient. Women trying to escape prostitution, many already traumatized by long term physical and sexual violence, routinely endure listening to jokes about “whores” and “hookers”—jokes that diminish, belittle, or even idealize the pain. Would we consider jokes about prison rape funny? Pimps and ho's have become part of popular

by and call, “Hey baby, you're cute. Call me when you're 16.” Finally, one day I gave in. I let him pick me up and take me for a ride. At first, I was his girlfriend and he took good care of me. But then one day he said, “I want you to do something for me. I want you to go out on a date with a friend.” I didn't want to but he said, “It's just a date.” He dropped me off at his friend's house. His friend said he wanted me to touch him, then wash his back, then lie with him. Then he gave me money to give to my boyfriend. After that, I was in the life and saw about 30 johns per day. One day my boyfriend said he wanted to take a vacation. He drove for days, then he got out in front of a gas station and went inside. He never came out. Instead a guy got in the car and punched me in the face and threw me in the trunk of his car. I was reeling from being hit and thinking I was going to die. I didn't know it at the time, but this guy had bought me from my boyfriend. He drove to Natchez, Mississippi and took me inside his house. His mother said, “Oh no you got to take that whore down the basement.” I tried to tell her that I was only 16 years old and had a family in Minnesota. She didn't care. He took me downstairs and locked me in the basement. I screamed and cried. His mother would yell “shut up bitch we're having women's group for the church.” Church music was playing and I was down there crying and screaming. I thought I was going to die in that hole. I don't know how long I was down there—days, maybe weeks. I didn't have any ID or money or any way to escape. I thought I would be a Jane Doe—discovered years after I was dead. No one except that pimp who sold me knew where I was and I realized he wasn't coming for me. When he sent a john down to have sex with me, I was ready. I tore that guy up. I escaped and ran past him and out the door and onto the road in a T-shirt screaming and crying.

culture as we see from the “Pimps Ball” and popular singer Nelly’s “Pimp Juice.” Where is Nelly when his brothers are facing long prison terms and his sisters have burns and whip marks from head to toe or are dead in ditches?

Trafficking and the Commercial Sexual Exploitation of Children

The trafficking of children and adolescents into the sex industry is widespread around the world and the United States is no exception.

The young boys and girls used for prostitution are deprived of their basic human rights. In keeping with the international figures, the prostituted children in the U.S. face an increased risk of sexual and physical assault, suicide, pregnancy, abortions, and sexually transmitted diseases, including AIDS, post-traumatic stress disorder and death. 75–95% of all 13–18 year old girls in our justice systems have been victims of abuse. Many of these girls have been exploited for pornography or have suffered or witnessed physical and sexual violence. For these girls, the average age of entry into prostitution is 13–14, an age at which these girls are entering an endless cycle of arrest, drug addiction, and violence. The result is traumatic and profound lack of self-esteem causing disempowered behaviors: dropping out of school, prostitution, addiction, selling of drugs, and violence. Their exploitation is perpetuated by continued reliance on the very people who have physically, emotionally, and sexually assaulted them. These children come from all of backgrounds, races, ethnicities, though the preponderance come from the least advantaged, isolated and disorganized segments. They are of all races and ethnic backgrounds. As a result of abuse and neglect, they have lost the valuable life-skills training that a healthy family and environment provide. As these children age, and chronologically become adults their situations remain unrecognized and untreated and they continue a downward cycle of drugs, re-victimization, jails and death.

What happens to women and girls who are recruited by pimps and sold to those who demand them?

Historically, procurers (pimps) and traffickers targeted runaways, girls that hang with the crowd breaking or bending the simplest of rules, kids that smoke, cut class, are adopting acting out behavior associated with trauma, and girls that come from abusive backgrounds who have low self-esteem and confidence.

The procurers begin by befriending the girls and young women and then calculate a romantic connection. The strategy of befriending and love is designed to fit the vulnerabilities of its potential victim. A procurer’s goal is to find naive, needy teenage girls or young women, con them into dependency, season them into fear and submission, and “turn them out” into the sex trade. Today, because trafficking in women and girls [as] profitable [as] trafficking in guns and drugs, all you have to be is a girl or young woman to be targeted.

A critical step in seasoning a girl is changing her identity. She is given a new name and any necessary papers, such as false driver’s license, social security card and birth certificate, so that the police will not be able to trace her real identity or determine her true age. More importantly, the stripping of the girl’s identity removes her past and makes her the property of the pimp. According to anthropologists Christina and Richard Milner, “A pimp wants a woman’s mind more

than her body. It's love, loyalty, and obedience he requires, as well as, a capacity for self-discipline."

More of the recruitment process involves attention and affection including pet names such as Foxy Lady, Star Lady, Sportin Lady. . . . There is usually glamour and flash—new clothes, jewelry and followed by the "turning out lines." "Baby, if you really loved me . . ." "You only need to do it for a little while, till I get on my feet. For us." "You just need to make some extra money until I get a settlement" or "until you get enough money for me to buy some stash, then I'll take care of us." Shortly after she turns her first date, the verbal, physical and sexual abuse begins. She turns over all her money to the pimp. He puts a quota on her, increases it over time, breaks her by calling her a "whore, nothing but a whore." Telling her that no one else would have her. He begins to beat her into submission, raping her, making her work longer and longer hours, increasing her financial quota and only giving her "affection" after she has submitted to his almost insurmountable demands. Many young women SAGE works with have often made between \$500,000 to \$1,000,000 (half a million to one million) in their lifetimes. When asked how much they can access if they wanted to leave, it is never more than \$20. If a pimp suspects a girl is hiding money, she is digitally searched, beaten, burned, raped, and publicly humiliated.

Mimi Silbert, Executive Director, Delancy Street Foundation with Ayala Pines conducted a study of 200 individuals involved in prostitution and described an emotional process they called psychological paralysis. Psychological paralysis was experienced by the subjects in dealing with their lives as a result of their excessive and senseless victimization.

Sixty (60) percent of the sample were victims of incest and child sexual abuse and reported extremely negative emotional and physical impacts from the abuse. Victimization continued to be very high as a result of their involvement in prostitution. According to Silbert and Pines, three quarters of the prostitutes who participated were victims of rapes unrelated to prostitution. The study found that in addition to the physical and sexual abuse, in most cases the victims reported feeling there was absolutely nothing that they could do about the victimization. It was suggested that when excessive victimization is coupled with the lack of understanding of the causes of the abuse, as well as a sense of impotence to do anything to change the situation, then a sense of psychological paralysis develops. Silbert and Pines found that for the majority of the subjects, rape was the final awareness that there was no aspect of life over which they could exert control. This final lesson served as one more advancement of their psychological paralysis characterized by immobility, acceptance of victimization, feeling trapped and hopeless, and the inability to take the opportunity to change.

One of the frustrations commonly cited by probation officers, police, and other field workers with individuals involved in the so-called sex industry or as I call it "the industry of destruction," is the fact that they do not take advantage of opportunities for different lifestyles even though they claim to hate the life they are in. Programs designed to deal with individuals escaping prostitution should be designed to help develop a sense of control over one's life, promote the ability to change their problems, and to break out of traps. According to Silbert and Pines, psychological

paralysis occurs as an outgrowth of extended and repeated situations which lead to “learned helplessness.” A growing body of literature, in social science has shown that when people undergo a series of negative events over which they have no control, the result is learned helplessness. At SAGE, we see this manifest in what we call, “Severe Traumatic Bonding with Perpetrators.”

Silbert and Pines contend that when as a sense of psychological paralysis pervades the individuals in the sex trade population, the person becomes completely unable to leave the prostitution lifestyle, even when other opportunities are offered. They maintain a belief that bad consequences would occur no matter what new steps they take. They have lost any sense of control over their lives and have accepted feeling trapped and victimized. This helps to explain why 88% of the prostitutes in the study by Farley and Hotaling reported that they wanted to get out of prostitution but were unable to leave even when offered the choice.

Recruitment: Supply and Demand

Recruitment into prostitution flourishes in proportion to an increased demand. The demand for trafficked women and girls increases due to a variety and combination of factors including:

- Normalizing the rape and sexual abuse of children and the exploitation of women by viewing the demand [for commercial sex] as normal [for] men with normal sexual needs. In actuality, we are sanctioning training grounds for men to learn and practice pedophilia. The girls who are preyed upon become untreated abused and traumatized women.
- Learned and accepted exploitation and violence
- Collusion with and protection of exploiters, especially the demand
- Loosened social norms concerning the sex industry
- Profitability by individuals, organized groups, and governments
- Accessibility to and promotion of the multi-billion dollar sex industry
- Educational systems [do not] promote equality between girls and boys/men and women
- Non-existent, weak, or un-enforced laws . . . to combat the demand and the traffickers
- Criminal justice systems that focus on arresting and prosecuting women and girls involved in prostitution, but not their male counterparts.

Since its inception in 1995, over 7000 men have attended “Johns School,” which boasts a 98% success rate and funds a wide array of services using the fines the men pay.

- Studies show that prostituted children tend to be concentrated in the cheaper end of the prostitution market, where conditions are the worst, and the concentration of customers of adults in the sex industry the highest.
- Although some children are prostituted by and/or specifically for pedophiles and preferential abusers, the majority of the several million men who annually exploit prostitutes under the age of 18 are first and foremost

adult prostitutes users (adult men buying adult women) who become child sexual abusers through their prostitute use, rather than the other way around.

- The world of prostitution, whether legal or illegal, provides an arena where laws and rules that constrain sex with minors can be evaded. Laws and social conventions make it difficult and dangerous for individuals to buy children for a sexual purpose in non-commercial contexts, but prostitution potentially provides instant access to a selection of children.
- When asked how a person justifies having sex with an underage prostituted child, men surveyed in the First Offenders Prostitution Program (John's School) responded they "don't even think about it." They know that law enforcement efforts are focused on the youth/child and not on them. Broad-based media campaigns should offer the stern message: "age is not a defense, you will be prosecuted, jailed, and required to register as a sex offender after your release from prison." In short, the message should be "your life will be over and your next victim will be spared." After working with over 8000 men/johns, I have found that they know they have a lot to lose, such as jobs, marriages, children, and reputations and will change their behavior when given the correct message backed by severe consequences.

Traditionally, our social response to child sexual abuse through prostitution has been either complete denial, or the blaming and criminalizing of the child. We have documented instances of U.S. judges describing five-year old children as "provocative" or "promiscuous," and our legal system has a long history of shaming girls and boys who are the targets of adult sexual violence. For most of our social and legal history, being sexually assaulted or violated meant that the victim, whether child or adult, acquired the status of "whore"—someone who is, supposedly, without credibility, rights, or respect. We have begun to shift our relationship to children, to adult women, and to sexual violence. Policy makers, law enforcement officials, and the general public are beginning to come to the understanding that rape is truly a crime—not solely in legal terms—but a crime against the human rights of the victim, and against all human beings who want to live in a safe and healthy society.

Our shifting beliefs have been mirrored in practice: it is a crime for an adult to have sex with a child; it is a crime to have sex without consent. The perpetrators of these crimes can at least hypothetically be arrested, prosecuted, and incarcerated. The victims of these crimes at least hypothetically are entitled to justice, victim's compensation, and protection. We have begun to challenge the idea that a person's appearance, dress, or social status defines whether or not she or he can truly be recognized as a victim, or the idea that some people are "deserving" victims.

When it comes to prostitution in the United States, however, in ideology and practice, it's as if no changes have occurred. As long as someone is labeled a prostitute—whether child or adult, we still say that it is OK to dehumanize, to mistreat, and to endanger that person. The children we call "prostitutes" are in reality the children who we have designated as acceptable and blameworthy targets for sexual abuse. There is no law that states a child can consent to sexual abuse and by doing so be arrested. But still we arrest children and deny them services.

Unfortunately, there are several ways in which we have created: 1) a group of kids who it's okay to sexually abuse and rape and 2) an arena for men to function as pedophiles and have their behavior ignored and/or normalized:

We ignore the abuse. We are [categorizing] sexually abused children as criminals, rather than as individuals experiencing victimization. When a child tells a court-mandated reporter or police officer that an adult has had sex with them and paid them money, that reporter or officer is, and should be, legally bound to report the incident as an instance of child sexual abuse. Not only does this reporting not occur, the child is at risk of criminalization and punishment.

We encourage the perpetrators. By focusing on the behavior or supposed wrongs of children, we are ignoring the perpetrators. We rarely go after the pimps, and NEVER go after the “johns,” and thus, NEVER arrest and prosecute the men as sexual abusers. Even calling them “johns,” rather than child sexual abusers continues the protection and misrepresentation of what's happening and creates group of children it is acceptable to rape and abuse. As a society, we are encouraging and enabling the perpetrators of child sexual abuse; we are creating a group of men who are learning—through adult prostitution—how to be sex abusers of children, and often how to be torturers and batterers. Many of these men bring these behaviors home or into other social arenas, and most of them continue to prey on children within the sex industries.

We don't give kids a way out. Our approach to the sexual abuse of children within prostitution rarely involves the creation of resources that truly enable healing and recovery, rather than punishment and stigma. The Office of Victim Compensation and other resources intended to meet the needs of crime victims deny resources to children abused through child prostitution, based on the mis-definition of these children as criminals. This means that resources are rarely available in any venue that does not involve the humiliation and vulnerability of arrest and incarceration. If the child is arrested, she or he is cycled through the criminal justice system, sometimes repeatedly, intensifying the shame, pain, and vulnerability that make children easy prey to pimps and abusers, and decreasing the possibility of successful intervention.

We are working in “crisis mode” rather than on prevention. Arresting children, women, or even arresting traffickers, pimps and the demand is a very far cry from preventing the problem. Rather than responding to the urgent needs of children who are being abused, we are still asking them to prove to us that they are not one of the “bad kids.” We must communally reject the myth that if a girl is on the street with lipstick and a mini-skirt on she can somehow consent to sexual abuse and that by consenting, she has committed a crime. When a child sexual abuser says “but she said she was 18,” we must realize that this is not a defense against child sexual abuse or statutory rape. This message must be accompanied by a strong public education campaign and rehabilitation

options, or these men will simply seek new victims or take the abusive behaviors home. While it is important to address crises among abused youth, the long-term eradication of the problem will be achieved only by establishing prevention programs for boys, men and girls, and full criminal sanctions focused on the men/abusers/ buyers and the pimps and traffickers.

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The following are key components to the systemic change that must occur to successfully address trafficking:

Define the issue. Court mandated reporters such as law enforcement personnel, probation officers, judges, and lawyers must be educated and required to correctly define and report child prostitution as child sexual abuse, to define the so-called prostitutes as abused children, and to define the so-called “johns” as child sexual abusers.

The public needs education in order to better recognize child sexual abuse in and out of prostitution. We must recognize the clear links between child and adult prostitution on a global scale, and not presume that anyone labeled a prostitute is responsible for a system in which we allow people to buy human bodies. Only by transforming our relationships to all forms of sexual exploitation and abuse, whether child or adult, can we disempower a multi-billion dollar sex industry in which the average age of entry is 13–14, and a society in which many adult men are socialized, from boyhood, to feel entitled to sexual service.

Reform legislative, investigative and prosecutorial practice. We must utilize our existing child sexual abuse and statutory rape laws as well as child abuse prevention and treatment resources. There needs to be a mechanism to move a child from the juvenile system into the family courts. It is time to re-define child prostitution within its correct legislative framework: child safety. We need dramatic legislative reform, requiring total decriminalization of children and increased prosecution of pimps, and especially the people actually creating the demand for child sexual abuse, and making it profitable: the customers, i.e., sexual abusers and rapists. Adults who sexually abuse children in prostitution must face prosecution and consequences already afforded by our child protection laws, including becoming registered sex offenders.

Build coalitions and provide training. Enforcement and coordination among local, state and federal law enforcement officials is sporadic at best. treatment necessary to address the trauma surrounding sexual exploitation.

Create a real escape for children and women through appropriate social services and recovery. Without a safety net and resource base, taking children out of the criminal justice system only means returning them to pimps and perpetrators. Do not make services for women and girls contingent on testifying against abuser/trafficker. Withholding services from individuals who have suffered the worst of human rights abuses is inhumane and only continues the abuse by giving a person no place to escape or heal.

Don't use protection and safety as an excuse to build more and better services for these youth in detention or in the adult criminal justice system. We need to be focused, vigilant, and logical in our approach. The critical importance and effectiveness of community-based peer counseling programs has been documented for a number of marginalized populations, including immigrants, refugees, and survivors of state-sponsored violence, homeless persons, drug-addicted persons, HIV-infected individuals, and Vietnam veterans. Client-created and survivor-run programs in which providers address the social, political, and economic contexts of clients' lives are the most effective.

Victims of Violent Crimes resources need to be directed toward the rehabilitation efforts of these children and women. When they are not, we are clearly saying that these children and youth are consenting to their own sexual and physical abuse and that is a crime for which they should be punished and denied services. Most adult women are untreated children and trauma survivors. They have suffered decades of bad and often unethical treatment by professionals and the criminal justice system.

Focus on prevention. We need a sustained attention to all the social causes of prostitution, including but not limited to: gaping problems in our social response to child abuse within families and communities; extremes of poverty; outdated legal doctrines and practices; gender inequality; racial stratification; and a horrifying societal tolerance for the definition of prostituted children as without value or rights.

Provide all interventions in unison. SAFE HOUSES need to be created because now our streets are not safe and there is not the safety needed to respond to the crisis created by years of neglect

Look to the "True Experts" for guidance and answers. Survivors with proven track records have created the web of services and the network of support that serves thousands per year with little help. Tap into this network and other survivor run groups.

As a survivor-advocate turned service provider, I am often expected by my colleagues in government to endorse, or participate in finding new ways to criminalize or increase the incarceration time of children and adults, supposedly in the name of protection. My sense of ethics, my experiential understanding of the issues, and my respect for the lives of children and all human beings requires that I reject the idea that people who are abused are de facto criminals.

All people deserve dignity and respect, and deserve to be free of commercial sexual exploitation. The crime we need to confront and immediately redress is the betrayal and scapegoating of the most vulnerable members of our society—by some of the most powerful.

Source: Exploiting Americans on American Soil: Domestic Trafficking Exposed: Hearing Before the Commission on Security and Cooperation in Europe. 109th Congress, 2005. (Prepared statement of Norma Hotaling, Founder and Director, Sage Project, Inc.) (62–76). <https://www.csce.gov/international-impact/events/exploiting-americans-american-soil-domestic-trafficking-exposed>.

ANALYSIS

The late Norma Hotaling rarely told her full story of being trafficked into prostitution as a child, linking up with a pimp who enforced his control through beatings, deprivation, and humiliation. She did recount being on the streets, and sold by one pimp to another—each pimp more vicious than the previous one.

She spent 18 years of her life trapped in prostitution, most of it in San Francisco in the Tenderloin, an area of the city described in tour guides as “the worst in the city.” Known for its squalid conditions, cheap hotel rooms, homelessness, crime, illegal drug trade, corner liquor stores, and multitude of strip clubs, it was the place in San Francisco where buyers and sellers converged in the business of prostitution.

As the quota set by her pimp rose to over \$4,000, Norma described spending sometimes 48 to 72 hours out on the streets trying to make what she was required in order to avoid being beaten. During that time, she used alcohol and drugs, first occasionally and then progressing to the harder drugs, to numb herself against the unbridled violence her pimp used to force her out into the street each day, and the additional violence and abuse at the hands of customers, which included being hit, kicked, stabbed, burned with cigarettes, threatened with a weapon, and thrown out of a moving car. She was arrested more than 30 times. In the last 10 years of her life in prostitution, the same police officer arrested her multiple times, and she said that each time he put her behind bars he told her that she needed to get out of the life, that she was better than what her pimps were using her for. At her last arrest, her pimp had beaten her so badly she couldn’t walk. She described lying in the bed in jail, and realizing that she would not survive the next beating, and she vowed to get out.

When she was released from jail, she looked for services and quickly discovered there were none for someone like her. Although she had been raped multiple times, and beaten hundreds of time, the rape crisis shelters dealt strictly with sexual assault, and the domestic violence shelters narrowly defined their services for spousal abuse. Drug and alcohol addiction services were just beginning to emerge in big cities, but they were mainly for men. Her arrest record depicted her as a prostitute and this made her an outlier for almost all nonprofit service providers. Of her own sheer will, she cobbled together a treatment plan for herself, and when she had reached a modicum of equilibrium, she determined that she wanted to spend her life creating the sets of services to help address commercial sexual exploitation of women and children.

SAGE was born out of the terrible abuses Norma endured, and the understanding that there were many other women and girls who needed the same help she did. She began SAGE offering the basics: food, clothing, shelter, a haven away from the pimp. She often talked about how important a safe place was—and how something simple that we all take for granted, like sleep, was almost impossible to get on the streets. She also talked openly about addiction, and about how drugs may ease the pain of prostitution, but help the trafficker maintain control. She also described how, when she reached out for help, there were no social workers, case managers,

shelter directors, legal advisors, or medical professionals willing to help. Even as a child trapped in prostitution, she was seen as dirty, unruly, mean, angry, and addicted. She was treated worse than homeless people, worse than someone in poverty, worse than a criminal. If someone did help, it was a narrow charity approach—for example the Food Bank would hand out food, but couldn't help with shelter, and the local shelter offered a bed for a night or two, but didn't have medical assistance, and the street clinics offered one time treatment for an STD but couldn't address any of the other needs she had as she tried to escape her pimp. She began to embrace being arrested because there she could get three meals, a shower, clean clothes, medical attention, and the time to sleep and recover from the illnesses, injuries, and impairments that were her life when she was being trafficked.

All of these experiences went into the creation of SAGE, where someone could come in off the streets and find everything under one roof. In the beginning, Norma asked friends and colleagues to volunteer and to give whatever help they could for free, but as SAGE became better known, and as she met and talked with the city's police chief, the D.A., the head of the Commission on the Status of Women, several savvy social workers, and some of key women in the leadership of the women's movement in San Francisco, the city began to find resources to help Norma build SAGE into a real institution—the first of its kind—to help those who had been involved in commercial sexual exploitation. She broke down barriers and titanium stove-pipes—where others said we only serve women, SAGE opened its doors to men and women, where other organizations made the easy decision to just serve children, Norma insisted on serving anyone of any age who had been trafficked. She served heterosexual, bi-sexual, homosexual, and transgender survivors long before the arguments about who should be served where. She understood that whatever differences they might have, all had been trafficked and needed help.

As SAGE grew, and the model was successful, she began to travel to other cities and even other countries to describe what she was doing. In the process, she also discovered that while people wanted to hear her story of victimization, they then wanted her to sit and let the professionals take over. She began to say that she was more than her story, and that she had program and policy experience to offer too. This document, which summarizes much of the work of SAGE Project over its early years, illustrates its many accomplishments, including:

- First survivor-led service provider with-survivor spokesperson
- First creation and implementation of a one-stop shop for services for commercial sexual exploitation
- First institutionalization of programs for men who were buyers of sex
- First to understand and articulate the problem of children in prostitution
- First to understand the importance of hiring survivors to help other survivors
- Early articulator of the societal problems incurred by legalizing prostitution
- Early articulator, with a few other survivors, of the need for systemic change
- Early critic of the “blame the victim” approach to commercial sexual exploitation and early champion of the concept of “safe harbor” where women and

children would not be arrested, and the focus of the criminal justice system would shift to the traffickers, who do this to make money, and the buyers, who fuel the market for trafficking with their demand for commercial sex

FURTHER READING

Clawson, Heather J., Kevonne M. Small, Ellen S. Go, and Bradley W. Myles. *Needs Assessment for Service Providers and Trafficking Victims*. Document No. 202469. Washington, DC: National Institute of Justice, Office of Justice Programs, Department of Justice, October 2003.

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GOVERNMENTAL RESPONSES: CODIFICATION AND IMPLEMENTATION

INTRODUCTION

It was Gandhi who said, “When the people lead, the leaders will follow,” and that has certainly been true for the problem of human trafficking. In the last chapter, we saw a movement, starting with a few individuals and small organizations, and growing to include powerful human rights, feminist, and faith-based organizations, all calling for new laws to address a new worldwide exploitation of human beings. Whether they called it trafficking in persons, human trafficking, forced labor, sex trafficking, or modern-day slavery, a multitude of voices and visions emerged and merged at the end of the 20th century demanding that the U.S. government lead the way in combating this crime. In this chapter, we examine the government response at the federal level, and particularly in the U.S. legislature, where early attempts were made to bring the problem of trafficking to the attention of colleagues in the House and Senate through Resolutions and bills that addressed one or another aspect of the problem. Continuing nongovernmental organization (NGO) advocacy ensured that the final bill introduced was a comprehensive one, but the path to that victory took almost five years.

THE FIRST RESOLUTION IN CONGRESS ON TRAFFICKING (1995)

- **Document:** H. Con. Res. 21—Expressing the sense of the Congress concerning the trafficking of Burmese women and girls into Thailand for the purposes of forced prostitution, submitted by Representative Louise Slaughter
- **When:** February 1, 1995
- **Where:** 104th Congress, 1st Session, Washington, D.C.
- **Significance:** In 1993, *Asia Watch* published a report on the trafficking of Burmese women and girls into brothels in Thailand. It was sent to Rep. Louise M. Slaughter (D-NY). At the time, human trafficking was not well known. It had not yet been investigated or reported by the major press; the Internet was still in a fledgling state, and there was no social media to go viral. While some NGOs were at work on the issue, in 1993 they were few and far between. The first order of business in Congress was to get the attention of fellow legislators and help them understand that human trafficking was a serious problem meriting their attention. To do this, Slaughter submitted a resolution in 1994, “Expressing the sense of the Congress concerning the trafficking Burmese women and girls into Thailand for the purpose of forced prostitution.” A resolution is not a law but rather a statement of intent or declaration that affects the operations of Congress. Resolutions, which are not legislative in character, are used primarily to express principles, facts, opinions,

and the purposes of both the House and the Senate. The resolution did not pass the first time she submitted it, so Representative Slaughter submitted it again in February 1995 during the 104th Congress.

DOCUMENT

Concurrent Resolution

Expressing the sense of the Congress concerning the trafficking of Burmese women and girls into Thailand for the purposes of forced prostitution.

Whereas credible reports indicate that thousands of Burmese women and girls are being trafficked into Thailand with false promises of good paying jobs in restaurants or factories, and then forced to work in brothels under slavery like conditions that include sexual and physical violence, debt bondage, exposure to HIV, passport deprivation, and illegal confinement;

Whereas credible reports also indicate that members of the Thai police force are often actively involved in, and profit from, the trafficking of Burmese women and girls for the purposes of forced prostitution;

Whereas the United States Government conducts training programs for the Thai police and United States arms and equipment are sold to the Thai police;

Whereas the Convention on the Elimination of All Forms of Discrimination Against Women requires all States Parties “to take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women”;

Whereas Article 1 of the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery calls for the complete abolition or abandonment of debt bondage;

Whereas forced labor, defined under the 1930 Forced Labor Convention as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily,” is internationally prohibited;

Whereas the 1949 Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others finds the traffic in persons for the purposes of prostitution “incompatible with the dignity and worth of the human person,” and calls on States Parties to punish any person who procures for the purposes of prostitution, keeps, manages or knowingly finances a brothel, or rents premises for the prostitution of others;

Whereas Assistant Secretary of State for Human Rights and Humanitarian Affairs John Shattuck has testified that the United States “urgently needs to encourage countries in which trafficking of women and children goes on with impunity to enact new laws, and to enforce existing laws. A particular target of this stepped-up law enforcement should be government officials who participate in or condone trafficking, as well as brothel owners and traffickers”; and

Whereas Secretary of State Warren Christopher stated before the 1993 World Conference on Human Rights that “(g)uaranteeing human rights is a moral imperative with respect to both women and men”: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

- (1) trafficking in persons violates the fundamental principle of human dignity, and forced prostitution involving physical coercion or debt bondage constitutes a form of forced labor and a slavery like practice;
- (2) the United States State Department should continue to press the Thai Government to strictly enforce all laws that can lead to the prosecution of those involved in trafficking and forced prostitution, including procurers, traffickers, pimps, brothel owners, and members of the Thai police who may be complicit;
- (3) the State Department should ensure that Thai police participants in United States Government-sponsored police training programs are systematically vetted to exclude those who are implicated in trafficking and forced prostitution;
- (4) the executive branch should take steps to assure that weapons and equipment provided or sold to the Thai police do not become available to members of those forces who might be involved in trafficking, forced prostitution, or abuse of women and girls who are apprehended;
- (5) the State Department should urge the Thai Government to protect the rights and safety of Burmese women and girls in Thailand who are freed from brothels or who are arrested as illegal immigrants because their status as trafficking victims is unclear;
- (6) the United States Agency for International Development should target a portion of its assistance to Thailand for AIDS prevention and control to the foreign population in Thailand, particularly Burmese women and girls in the Thai sex industry; and
- (7) the State Department should report to Congress, within 6 months of the date of this resolution, on actions that it has taken to advocate that the Thai Government implement the above steps

Source: U.S. Congress. House of Representatives. Representative Louise Slaughter. *Expressing the Sense of the Congress Concerning the Trafficking of Burmese Women and Girls into Thailand for the Purposes of Forced Prostitution*. 104th Congress, 1st Session, 1995. H. Con. Res. 21. <https://www.congress.gov/bill/104th-congress/house-concurrent-resolution/21/text>.

ANALYSIS

In 1995 when Representative Slaughter submitted this resolution, there were a few organizations and individuals working on the issue from an international

perspective. While the Coalition Against Trafficking in Women had held its first conference, it was largely working to establish its infrastructure. The Protection Project had begun its work tracking laws worldwide but at the time it was a fledgling legal research institute. A few survivors in the United States were starting up programs. None were in touch with Congress. Thus, the legislative conversation on human trafficking started with a report by Human Rights Watch that focused on two countries in Southeast Asia. It laid out the problem in the findings section:

Whereas credible reports indicate that thousands of Burmese women and girls are being trafficked into Thailand with false promises of good paying jobs in restaurants or factories, and then forced to work in brothels under slavery like conditions that include sexual and physical violence, debt bondage, exposure to HIV, passport deprivation, and illegal confinement.

It also admirably links the United States to the problem, noting that the United States spends money and resources training Thai police, and the police seem to be “actively involved in” and profiting from the trafficking. This reference to U.S. equities abroad would later evolve and become a part of the foreign national policy provisions in the Trafficking Victims Protection Act of 2000.

Slaughter’s resolution also refers to three of the foundational international conventions discussed in Chapter Three: the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the 1930 Forced Labor Convention; and the 1949 Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others. The first provision in the resolved section says: “trafficking in persons violates the fundamental principle of human dignity, and forced prostitution involving physical coercion or debt bondage constitutes a form of forced labor and a slavery like practice.” In this way, it acknowledges the abolitionist, the early human rights, and the feminist perspectives of the late 19th and early 20th century and sets as the foundation for future law, the issues of slavery, forced labor, and trafficking in persons.

Also of interest is the mention of a tri-partite approach to the problem of trafficking. The Resolution calls for U.S. AID (United States Agency for International Development) to get involved in *prevention* efforts; for the U.S. government to press the Thai government to *prosecute* those involved in trafficking; and for the Thai government to *protect* the rights and safety of Burmese women and girls in Thailand. Thus, the “3P” framework (prevention, prosecution, and protection and assistance) was present in the earliest legislative action on trafficking even though it addressed only trafficking in one small part of the world. For all these reasons, the Slaughter Resolution is a significant step in the legislative agenda addressing the problem of human trafficking.

FURTHER READING

Human Rights Watch, Asia Watch and Women’s Rights Project. *A Modern Form of Slavery: Trafficking of Burmese Women and Girls into Brothels in Thailand*. New York: Human Rights Watch, 1993.

THE FIRST SENATE RESOLUTION ON THE GLOBAL PROBLEM (1998)

- **Document:** S. Con. Res. 82—Expressing the sense of Congress concerning the worldwide trafficking of persons, that has a disproportionate impact on women and girls, and is condemned by the international community as a violation of fundamental human rights.
- **When:** March 10, 1998
- **Where:** 105th Congress, 2nd Session, Washington, D.C.
- **Significance:** While Representative Slaughter introduced the first resolution on trafficking in persons, it was focused on sex trafficking in Southeast Asia. Senate Resolution 82, introduced by the late Senator Paul Wellstone (D-MN), was the first Senate Resolution addressing the global nature and scope of the problem.

EVELYN'S STORY

I was trafficked from Cameroon to Silver Spring at age 10. My trafficker told my parents that I would receive a better education in the United States. However, instead of attending school, I was forced to cook, clean and care for the children of my captor. Every time I would ask to go to school, my trafficker said I couldn't go because I was too stupid. I would go days and weeks at a time without eating. Sometimes I would have to stand throughout the whole night. Other times, my trafficker would beat me until she was too tired to continue. She would call me "fat," "ugly," and "dirty." So dirty that I wasn't allowed to sleep on a bed and had to sleep on the floor. At seventeen I discovered I had family living in the area and ran away to my aunt's house. She also abused me and forced me to care for her daughter. Eventually, I ran away again and went to a local church, where the priest helped to put in contact with Catholic Charities. My trafficking was investigated, and criminal charges were brought against my trafficker. I was placed in foster care and became a ward of D.C.

A lot of people are really interested in your story and getting you out of your situation, but after we are rescued, nobody cares what [happens to you]. Survivors need more help once they escape their traffickers. We

DOCUMENT

Whereas one of the fastest growing international trafficking businesses is the trade in women, whereby women and girls seeking a better life, a good marriage, or a lucrative job abroad, unexpectedly find themselves in situations of forced prostitution, sweatshop labor, exploitative domestic servitude, or battering and extreme cruelty.

Whereas trafficked women are often subjected to rape and other forms of sexual abuse by their traffickers and often held as virtual prisoners by their exploiters, made to work in slavery-like conditions, in debt bondage without pay and against their will;

Whereas the President, the First Lady, the Secretary of State, the President's Interagency Council on Women, and the Agency for International Development have all identified trafficking in women as a significant problem and are working to mobilize a response;

Whereas the Fourth World Conference on Women (Beijing Conference) called on all governments to take measures, including legislative measures, to provide better protection of the rights of women and girls in trafficking, to address the root factors that put women at risk to traffickers, and to take measures to

dismantle the national, regional, and international networks in trafficking;

Whereas the United Nations General Assembly, noting its concern about the increasing number of women and girls who are being victimized by traffickers, passed a resolution in 1996 calling upon all governments to criminalize trafficking in women and girls in all its forms and penalize all those offenders involved, while ensuring that the victims of these practices are not penalized; and

Whereas numerous treaties to which the United States is a party address government obligations to combat trafficking and the abuses inherent in trafficking, including such treaties as the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, which calls for the complete abolition of debt bondage and servile forms of marriage, and the 1957 Abolition of Forced Labor Convention, which undertakes to suppress and not to make use of any form of forced or compulsory labor: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),
That it is the sense of Congress that—

- (1) trafficking consists of all acts involved in the recruitment or transportation of persons within or across borders involving deception, coercion or force, abuse of authority, debt bondage or fraud, for the purpose of placing persons in situations of abuse or exploitation such as forced prostitution, sexual slavery, battering and extreme cruelty, sweatshop labor or exploitative domestic servitude;
- (2) trafficking also involves one or more forms of kidnapping, false imprisonment, rape, battering, forced labor or slavery-like practices which violate fundamental human rights;
- (3) to address this problem, the Department of Justice Office of Violence Against Women, with the cooperation of Immigration and Naturalization Service, should submit a report to Congress on—
 - (A) efforts to identify instances of trafficking into the United States within the last 5 years;
 - (B) the successes or difficulties experienced in promoting interagency cooperation, cooperation between local, State, and Federal authorities, and cooperation with nongovernmental organizations;
 - (C) the treatment and services provided, and the disposition of trafficking cases in the criminal justice system; and;
 - (D) legal and administrative barriers to more effective governmental responses, including current statutes on debt bondage and involuntary servitude;

continue to suffer. When I left my trafficker, I was talking to trees and still insisted on sleeping on the floor. I have physical scars that I carry with me, scars that I have to explain to my husband and young son. I also have many emotional scars. Survivors need psychological services. If I had the money to go to therapy, I would go. Accessing services is hard. Finding long-term care is hard. Our lives were taken away from us and we need help getting back into everyday life. Some of us are able to do it, but some are not able. It's important for us to have long term care for the trauma that we've gone through.

Source: Testimony of Evelyn Chumbow. https://www.foreign.senate.gov/imo/media/doc/022416_Chumbow_Testimony.pdf.

- (3) to address this problem, the Department of Justice Office of Violence Against Women, with the cooperation of Immigration and Naturalization Service, should submit a report to Congress on the following:
 - (A) Prosecutions in the past five years under the following laws disaggregated by convictions, acquittals, sentencing, case name, number, courts, and other similar or relevant information
 - (B) The successes or difficulties experienced in promoting interagency cooperation, cooperation between local, State, and Federal authorities, and cooperation with nongovernmental organizations.
 - (C) The treatment and services provided, and the disposition of trafficking cases in the criminal justice system.
 - (D) Legal and administrative barriers to more effective governmental responses, including current statutes on debt bondage and involuntary servitude;
- (4) in order to ensure effective prosecution of traffickers and the abuses related to trafficking, victims should be provided with support services and incentives to testify, such as—
 - (A) stays of deportation with an opportunity to apply for permanent residency, witness protection, relocation assistance, and asset forfeiture from trafficking networks with funds set aside to provide compensation due to victims of trafficking; and
 - (B) services such as legal assistance in criminal, administrative, and civil proceedings and confidential health care;
- (5) the Secretary of State, in consultation with the Department of Justice Office of Violence Against Women, and non-governmental organizations should—
 - (A) develop curricula and conduct training for consular officers on the prevalence and risks of trafficking and the rights of victims; and
 - (B) develop and disperse to visa seekers written materials describing the potential risks of trafficking, including—
 - (i) information as to the rights of victims in the United States, including legal and civil rights in labor, marriage, and for crime victims under the Violence Against Women Act; and
 - (ii) the names of support and advocacy organizations in the United States;
- (6) the Department of State and the European Union—
 - (A) are commended as to their joint initiative to promote awareness of the problem of trafficking throughout countries of origin in Eastern Europe and the independent states of the former Soviet Union; and
 - (B) should continue efforts to engage in similar programs in other regions and to ensure that the dignity and the human rights of trafficking victims are protected in destination countries;

- (7) the State Department's Bureau for International Narcotics and Law Enforcement Affairs, together with the Department of Justice and the Department of the Treasury, should continue to provide and expand funding to support criminal justice training programs, which include trafficking; and
- (8) the President's Interagency Council on Women should submit a report to Congress, not later than 6 months after the date of the adoption of this resolution, with regard to the implementation by the Secretary of State and the Attorney General of the duties described in this resolution.

Source: U.S. Congress. Senate. Senator Paul Wellstone. A concurrent resolution expressing the sense of Congress concerning the worldwide trafficking of persons, that has a disproportionate impact on women and girls, and is condemned by the international community as a violation of fundamental human rights. 105th Congress, 2nd Session, 1998. S. Con. Res. 82. <https://www.congress.gov/bill/105th-congress/senate-concurrent-resolution/82/text>.

ANALYSIS

Three years after she first introduced Resolution 21 on Trafficking of Burmese Women and Girls into Thailand, Representative Slaughter introduced H.Con.Res. 114. Similar to her first resolution, it contained a number of paragraphs about the situation of trafficking of Burmese women and children into Thailand, but significantly, it is titled, "Expressing the sense of the Congress concerning the worldwide trafficking of women and girls, whereby women and girls are coerced, abducted, or deceived into migrating within or across national borders, and particularly the trafficking of Burmese women and girls in Thailand for the purposes of forced prostitution." Although this bill was only introduced and not enacted, it kept the issue of international human trafficking in the public eye and drew more attention to it in the legislature.

The late Senator Wellstone's Resolution (S.Con.Res. 82) picked up where Representative Slaughter left off. In this resolution, he introduced a number of important clauses, for example, an attempt to define trafficking in persons, including a short list of suspect activities (recruiting and transporting by force, deception, and coercion) and, perhaps most important, an attempt to expand the types of trafficking to include not just commercial sexual exploitation and sexual slavery, but also sweatshop labor, forced labor, and slavery-like practices.

In addition, Senator Wellstone grapples with how the problem presents, both in the United States and abroad. The resolution asks various U.S. government agencies to report on efforts to identify instances of trafficking in persons in the United States, and to assess problems in cooperation between agencies that play a vital role in addressing human trafficking. He also requests information on legal and administrative barriers to more effective government responses—citing two old slavery statutes on debt bondage and involuntary servitude—and asks how effective are they

in combatting human trafficking. Reading between the lines, we sense his concern that if there are trafficking prosecutions going on in the United States, they are most likely taking place under any one of a dozen different statutes and therefore not being categorized as human trafficking, making data collection difficult. The resolution asks that the Department of Justice and the Immigration and Naturalization Services (INS—which has now been folded into the Department of Homeland Security) report to Congress on prosecutions under these dozen statutes.

Also in this resolution is the innovative suggestion that in order to elicit victim cooperation in testifying against traffickers, the U.S. government should provide them with a wide variety of support services and give them stays of deportation, legal residency, and witness protection to make it easier for them to help law enforcement officials locate, arrest, charge, prosecute, and convict traffickers. This language would later become part of the Trafficking Victims Protection Act of 2000.

FURTHER READING

DeStefano, Anthony. *The War on Human Trafficking: U.S. Policy Assessed*. New Brunswick, NJ: Rutgers University Press, June 2008.

THE FIRST HEARINGS IN CONGRESS (1999)

- **Document:** Trafficking of Women and Children in the International Sex Trade, Hearing before the Subcommittee on International Operations and Human Rights of the Committee on International Relations House of Representatives
 - **When:** September 14, 1999
 - **Where:** 106th Congress, 1st Session, Washington, D.C.
 - **Significance:** In March 1999, Representatives Christopher Smith and Marcie Kaptur introduced the “Freedom from Sexual Trafficking Act of 1999.” Representative Smith believed that specific legislation on sex trafficking would garner greater support in Congress than a bill on all forms of trafficking. In a hearing about the bill HR 1356 entitled, “Trafficking of Women and Children in the International Sex Trade,” he called upon the House of Representatives to acknowledge the significant numbers of women and children who are trafficked for purposes of prostitution in places such as Burma, Thailand, Cambodia, Vietnam, India, Kosovo, Israel, and the United States, and to recognize the ineffectiveness of the then current laws and law enforcement strategies. This hearing is also significant because it records the discussion between Smith and his co-sponsor, Rep. Cynthia McKinney, who introduces the problem of labor trafficking and, while supporting HR 1356, notes that these types of trafficking are also reaching epidemic proportions. Finally, it is significant for the platform it gave to a survivor to tell first-hand how she had been trafficked and the harm she had suffered.
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DOCUMENT

(Rep. Smith)

Each year up to a million innocent victims, of whom the overwhelming majority are women and children, are brought by force and/or fraud into the international commercial sex industry. Efforts by the U.S. Government, international organizations and others to stop this brutal practice have thus far proved unsuccessful. Indeed, all the evidence suggests that instances of forcible and/or fraudulent sex trafficking are far more numerous than just a few years ago. Every day we read of news accounts of women and girls who are abducted in places as diverse as Burma, Kosovo, and Vietnam, and sold into sexual slavery in countries from Thailand to Israel, from China to the United States.

Part of the problem is that current laws and law enforcement strategies, in the United States as in other nations, often punish the victims more severely than they

punish the perpetrators. When a sex-for-hire establishment is raided, the women, and sometimes children, in the brothel are typically deported if they are not citizens of the country in which the establishment is located. Deportation is imposed without reference to whether their participation was voluntary or involuntary and without reference to whether they will face retribution or other serious harm upon return. This not only inflicts further cruelty on the victims, but also leaves nobody to testify against the real criminals and frightens other victims from coming forward.

In order to reverse this cruel and ineffective approach, I, together with my colleague Marcy Kaptur, my good friend from Georgia, Ms. McKinney, and 25 other bipartisan cosponsors, have introduced H.R. 1356, the Freedom from Sexual Trafficking Act. This legislation is designed to protect and assist the victims of sexual trafficking while inflicting severe and certain punishment on the perpetrators. On August 4th, H.R. 1356 was marked up and reported favorably by our Subcommittee and will be soon moving to the full Committee.

The central principle behind the Freedom from Sexual Trafficking Act is that a person who knowingly operates an enterprise that profits from sex acts involving persons who have been brought across international boundaries for such purposes by fraud or force should receive punishment commensurate with that given to those who commit forcible rape. This would not only be just punishment, but we believe also would be a powerful deterrent.

H.R. 1356 would implement this principle across the board. First, it would modify U.S. criminal law to provide severe punishment, up to and including life imprisonment, for persons convicted of operating such enterprises wholly or partly within the United States.

H.R. 1356 would also prohibit non-humanitarian U.S. assistance to governments that continue to be part of the problem rather than part of the solution to forcible and fraudulent sexual trafficking, unless this prohibition is waived by the President, and there is a very generous waiver provided in the bill.

The bill also provides victim assistance and protection. This includes grants to shelters and rehabilitation programs for victims of forcible and/or fraudulent sexual trafficking.

It also includes relief from deportation for victims, provided it is established that they really were innocent victims, and that they have not unreasonably refused to assist in the investigation and prosecution of the perpetrators, and that they would face retribution or other hardship if removed from the United States.

The bill also makes clear that trafficking victims are eligible for the Federal witness protection plan and provides them with a private right of action against those who have profited by the harm that was done to them.

Finally, the bill authorizes grants for training for law enforcement agencies in foreign countries in the investigation and prosecution of international sex trafficking, as well as for assistance in drafting and implementation of anti-trafficking legislation.

H.R. 1356 has attracted widespread support and enthusiasm from across the political spectrum, but it has also found its share of critics. For example, the Administration and others contend that it is wrong or counterproductive to impose sanctions or even threaten to do so against foreign governments that condone sex trafficking. But nobody really believes that we should never sanction bad behavior by foreign

governments. Rather, the question is how bad the conduct has to be in order to merit the sanctions and whether the sanctions are carefully tailored to deter the evils that they address.

...

H.R. 1356 contains smart sanctions, not dumb ones. It would give the President the opportunity but not the obligation to cut U.S. taxpayer subsidies to governments that condone or support sexual trafficking. There are no trade sanctions in this bill, only limitations on foreign aid. Humanitarian aid is explicitly exempted, and we have adopted a generous definition of humanitarian aid.

Finally, even this very limited sanction against offending governments may be waived by the national interest waiver by the President. Remember, the legislation also authorizes new foreign assistance to governments that are making efforts to punish perpetrators and protect victims. So we provide both carrots and sticks, incentives and disincentives.

...

The Administration and some of its supporters also argue that anti-trafficking legislation should be designed to stop not only the forcible and fraudulent trafficking of women for the international sex trade, but also other forms of trafficking such as the transportation of workers for sweatshops or other substandard working conditions. I can tell you I sympathize very deeply on some of those important points.

Our bill explicitly recognizes that international sexual trafficking is not the only form of traffic in persons.

Innocent people are lured, pressured, and lied to every day all over the world in all kinds of situations, and I take second place to no one in my commitment to ending all labor practices that are coercive, deceptive, or otherwise improper, or even when they involve labor that is not in and of itself inherently degrading.

The problem with addressing all of these evils in one bill, the idea that one size fits all, is that they involve wide range of different situations which may call for an equally broad range of solutions. So we decided to start by attacking the most brutal form of trafficking, I believe, the use of force and deception in the systematic degradation of millions of women and children, and singling it out for swift and certain punishment.

We believe that by focusing on this particularly egregious practice, the forcible or fraudulent trafficking of women and children for commercial sex purposes, we can stop it sooner than if we had tried to address the far broader range of evils. H.R. 1356 is far tougher on the criminals and far more generous to victims than would be appropriate if we were trying to legislate about working conditions in legitimate industries rather than to punish rapists and protect rape victims.

In comparison, even though I know the bill has been introduced, it clearly shows our bill would provide for life imprisonment, which makes it very clear that we are serious. Put these people away, lock them up and throw the key away, seems to me the only way to deal with the question of those who commit these heinous crimes. I also believe that this legislation to end sexual trafficking will also command a far broader consensus in Congress, among the American people, and around the world, than legislation that would address a much wider range of problems and then do a lot less about them. If the Administration wants to get behind

this legislation and then follow-up with legislation on related issues, I will be there, willing to work with them.

...

(Ms. McKinney) Personally I would like to expand the scope of this bill. I have procedural concerns that labor issues are not specifically addressed in this bill. In certain countries it is a well-known practice to import laborers as servants. The master of the house then proceeds to lift the passport from the employee's possessions, pays them less than the prevailing wage, and in many cases sexually exploits the worker. While in theory this bill would cover this practice, I am not so sure that these particular circumstances are fully addressed. Mr. Chairman, we should have our staffs working together to see what we can do on this one issue to try and broaden the scope of this bill just a little bit.

H.R. 1238, the International Trafficking in Women and Child Protection Act, introduced by Congresswoman Louise Slaughter, of which I am also a cosponsor, addresses some of the concerns regarding slavery and sexual exploitation by employers. We have to look at this legislation and try to see what we can do to address the issue of sexual exploitation of workers by employers.

I don't want to ignore the other victims of trafficking; however, I am of like mind with the Chairman that we cannot develop a broadly scoped bill addressing all issues of international human trafficking that could realistically pass this Congress. H.R. 1356 is a first step, and it is an important first step.

I want to work with the Chairman to protect the women and children, victims of human sexual trafficking throughout the world.

The strengths of H.R. 1356 include a modification of U.S. law to provide severe punishment, up to a life sentence, for persons convicted of sexual trafficking. It addresses the issue of transporting persons across international borders for this practice. It addresses the issue of engaging in the sale of a person for this practice as well as addressing the enterprise of sexual trafficking itself.

...

Further, the bill provides victim assistance and protection, provisions for grants to rehabilitation centers and grants to shelters. I support these provisions. The bill limits the deportation of victims to determine whether or not they were forced into sexual trafficking, and this bill clears the way for victims to participate in the witness protection program as long as they cooperate with Federal authorities to break up the organized sex trade rings. These are good points in the legislation.

(Mr. Smith) I would like to begin by introducing . . . Ms. Anita Sharma Bhattarai is a survivor of sexual trafficking.

Statement of Anita Sharma Bhattarai, Trafficking Survivor, Nepal

Ms. Bhattarai. [The following testimony was delivered through an interpreter.] My name is Anita Sharma Bhattarai. I am 28 years old, and I am from Nepal. One day I boarded the bus to go to Daman where I had to collect some money, and I met one man and woman who were on the bus and who also offered me a banana. After eating the banana, I felt very dizzy, and I told them, and they gave me some medicine and water, and after taking that medicine I became unconscious.

When I gained consciousness, I didn't know where I was.

[We were on] a long bus [train] and I asked where I was, and why I was brought there. Then they told me not to make any sound, not to scream, because they had strapped hashish, drugs, around my waist, so I couldn't even call the police or just shout for help because I was so scared. I couldn't return from there, and so I just listened to them, and . . . the man told me that we were going to Bombay, and that would take about 5 days, and after reaching there he would sell the hashish, and we would get \$20,000 rupees each.

After reaching Bombay, a lady came and met us at the station. The man told that lady to take me with her to her place, and [he] also assured me that he would come and pick me up at 4 o'clock in the evening, and so I went along with that lady, who was called Renu Lama. So in Bombay I went with her to her house.

Upon reaching the house, I then realized that it was a brothel, [and] later on in the evening, when men started coming in . . . they forced me into prostitution. . . . I wasn't at all ready to do it, but that man [that bought me] stripped off my clothes, and he also went and told the brothel owners that I wasn't complying with his wishes. The brothel owners came and hit me with metal rods and also slapped me, and so I had to [do what he wanted] to him, but since I was aware of the diseases that the girls have been telling me also in the brothel, I also told him to put on condoms. So that was the first time I was in prostitution, and after that I had to take in . . . about 2 to 4 men per day.

I am telling the story in a very short way, but it will take a really long time if I have to go on and on. But from the day I entered there, I just started thinking of running away from there, and one day I succeeded, and with the help of [International Justice Mission], I have been able to also come here and share my stories with you so that you could also help other girls like me who are still in brothel. I am really proud to see that I have been able to help about seven to eight [other] girls escape [since I was freed].

Source: U.S. Congress. House of Representatives. Committee on International Relations and Subcommittee on International Operations and Human Rights. *Trafficking of Women and Children in the International Sex Trade*. 106th Congress, 1st Session, September 14, 1999. Serial No. 106-66 (3-7, 35-37). <https://www.gpo.gov/fdsys/pkg/CHRG-106hhrg63274/html/CHRG-106hhrg63274.htm>.

ANALYSIS

With the introduction of the first bill in Congress, the tensions that had surfaced between approaches in the NGO world were clearly evident in the legislature. First and most important was a discussion about whether to address all forms of trafficking (including sex and labor trafficking) in one bill, or whether to start with the kind of trafficking most reported on and—to some—most egregious (sex trafficking), and wait until success was achieved to introduce another bill on labor trafficking. Representative Smith's more conservative constituents advised him to do the former. They believed that a bill prohibiting labor trafficking would be opposed by big business, like the Chamber of Commerce, and that if combined, the inclusion of labor

trafficking might very well kill the bill on sex trafficking. As he noted in his statement at the hearing:

We believe that by focusing on this particularly egregious practice, the forcible or fraudulent trafficking of women and children for commercial sex purposes, we can stop it sooner than if we had tried to address the far broader range of evils. H.R. 1356 is far tougher on the criminals and far more generous to victims than would be appropriate if we were trying to legislate about working conditions in legitimate industries rather than to punish rapists and protect rape victims.

The concern was that labor trafficking could not be clearly distinguished from labor exploitation, and that low wages, minimum wage, and poorly executed contracts in legitimate industries would be better handled by the Department of Labor, or if it needed legislation, by a bill that would not be attempting to punish a company that paid low wages with a 20-year to life sentence. Faith-based and feminist NGOs lined up on this side of the argument. Human rights advocates, who were collecting stories of clear labor trafficking and forced labor, argued that these cases were no less slavery or slavery-like than cases of sex trafficking. They both had the same suspect activities (recruiting, transporting, buying, or selling) and the same means of compliance (force, fraud, or coercion), just different purposes (one for commercial sexual exploitation and the other for forced labor). For the next year and a half this contentious discussion would continue.

Still, HR 1356 had the basic bones of the model law that would emerge from the sets of hearings, backroom discussions, and education and advocacy that the NGOs did in both the House and the Senate. As Smith said, the purpose of the bill was twofold: to punish the perpetrators and to protect and assist the victims. This two-pronged approach expanded later, but HR 1356 proposed to do this by (1) prohibiting sex trafficking and increasing penalties for the crime to 20 years to life and (2) providing victim assistance in the form of food, clothing, and shelter and other emergency services for victims, as well as witness protection. Because of this humanitarian and victim-centered approach, the bill garnered support from both sides of the aisle, and thus had a hope of passing in what was becoming an increasingly divided Congress during the last year of President Clinton's administration.

FURTHER READING

"Trafficking in Women and Children: The U.S. and International Response," Francis T. Miko and Grace (Jea-Hyun) Park, Congressional Research Service, Updated August 1, 2001.

THE WORST FORMS OF CHILD LABOUR CONVENTION (1999)

- **Document:** Worst Forms of Child Labour Convention (No. 182), Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour
- **When:** 1999
- **Where:** 87th ILC session, Geneva, Switzerland
- **Significance:** The Worst Forms of Child Labour Convention (No. 182), Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour was adopted by the International Labour Organization in 1999. The ILO has eight “core conventions” having to do with the right to work and the right to safe conditions of work. This convention, once ratified, requires a member state to take immediate action to prohibit and eliminate the “worst forms of child labor.” The document identified continuing terrible conditions of children laboring in countries around the world, and created a new category of conditions that were per se worst forms of labor. These included slavery, trafficking, debt bondage, compulsory labor, and commercial sexual exploitation of children. It was the first time that the ILO had so explicitly and exhaustively defined work conditions that were unacceptable for children.

DOCUMENT

Preamble

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 87th Session on 1 June 1999, and

Considering the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international cooperation and assistance, to complement the Convention and the Recommendation concerning Minimum

RAVI'S STORY

When Ravi was just a child in India, he was sold by his parents to a rug maker for \$10. His parents asked him if he wanted to go work on a loom but when he said no, they sold him anyway. As soon as he arrived at the rug-making factory, he was put to work on a loom. His trafficker told him how much of the rug he needed to weave each day. He worked 12-hour days, and longer by candlelight if he didn't weave enough to meet the level demanded.

His small fingers were injured often. Until the pain became extreme, Ravi kept working. Once he asked the owner's wife for medicine to put on his cut finger, instead she doused it with kerosene and lit it on fire. His

wounds would often bleed, but if he stopped weaving, he would be beaten with a sharp stick.

The slaves were allowed one bathroom break a day and got one half-cooked meal a day. Sleep depended on whether they could meet their quota each day.

The owner threatened the boys with punishment if they tried to escape and told them the police would beat them if they caught them. The factory was raided and the boys rescued. Today, Ravi is receiving shelter, food and vocational training. He hopes to return home one day to teach his siblings and become an electrician.

Source: <http://www.endslaverynow.org/blog/articles/ravi-shanker-kumar>.

Age for Admission to Employment, 1973, which remain fundamental instruments on child labour, and Considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families, and Recalling the resolution concerning the elimination of child labour adopted by the International Labour Conference at its 83rd Session in 1996, and Recognizing that child labour is to a great extent caused by poverty and that the long-term solution lies in

sustained economic growth leading to social progress, in particular poverty alleviation and universal education, and

Recalling the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989, and

Recalling the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998, and

Recalling that some of the worst forms of child labour are covered by other international instruments, in particular the Forced Labour Convention, 1930, and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956, and

Having decided upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Convention, which may be cited as the Worst Forms of Child Labour Convention, 1999.

Article 1

Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

Article 2

For the purposes of this Convention, the term child shall apply to all persons under the age of 18.

Article 3

For the purposes of this Convention, the term the worst forms of child labour comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Article 5

Each Member shall, after consultation with employers' and workers' organizations, establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention.

Article 6

1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.
2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.

Article 7

1. Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.
2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:
 - (a) prevent the engagement of children in the worst forms of child labour;
 - (b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;

- (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;
 - (d) identify and reach out to children at special risk; and
 - (e) take account of the special situation of girls.
3. Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

Source: International Labour Organization. C182—Worst Forms of Child Labour Convention, 1999 (No. 182). *Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*. Geneva, 87th ILC Session, June 17, 1999, entered into force November 19, 2000. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182. Used by permission of the International Labour Organization.

ANALYSIS

While the United States was debating terms and provisions for a law prohibiting trafficking in persons, the ILO was working on a new convention that set an international norm prohibiting what they termed “worst forms of child labor.” For years, a worldwide network of children’s rights organizations, human rights groups, trade unions, and community groups had been raising concerns about the egregious conditions of children in countries around the world. This group included well-known international organizations such as Oxfam, Save the Children, World Vision, Education International, Public Service International (PSI), Anti-Slavery International and many others. In the late 1990s, many of these organizations coalesced and formed the Global March Against Child Labor. In conjunction with the ILO, the coalition set a mission which was twofold:

- To protect and promote the rights of all children, especially the right to free meaningful education, and
- To insure children are free from economic exploitation and from any work that is likely to be damaging to a child’s physical, mental, spiritual, moral or social development

The organizers further identified the elimination of trafficking, slavery, and commercial sexual exploitation of children as key goals. In 1998, they organized an 80,000-kilometer physical march through 103 countries to build awareness of the problem and to put pressure on the ILO to draft and adopt a new convention addressing these problems. The result was ILO Convention 82, *Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*.

Article 3 defines worst forms of child labor as all forms of slavery, debt bondage, serfdom and forced labor, compulsory recruitment of children for armed conflict, use

of children in prostitution or for the production of pornography, use of children to produce or traffic drugs, and use of children in hazardous or harmful work.

With this document, some of the goals of the anti-trafficking movement and the ILO converged. While there were differences in perspective, for instance, many women's organizations and faith-based organizations objected to any classification of commercial sexual exploitation of women or children as a form of labor, this convention was a paradigm shift because it acknowledged the importance of protecting children from all sexual exploitation and set in place an infrastructure to guide countries around the world in so doing. As work on a comprehensive anti-trafficking law began in the United States, language from the ILO Convention 82 was useful and became part of the Trafficking Victims Protection Act.

FURTHER READING

Marking Progress Against Child Labour: Global Estimates and Trends 2000–2012. http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_221513.pdf.

Organization for Economic Cooperation and Development (OECD). *Combating Child Labour: A Review of Policies*. Paris: OECD, 2003.

HEARINGS ON THE INTERNATIONAL TRAFFICKING OF WOMEN AND CHILDREN (2000)

- **Document:** Hearings before the subcommittee on Near eastern and South Asian affairs of the committee on foreign relations, U.S. Senate
- **When:** February 22, 2000
- **Where:** 106th Congress, 2nd Session, Washington, D.C.
- **Significance:** In February 2000, the Trafficking Victims Protection Act had not yet passed, but several bills on trafficking had been introduced in the House and the Senate, including one by Senator Wellstone. After two years of organizing and advocating, the next six months would include much behind-the-scenes work on the bill and a full-court press to pass it before the end of the Clinton Administration. In this first hearing on trafficking in the Senate, cochair Senators Brownback and Wellstone made comments before the hearing began. It is interesting to note that both Senators had personal encounters with trafficking and modern-day slavery, and here they give their own compelling testimonies about why this issue is of importance.

DOCUMENT

THE “THREE P” APPROACH TO HUMAN TRAFFICKING

In 1999 First Lady Hillary Clinton represented the United States at the Organization for the States of Europe (OSCE) in Istanbul, Turkey and gave a speech entitled, “Combating Human Trafficking,” as part of the Signing Remarks for the meeting. In the speech, she discussed the 3P framework that the Clinton Administration created as a framework for a holistic approach to human trafficking, stating: “In March of 1998, the United States government, through the President, announced an anti-trafficking strategy focusing on what we call ‘the three p’s’—prevention, protection and prosecution. Prevention means, as we’ve heard, the education and empowerment of women so they do not fall prey to trafficking. Protection means addressing the human rights of the victims and offering the assistance that they require.

Senator Brownback

As we begin the 21st century, the degrading institution of slavery continues throughout the world. I was introduced to this problem by the human rights advocacy work that we picked up and we started dealing with the Sudan. Among other extraordinary human rights abuses, thousands of Sudanese women and children have been abducted into slavery as a form of payment or “booty” to marauders of civilian villages in the longest-running civil war in Africa that continues even today.

I have seen the pictures of the brands on their cheeks and arms which attest to ownership by a master. I have heard the personal testimonies of their nightmare existence. So I joined with many others in a campaign of awareness to end the continuing practice of slavery in the Sudan. This advocacy prompted me to examine

other forms of modern day slavery which still exist. I am very pleased to chair this hearing on the international trafficking of women and children. This includes both trafficking for purposes of forced prostitution as well as forced labor involving slavery-like conditions. This practice which we will examine this morning may be the largest manifestation of slavery in the world today. It is my understanding this is the first time this issue has been presented at a hearing in the U.S. Senate.

Every year, approximately 1 million women and children are forced into the sex trade against their will, internationally. They are usually transported across international borders so as to “shake” local authorities, leaving the victims defenseless in a foreign country, virtually held hostage in a strange land. It is estimated that at least 50,000 women and children are brought into the United States annually for this purpose. The numbers are staggering and growing. Some report that over 30 million women and children have been enslaved in this manner since the 1970’s. I believe this is one of the most shocking and rampant human rights abuses worldwide.

One of two methods, fraud or force, is used to obtain victims. The most common method, fraud, is used with villagers in underdeveloped areas. Typically, the buyer promises the parents that he is taking their young daughter to the city to become a nanny or domestic servant, giving the parents a few hundred dollars as a down payment for the future money she will earn for the family.

Then the girl is transported across international borders, and deposited in a brothel, and forced into the trade until she is no longer useful, getting sick with things like AIDS or other illnesses as well. She is held against her will under the rationale that she must work off her debt which was paid to the parents, which typically takes several years.

The second method used for obtaining victims is force, which is used in the cities more often, where a girl is physically abducted, beaten, and held against her will, sometimes in chains.

There is one other very compelling motivation for me to convene this hearing, and that is that it happens in the United States as well, impacting even citizens in my own State of Kansas. Some marketers of children in this country keep them locked up for days and weeks at a time, police report, and they state—the police report quotes, “To keep the youths under control and stay one step ahead of the law, pimps often move from city to city.” This way, the children form no trusting relationships, and are kept penniless, unable to escape.

I recently met with homeless advocates and youth workers from my home State of Kansas, even, who described the methods of procurement. They promise girls, and also boys, a job doing grass-roots advocacy for some type of political reform at a specified eastern college. The children are then taken to an entirely different town, and forced into prostitution. As the Senator from Kansas, I have a personal interest to stop this practice in my State, across the country, as well as to alert children everywhere that it occurs.

And prosecution means doing more than we have done so far. One percent of the 180,000 cases leading to prosecution is, we all know, much too low. We have to use the full force of the law to root out those criminal networks that profit from trafficking.”

Source: Clinton, Hillary. “Combating Human Trafficking.” November 18, 1999. https://clinton3.nara.gov/WH/EOP/First_Lady/html/generalspeeches/1999/19991118.html.

We are only just beginning to learn and to understand the methods of this industry. The routes are now being mapped out by Dr. Laura Lederer, who will be testifying here today. She is at the Harvard project. The routes are specific, and definable. They include Burma to Thailand, Eastern Europe to the Middle East, and Nepal to India, among many routes that we will learn about.

Legislation is presently being considered in the House on this issue, which has been introduced by Congressman Chris Smith and Congressman Sam Gejdenson, known as the Trafficking Victims Protection Act of 1999, H.R. 3244. Senator Wellstone has also introduced legislation. There is presently no comprehensive scheme to penalize the full range of offenses involved in elaborate trafficking networks. Solutions are in order, and I hope this hearing will be a first step toward those solutions.

As with any important issue, there are always controversies concerning the means to address the problem, but let me encourage you today to make a record today, those of you testifying, regarding the terrible suffering of those forced into this practice.

About a month and a half ago I traveled to India, Pakistan, and Nepal, and in both India and Nepal met with NGO's and nongovernmental organizations in India fighting this terrible blight, and in Nepal I met with a number of girls who had been tricked, taken against their will into the sex trafficking, into India, and then were returning to Nepal to a safe house there, two-thirds of them coming back with AIDS and/or tuberculosis, many of them tricked into the trade at ages 11, 12 years of age, coming back at the ages of 16, 17 years of age, basically coming back to die a horrible death, being tricked and taken at their youth for what, and into what, and into a horrible existence.

This may be one of the most horrible things I have seen anywhere in the world that I travel, and I think it is time that we shine a light on what is taking place, and that we start to remediate what has been occurring. With that, I want to turn the floor over to Senator Wellstone, who has been a leader in this effort, and who is a long-time advocate of it, and quite knowledgeable.

Senator Wellstone

Senator Wellstone. Thank you, Mr. Chairman.

This is an important hearing, as it seeks to investigate I think one of today's most serious and pressing violations of human rights, and I put it in a human rights context, the trafficking of persons, particularly women and children, for purposes of sexual exploitation and forced labor.

Despite increasing U.S. Government and international interest, trafficking in women and children has grown over the past decade, becoming more insidious and more widespread. I believe, Mr. Chairman, that it is one of the darkest aspects of globalization of the world economy. Every year, the trafficking of human beings affects millions of women and children throughout the world, women and children whose lives have been disrupted by economic collapse, civil wars, or fundamental changes in political geography such as the war in Kosovo and the disintegration of the Soviet Union. They have fallen prey to traffickers.

According to the State Department, between 50,000 women, or somewhere around 50,000 women are trafficked each year into the United States alone, 50,000

into our country. They come from the Philippines, Thailand, Russia, the Ukraine, and other countries in Asia and the former Soviet Union.

Since I began, Mr. Chairman, working on this issue several years ago, I have met, along with my wife Sheila, trafficking victims and advocates from around the world. They have told me again and again that trafficking is induced by poverty, lack of economic opportunities for women, the horrible low status of women in many cultures, and the rapid growth, I am sorry to say, of sophisticated and ruthless international crime operations.

Upon arrival in countries far from their homes, victims are often stripped of their passports, held against their will in slave-like conditions, and sexually abused. Rape, intimidation, and violence are commonly employed by traffickers to control their victims and to prevent them from seeking help. That is the common practice. Through physical isolation and psychological trauma, traffickers and brothel owners imprison women in a world of economic and sexual exploitation that imposes constant fear of arrest and deportation as well as violent reprisals by the traffickers themselves, to whom the women must pay off ever-growing debts.

As many of you know, these vents are occurring not just in far-off lands, but here at home in the United States as well. Last year, in the [Cadena] case, six men admitted in a Florida court to forcing 17 women and girls, some of them as young as age 14, into a prostitution slavery ring. The victims were smuggled into the United States from Mexico with the promise of steady work but instead were forced into prostitution. The ring was discovered when two 15-year-old girls escaped and went to the Mexican Consulate in Miami.

Even closer to home, a forced prostitution ring was busted a couple of years ago which imprisoned Russian women in a massage parlor in Bethesda, Maryland.

Trafficking in persons is a human rights problem that requires a human rights response, and yet more often than not our Government and other governments have hounded the victims and let the traffickers go free. The women are treated as criminals and not as the victims of gross human rights abuses, and that is exactly what has happened to them.

In order to reverse this ineffective and often cruel approach toward trafficking victims and go after the root causes of trafficking, like economic distress and the low status of women, I introduced the first bill in the Congress to comprehensively address the problem and was joined, and we will be joined by other Senators, notably Senators Boxer, Feinstein, Snowe, and others.

Moreover, the committee is going to be taking up S. 1842, the Comprehensive Anti-trafficking in Persons Act at our next committee business session. I think there is some work we could do together on this before committee. I would very much like to do this in a bipartisan way with you, Mr. Chairman.

The legislation focuses on prevention of abuse, protection and assistance for victims, and the prosecution of traffickers. I think those are the three key ingredients. The bill should ensure the State Department and our law enforcement agencies will be fully engaged on the issue, and I know Secretary Koh has made his absolute commitment that our immigration laws do not encourage rapid deportation of victims—that is one of the things that people have to worry about—and that the traffickers are severely punished, and that trafficking victims receive the needed

services and the safe shelter. Further, this legislation provides, and we have to do this, the needed resources to programs which will assist the victims both here in our country and abroad.

In conclusion, or in closing, I want to thank all the advocates who are here today who have worked so hard on this issue, and I urge the administration to support legislative efforts in the Senate so that we can move quickly to end this brutal practice once and for all.

Source: United States Senate. *International Trafficking in Women and Children Hearings before the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations*. 106th Congress, 2000. <https://www.gpo.gov/fdsys/pkg/CHRG-106shrg63986/html/CHRG-106shrg63986.htm>.

ANALYSIS

In early 2000, there were still several separate anti-trafficking bills circulating in the House and the Senate, and legislators and their staff were working toward agreement on a set of provisions that would shortly be introduced as the Trafficking Victims Protection Act. Here, in public, the Senators were congenial and confident that they could work together. Behind the scenes, fierce battles were taking place as the staff attempted to get language that would satisfy their constituents. Of the many disagreements, the most important were:

1. Whether all prostitution was sex trafficking, or whether sex trafficking occurred only if there is force, fraud, or coercion. During negotiations over the bills, it was clear that this split was mainly along partisan lines, with Republicans advocating the former and Democrats the latter.
2. Whether there should be a special “T” visa extending legal status to those who had been trafficked into the United States and harmed here, and if so, what that would look like. The disagreement here was about the number of T visas that should be offered in the bill. Some legislators called for an unlimited numbers of T visas for trafficking victims; others were concerned that a new visa (of unlimited numbers) for trafficking victims could be misused to bring hundreds of thousands of illegal aliens into the country.
3. Whether the new law should address only sex trafficking or labor trafficking too. Republicans initially wanted to have two separate bills for these two types of trafficking which they saw as having different elements. Democrats insisted that it was critical to include both types of trafficking in one overarching law.
4. Whether the law should address international and domestic trafficking or just international trafficking, which had gained ascendancy in the public’s eye due to news coverage and the kinds of cases being uncovered.
5. Whether children should be treated differently and if so how.
6. Whether the United States should attempt to move other countries to address their trafficking problems, and if so how.

It is important to keep in mind that by this time, Congress was almost completely gridlocked. It was the last year of President Clinton's presidency. There had been impeachment hearings and other difficulties that created bitterness, rivalries, and splits in both the House and the Senate, and throughout the hearings the background noise was that nothing was going to pass in Congress the last year of the Clinton administration. Behind the scenes various NGOs and faith-based organizations (FBOs), split along similar lines across a number of the provisions, advocated in both the House and the Senate for one approach or another. The next six months would be an important lesson in compromise and creativity to get a crucial piece of legislation drafted and passed.

FURTHER READING

Cummings, Kristina. "The Trafficking Victims Protection Act: A Feasibility Study." *Journal of Race, Gender, and Ethnicity* 2 (2008): 37–62. <https://www.tourolaw.edu/JournalRGE/uploads/Issues/Issue2/Trafficking%20in%20Victims%20Protection%20Act%20A%20Feasibility%20Assessment.pdf>.

THE FIRST SURVIVOR TESTIMONIES IN CONGRESS (2000)

- **Document:** Hearings before the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations of the United States Senate
 - **When:** April 4, 2000
 - **Where:** 106th Congress, 2nd Session, Washington, D.C.
 - **Significance:** In an effort to help fellow legislators understand why they needed to pass the Trafficking Victims Protection Act, the Senate held a hearing featuring survivors. Today, hundreds of survivors have stepped forward to tell their stories of being trafficked, but at the time, it was an unprecedented act of bravery and courage to testify in public about what had happened to them. Several of them testified incognito, disguised, or from behind a sheet due to threats to their lives. These first statements by survivors were to serve as a model for a network of survivors from the United States and abroad to speak out.
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DOCUMENT

Mr. Chairman, members of the committee, thank you for the opportunity to bring trafficking survivors to this hearing. I am Laura Lederer, director of the Protection Project at Harvard University. For the last 4 years, we have been gathering the laws addressing commercial sexual exploitation of women and children from 220 countries and territories around the world. The purpose of the project is to create a database that will house the laws, statistics on the scope of the problem, trafficking routes, legal cases and survivors' stories. The preliminary data base will be complete in a couple of months and will be available to policymakers, human rights advocates, legal scholars, students, and others working to stop trafficking.

In fact, we found at the Protection Project that almost every country in the world has a trafficking problem of one sort or another. The United States, a receiver country, has as much a problem as Russia, a sender country. Recognition of this problem is now largely due to an extraordinary coalition of faith-based, women's and children's groups. For those of us who have been working in this field for over 20 years, it is thrilling to see the progress that is being made. I am very pleased to be here today to introduce to you three young women who have come a long way to tell their stories. They come here in the hope that, in speaking, they can prevent what happened to them from happening to other young women and girls, for their stories, sadly, are being repeated by the hundreds of thousands in countries around the world.

[We] would like to start with Marsha's story:

Marsha [through interpreter]. Mr. Chairman, my name is Marsha, and I am from southern Russia.

In 1996, when I was 24, I visited St. Petersburg. I was preparing to return home to my village and waiting at the train station when a woman approached me. She started talking to me about life's problems, encouraging me to share mine with her. We had a nice talk, and the woman suggested that she could help me get work somewhere abroad. She told me that she had an acquaintance in Germany, who could connect me with a family for whom I could work as a housemaid. [I was excited about this and stayed in touch with her and got the contact from her].

[After an interview over the phone that went well, I applied for and] was issued a tourist visa to Spain, and left on a bus tour of Europe in February 1997. I was [told] to get off the bus in Germany. There I was met by a woman named Jana, who had a flat in Hamburg. She took me to an apartment there, where I met about 20 other girls who had come from Russia and Poland.

Most of them were younger than I.

After a few days, Jana told me she could not find a family who would hire me as a housemaid. She said I owed her 2,000 German marks, which is approximately 1,000 U.S. dollars, and said that I could earn that money by providing sexual services to men. I was shocked. I was afraid to say no, because she had my passport, and I did not know any German. She and her husband, who turned out to be a drug dealer, threatened to beat me if I tried to leave, and said that if I went to the police, I would be deported. They said no one would care what happened to me and that no one would help.

Girls who would not cooperate were taken down to the basement of the bar, where they were beaten across their backs, where it would not show but it would still be painful and possibly would cause kidney damage. I was afraid they would use drugs and alcohol to force me to prostitute myself. I had seen other girls given cocaine and beaten into submission. Her husband threatened that I would suffer this fate if I did not go along with them.

Downstairs from our apartment there was a bar where we were told to find clients for sex. I tried not to attract attention by dressing modestly and sitting by myself. The girls who had come to Germany . . . were regularly beaten. Our passports were kept behind the bar, but we were afraid to take them because big, burly guards watched us all the time. The bar had surveillance cameras covering the bar and the road so that they could see clients or police coming.

I was kept there for 2 months and never made any money. I only had a tourist visa, good for 1 month. But Jana told me she could prepare documents that would say I was married to a

German man. She would do this if I would stay longer and work for her. I refused, and so she sold me to a Greek pimp who was operating in Germany.

Shortly after that, the police raided the bar and I was taken, along with the other girls, to the station. I was not given a chance to explain what had happened to me—that I never wanted to be there, that I had been tricked, threatened and intimidated into staying. Instead, I was charged with prostitution and held in a jail cell. I was issued an order to leave Germany or face deportation.

The Greek pimp gave me money for a ticket back to Russia. Some would say that he took pity on me. But, in reality, this helped him avoid being arrested and charged with pimping. He was never charged, and the German police never attempted to do anything about the network of people who had trafficked me, from the women who recruited me to the agent who got me the visa to the Russian woman pimp and her husband.

Olga [through interpreter]. Mr. Chairman, my name is Olga. I am from Siberia, in Russia.

In December 1998, a female acquaintance of mine returned from a trip to Israel with a lot of money. She told me that she had worked as a housemaid, she had worked in shops and in bars, and that I could also get a job. I asked her how she found work without knowing the language. She told me that there were many Russian immigrants in Israel who wanted to hire Russian women so that their children would not forget their heritage and their native tongue.

I had no money for a ticket to Israel, but the woman told me not to worry, "I will buy your ticket, you will make so much money that you will be able to pay me back in no time," she said. I decided to go, and got a travel visa. She went on ahead of me to Israel, telling me that she would meet me at the airport.

When I arrived, she was waiting with two big, bulky Israeli men. We went to a small city in Israel, where they showed me around, introduced me to many people, and they spoke in Hebrew so that I could not understand. They told me they were people who might hire me. For a few days, it was as if I was a tourist just visiting the country. Then the men came back and told me that they had a job for me, but because I did not have a visa to work in Israel I would have to give them my passport.

A couple of days later, they returned a passport to me, a false passport, with my picture but with the name of an Israeli woman. Then another Israeli man came and my friend told me to put my things in his car; that he would take care of everything. He took me to Tel Aviv. He told me then that I had been sold to him for \$10,000 and that I would have to pay him back. He told me I would have to prostitute myself.

I was angry and infuriated. I screamed and fought every time he tried to take me from the apartment where I was staying. Because of this, he separated me from the other Russian women he owned. Every day I was taken to the brothel where all the other women were Israeli. I was still resisting, so I was not making much money for my captor.

He then told me that I had earned only \$8,000 of my debt and that he would find me another job to make the rest of the money. He promised I would not have to be a prostitute anymore.

He took me to a hotel and told me to wait for my new employer. Two men came to meet me there. They gave me something to drink which turned out to be drugged. I lost consciousness.

When I woke up, I was locked in a dark room with no furniture. I could hear people speaking Arabic, but I could not understand what they were saying. I tried to escape but the men caught me quickly and again gave me some drug to take. They told me to just sit down and that if I behaved well, everything would be OK.

A Russian-speaking Arab told that I had been kidnapped and was in Palestine. I began to be very afraid that they would sell me to a harem in Iraq or someplace worse. The men there did not tell me what I was to do. I told them that I was Muslim, hoping that that would provide me with some protection. Several days later they sold me back to another brothel in Israel.

I told the brothel owners there that I would never work for them, so they locked me in an apartment and sent clients into the apartment anyway. If I refused to work, they would not feed me. They beat me, but only across the back, near my kidneys, so it would not hurt my appearance. It was very painful.

I saw only clients who spoke no Russian, so I could not tell them my story. I was forced to see between 15 to 20 customers a day, and the brothel owners gave me drugs so that I would continue working. I began to feel that I was losing my mind, and [I cried a lot and felt sick]. Then they gave me some pills, supposedly to cure my headaches. I found out later that it was a drug called Ecstasy, a drug that makes you relax and more willing to be intimate. After 3 weeks, I became dependent, addicted to the pills, and began to ask for them every day.

I began also to learn some Hebrew from my clients so that I could explain to them what had happened to me. Unfortunately, these customers never came back. But, finally, I told a Polish Jew of my plight and he contacted the police. The brothel was raided in May 1999, and I was [summarily] deported back to Russia. I had no winter clothes and landed dressed in shorts and a tank top. I was almost psychotic from the pills and the abuse and spent two years in a Russian hospital trying to recover my health and sanity. I was not the only Russian girl there in the hospital. There were many of us.

Maria [through interpreter]. Good afternoon. I would like to thank the Foreign Relations Committee for the opportunity to speak to you on behalf of trafficking survivors. My name is Maria. I am in disguise today because I fear that my captors [will] recognize me and place my life and that of my family in danger.

My story begins in May 1997, in Veracruz, Mexico. I was approached in Mexico by an acquaintance about some jobs in the United States. She told me that there were jobs available in restaurants or bars. I was working as a domestic helper in Mexico and had a job at a general retail store. This seemed like a great opportunity for me to earn more money for my daughter and family. I accepted the job and soon was brought by a coyote to Texas.

Once over the border, I was kept at a safe house. Then I was transported to Florida. Once in Florida, one of the ringleaders told me I would be working in a brothel as a prostitute. I told him he was mistaken and that I was going to be working in a restaurant, not a brothel. He then ordered me to work in a brothel. He said I owed him a smuggling debt of approximately \$2,200, and the sooner I paid it off the sooner I could leave.

I was 18 years old and had never been far from home and had no money or way to get home. Next I was given tight clothes to wear and was told what I must do. There [were] armed men selling tickets to customers in the trailers. Tickets were condoms. Each ticket [was] \$22 to \$25. The client would then point at the girl he wanted and the girl would take him to one of the bedrooms. At the end of the night

I turned in the condom wrappers. Each wrapper represented a supposed deduction from my smuggling fee.

We tried to keep our own records, but the bosses would destroy them. We were never sure what we owed. There were up to four girls kept at each brothel. We were constantly guarded and abused. If anyone refused to be with a customer, we were beaten. If we adamantly refused, the bosses would [teach] us a lesson by raping us brutally. They told us if we refused again it would even be worse the next time.

We were transported every 15 days to another trailer in a nearby city. This was to give the customers a variety of girls and also so we would never know where we were in case we tried to escape. I could not believe this was happening to me.

We worked 6 days a week and 12-hour days. We mostly had to serve 32 to 35 clients a day. Weekends were worse. Our bodies were utterly sore and swollen. The bosses did not care. We worked no matter what. This included during menstruation.

Clients would become enraged if they found out. The bosses instructed us to place a piece of clothing over the lamps to darken the room. This, however, did not protect us from the clients' beatings. Also, at the end of the night, our work did not end. It was now the bosses' turn with us. If anyone became pregnant, we were forced to have an abortion. The cost of the abortion [was] then added to our smuggling debt.

The bosses carried weapons. They scared me. The brothels were often in isolated areas. I never knew where I was. It was all so strange to me. We were not allowed to go outside the brothels. I knew if I tried to escape I would not get far, because everything was so unfamiliar. The bosses told me that if I escaped, INS would catch me, beat me, and tie me up. This frightened me. I did know of one girl who escaped. The bosses searched for her and they said they were going to get their money that she owed from her family. They said they would get their money one way or another.

I know of another girl that escaped and was hunted down. The bosses found her and beat her severely. The bosses showed her a lesson by beating and raping her brutally. All I could do was stand there and watch. I was too afraid to try to escape. I also did not want my family put in danger.

I was enslaved for several months. Other women were enslaved for up to a year. Our enslavement finally ended when the INS, FBI and local law enforcement raided the brothels and rescued us. We were not sure what was happening on the day of the raids. Our captors had told us over and over never to tell the police of our conditions. They told us that if we told, we would find ourselves in prison for the rest of our lives. They told us that the INS would rape us and kill us. But we learned to trust the INS and FBI, and assisted them in the prosecution of our enslavers.

Unfortunately, this was difficult. After the INS and FBI freed us from the brothels, we were put in detention centers for many months. Our captors were correct. We thought we would be imprisoned for the rest of our lives. Later, our attorneys were able to get us released to a women's domestic violence center, where we received comprehensive medical attention, including gynecological exams for the first time, and mental health counseling.

Thanks to the U.S. Government, some of our captors were brought to justice and were sent to prison. Unfortunately, not all. Some of them [escaped] and are living in Mexico in our hometown of Veracruz. They have threatened some of our families. They have even threatened to bring our younger sisters to the United States and force them to work in brothels, as well.

I would never have done this work. No one I know would have done this work. I am speaking out today because I never want this to happen to anyone else. However, in order to accomplish this goal, women like me need your help. We need the laws to protect us from this horror. We need the immigration laws to provide victims of this horror with permanent legal residence [in the U.S.]. We came to the United States to find a better future, not to be prostitutes.

If anyone thinks that providing protection to trafficking survivors by affording them permanent residence is a magnet for other immigrants like myself, they are wrong. No woman or child would want to be a sex slave and endure the evil that I have gone through. I am in fear for my life more than ever. I helped put these evil men in jail. Please help me. Please help us.

Please do not let this happen to anyone else. Thank you.

Ms. Coto. I am going to read a statement from a minor survivor, who was 14 at the time that she was brought over into the United States and trafficked. This is Rosa's story:

When I was 14, a man came to my parent's house in Veracruz, Mexico, and asked me if I was interested in making money in the United States. He said I could make many times as much money doing the same things that I was doing in Mexico. At the time, I was working in a hotel, cleaning rooms, and I also helped around my house by watching my brothers and sisters. He said I would be in good hands and would meet many other Mexican girls who had taken advantage of this great opportunity. My parents did not want me to go, but I persuaded them.

A week later, I was smuggled into the United States, through Mexico, to Orlando, Florida. It was then when the man told me my employment would consist of having sex with men for money. I had never had sex before, and I had never imagined selling my body. And so my nightmare began.

Because I was a virgin, the men decided to initiate me by raping me again and again, to teach me how to have sex. Over the next 3 months, I was taken to a different trailer every 15 days. Every night I had to sleep in the same bed in which I had been forced to service customers all day. I could not do anything to stop it. I was not allowed to go outside without a guard. Many of the bosses had guns. I was constantly afraid. One of the bosses carried me off to a hotel one night, where he raped me. I could do nothing to stop it.

Because I was so young, I was always in demand with the customers. It was awful. Although the men were supposed to wear condoms, sometimes they did not. So eventually I became pregnant and was forced to have an abortion. They sent me back to the brothel almost immediately. I cannot forget what has happened. I cannot put it behind me. I find it nearly impossible to trust people. I still feel shame.

I was a decent girl in Mexico. I used to go to church with my family. I only wish none of this had ever happened. Thank you.

Source: U.S. Congress. Senate. *International Trafficking in Women and Children: Hearing before the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations*. 106th Congress, 2d Session, 2000. (Statements by: survivor Marsha, Russia; survivor Olga, Ukraine; and survivor Maria, Mexico) (94–101). <https://www.gpo.gov/fdsys/pkg/CHRG-106shrg63986/html/CHRG-106shrg63986.htm>.

ANALYSIS

By the time of this hearing, a first draft of the Trafficking Victims Protection Act was circulating in the NGO community and several legislators, including Senator Brownback, were attempting to obtain cosponsors for the bill, but although the initial work had been done by a small bi-partisan group of legislators, there were many serious roadblocks to passing the law. The most serious was that trafficking in persons was a hidden human rights abuse; it happened behind closed doors, underground, out of sight, in back alley brothels, in fields, in locked sweatshops. Therefore, even though it was a kind of 21st-century human slavery, it was not something the average citizen—or even the average legislator—had heard about, much less seen. Senator Brownback knew that if people didn't understand the problem, the law was not likely to pass.

Senator Brownback had traveled to Southeast Asia and other countries with serious trafficking problems and had met and talked to trafficking victims. He decided to hold a Senate hearing about the harm of human trafficking.

But how to do that? By that time both the House and Senate had hosted many briefings and numerous hearings. A long list of experts were willing to testify. But Senator Brownback wanted to hear directly from the victims themselves. He wanted them to tell their stories, because he understood that when people heard the stories of these young survivors in their own words, they would truly understand—from the heart as well as from the head—the horrific nature of the crime. Senator Brownback approached Professor Laura Lederer, then at Harvard University's Women and Public Policy Center at the John F. Kennedy School of Government.

Together they worked on locating victims from around the world who would be willing to come forward and tell their stories. They contacted colleagues on the ground in all four corners of the world—Russia, Ukraine, Thailand, Burma, India, Nepal, Nigeria, Tanzania, Kenya, Brazil, Ecuador, and Mexico—in order to locate trafficking survivors.

Some said it couldn't be done. They said that the victims they knew were in hiding from the thugs that had trafficked them, fearful for their lives and the lives of their loved ones. They said that they were too sick to travel—sick with HIV/AIDS, or TB, or other serious chronic or communicable diseases. They said that even after the remnants of physical abuse were gone, the emotional scars (nightmares, depression, and suicidal tendencies) remained, making it impossible for them to come to the United States to speak.

But Senator Brownback persevered, and when they located young women from Russia, Nepal, Mexico, and Thailand who were willing to come to America to tell their stories, he wrote letters and made phone calls to clear the way for them to come here and tell their stories. Two from India became ill at the last minute and could not travel. One of these young women died later from AIDS contracted while she was being trafficked. Another survivor, from Thailand, could not obtain a visa from her country. Of the six vetted, three were able to make the journey to testify. Another, a child, had her testimony read into the record.

Senator Brownback chaired the hearing with his Democratic colleague, Senator Paul Wellstone. It was packed with citizens backed out the door, standing room only,

and there were reporters from every major media outlet. In addition, it was attended by dozens of legislators and their staffers. As the young women told their stories, the room was so quiet you could hear a pin drop. More than a few tears were shed as the young women described their physical, mental, emotional, and spiritual devastation. That hearing was the turning point in the passage of the Trafficking Victims Protection Act of 2000, and cemented fledgling bi-partisan bonds between faith-based organizations, women's rights groups, children's groups, human rights groups, and others which eventually led to the passage of the law.

FURTHER READING

Survivor Stories: Real Stories, Real Change, Real Solutions, Equality Now. 2014. http://www.equalitynow.org/sites/default/files/Survivor_Stories.pdf.

TRAFFICKING VICTIMS PROTECTION ACT (2000)

- **Document:** Trafficking Victims Protection Act of 2000
 - **When:** October 28, 2000
 - **Where:** 106th Congress, 2nd Session, Washington, D.C.
 - **Significance:** The Trafficking Victims Protection Act (TVPA) of 2000 is perhaps the most significant law on human trafficking to emerge from the 20th century. It reflected the decades of work of activists, advocates, and policy makers, and the final product, while not perfect, addressed many of the concerns of those working to stop both labor and sex trafficking. Of particular note are several ingenious compromises that allowed the bill to move forward in a Congress so divided that the TVPA was the only law that passed during the last year of the Clinton administration.
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DOCUMENT

SEC. 101. SHORT TITLE.

This division may be cited as the “Trafficking Victims Protection Act of 2000.”

SEC. 102. PURPOSES AND FINDINGS.

- (a) **PURPOSES**—The purposes of this division are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.
- (b) **FINDINGS**—Congress finds that:
 - (1) As the 21st century begins, the degrading institution of slavery continues throughout the world. Trafficking in persons is a modern form of slavery, and it is the largest manifestation of slavery today. At least 700,000 persons annually, primarily women and children, are trafficked within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year.
 - (2) Many of these persons are trafficked into the international sex trade, often by force, fraud, or coercion. The sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, predominantly women and girls, involving activities related to prostitution, pornography, sex tourism, and other commercial sexual services. The low status of women in many parts of the world has contributed to a burgeoning of the trafficking industry.

- (3) Trafficking in persons is not limited to the sex industry. This growing transnational crime also includes forced labor and involves significant violations of labor, public health, and human rights standards worldwide.
- (4) Traffickers primarily target women and girls, who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and the lack of economic opportunities in countries of origin. Traffickers lure women and girls into their networks through false promises of decent working conditions at relatively good pay as nannies, maids, dancers, factory workers, restaurant workers, sales clerks, or models. Traffickers also buy children from poor families and sell them into prostitution or into various types of forced or bonded labor.
- (5) Traffickers often transport victims from their home communities to unfamiliar destinations, including foreign countries away from family and friends, religious institutions, and other sources of protection and support, leaving the victims defenseless and vulnerable.
- (6) Victims are often forced through physical violence to engage in sex acts or perform slavery-like labor. Such force includes rape and other forms of sexual abuse, torture, starvation, imprisonment, threats, psychological abuse, and coercion.
- (7) Traffickers often make representations to their victims that physical harm may occur to them or others should the victim escape or attempt to escape. Such representations can have the same coercive effects on victims as direct threats to inflict such harm.
- (8) Trafficking in persons is increasingly perpetrated by organized, sophisticated criminal enterprises. Such trafficking is the fastest growing source of profits for organized criminal enterprises worldwide. Profits from the trafficking industry contribute to the expansion of organized crime in the United States and worldwide. Trafficking in persons is often aided by official corruption in countries of origin, transit, and destination, thereby threatening the rule of law.
- (9) Trafficking includes all the elements of the crime of forcible rape when it involves the involuntary participation of another person in sex acts by means of fraud, force, or coercion.
- (10) Trafficking also involves violations of other laws, including labor and immigration codes and laws against kidnapping, slavery, false imprisonment, assault, battery, pandering, fraud, and extortion.
- (11) Trafficking exposes victims to serious health risks. Women and children trafficked in the sex industry are exposed to deadly diseases, including HIV and AIDS. Trafficking victims are sometimes worked or physically brutalized to death.
- (12) Trafficking in persons substantially affects interstate and foreign commerce. Trafficking for such purposes as involuntary servitude, peonage, and other forms of forced labor has an impact on the nationwide employment network and labor market. Within the context of

slavery, servitude, and labor or services which are obtained or maintained through coercive conduct that amounts to a condition of servitude, victims are subjected to a range of violations.

- (13) Involuntary servitude statutes are intended to reach cases in which persons are held in a condition of servitude through non-violent coercion. In *United States v. Kozminski*, 487 U.S. 931 (1988), the Supreme Court found that section 1584 of title 18, United States Code, should be narrowly interpreted, absent a definition of involuntary servitude by Congress. As a result, that section was interpreted to criminalize only servitude that is brought about through use or threatened use of physical or legal coercion, and to exclude other conduct that can have the same purpose and effect.
- (14) Existing legislation and law enforcement in the United States and other countries are inadequate to deter trafficking and bring traffickers to justice, failing to reflect the gravity of the offenses involved. No comprehensive law exists in the United States that penalizes the range of offenses involved in the trafficking scheme. Instead, even the most brutal instances of trafficking in the sex industry are often punished under laws that also apply to lesser offenses, so that traffickers typically escape deserved punishment.
- (15) In the United States, the seriousness of this crime and its components is not reflected in current sentencing guidelines, resulting in weak penalties for convicted traffickers.
- (16) In some countries, enforcement against traffickers is also hindered by official indifference, by corruption, and sometimes even by official participation in trafficking.
- (17) Existing laws often fail to protect victims of trafficking, and because victims are often illegal immigrants in the destination country, they are repeatedly punished more harshly than the traffickers themselves.
- (18) Additionally, adequate services and facilities do not exist to meet victims' needs regarding health care, housing, education, and legal assistance, which safely reintegrate trafficking victims into their home countries.
- (19) Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked, such as using false documents, entering the country without documentation, or working without documentation.
- (20) Because victims of trafficking are frequently unfamiliar with the laws, cultures, and languages of the countries into which they have been trafficked, because they are often subjected to coercion and intimidation including physical detention and debt bondage, and because they often fear retribution and forcible removal to countries in which they will face retribution or other hardship, these victims often find it difficult or impossible to report the crimes

committed against them or to assist in the investigation and prosecution of such crimes.

- (21) Trafficking of persons is an evil requiring concerted and vigorous action by countries of origin, transit or destination, and by international organizations.
- (22) One of the founding documents of the United States, the Declaration of Independence, recognizes the inherent dignity and worth of all people. It states that all men are created equal and that they are endowed by their Creator with certain unalienable rights. The right to be free from slavery and involuntary servitude is among those unalienable rights. Acknowledging this fact, the United States outlawed slavery and involuntary servitude in 1865, recognizing them as evil institutions that must be abolished. Current practices of sexual slavery and trafficking of women and children are similarly abhorrent to the principles upon which the United States was founded.
- (23) The United States and the international community agree that trafficking in persons involves grave violations of human rights and is a matter of pressing international concern. The international community has repeatedly condemned slavery and involuntary servitude, violence against women, and other elements of trafficking, through declarations, treaties, and United Nations resolutions and reports, including the Universal Declaration of Human Rights; the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the 1948 American Declaration on the Rights and Duties of Man; the 1957 Abolition of Forced Labor Convention; the International Covenant on Civil and Political Rights; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; United Nations General Assembly Resolutions 50/167, 51/66, and 52/98; the Final Report of the World Congress against Sexual Exploitation of Children (Stockholm, 1996); the Fourth World Conference on Women (Beijing, 1995); and the 1991 Moscow Document of the Organization for Security and Cooperation in Europe.
- (24) Trafficking in persons is a transnational crime with national implications. To deter international trafficking and bring its perpetrators to justice, nations including the United States must recognize that trafficking is a serious offense. This is done by prescribing appropriate punishment, giving priority to the prosecution of trafficking offenses, and protecting rather than punishing the victims of such offenses. The United States must work bilaterally and multilaterally to abolish the trafficking industry by taking steps to promote cooperation among countries linked together by international trafficking routes. The United States must also urge the international community to take strong action in multilateral fora to engage recalcitrant countries in serious and sustained efforts to eliminate trafficking and protect trafficking victims.

SEC. 103. DEFINITIONS.

In this division:

- (1) **APPROPRIATE CONGRESSIONAL COMMITTEES**—The term “appropriate congressional committees” means the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on International Relations and the Committee on the Judiciary of the House of Representatives.
- (2) **COERCION**—The term “coercion” means—
 - (A) threats of serious harm to or physical restraint against any person;
 - (B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
 - (C) the abuse or threatened abuse of the legal process.
- (3) **COMMERCIAL SEX ACT**—The term “commercial sex act” means any sex act on account of which anything of value is given to or received by any person.
- (4) **DEBT BONDAGE**—The term “debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.
- (5) **INVOLUNTARY SERVITUDE**—The term “involuntary servitude” includes a condition of servitude induced by means of—
 - (A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or
 - (B) the abuse or threatened abuse of the legal process.
- (6) **MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING**—The term “minimum standards for the elimination of trafficking” means the standards set forth in section 108.
- (7) **NONHUMANITARIAN, NONTRADE-RELATED FOREIGN ASSISTANCE**—The term “nonhumanitarian, nontrade-related foreign assistance” means—
 - (A) any assistance under the Foreign Assistance Act of 1961, other than—
 - (i) assistance under chapter 4 of part II of that Act that is made available for any program, project, or activity eligible for assistance under chapter 1 of part I of that Act;
 - (ii) assistance under chapter 8 of part I of that Act;
 - (iii) any other narcotics-related assistance under part I of that Act or under chapter 4 or 5 part II of that Act, but any such assistance

- provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of that Act;
- (iv) disaster relief assistance, including any assistance under chapter 9 of part I of that Act;
 - (v) antiterrorism assistance under chapter 8 of part II of that Act;
 - (vi) assistance for refugees;
 - (vii) humanitarian and other development assistance in support of programs of nongovernmental organizations under chapters 1 and 10 of that Act;
 - (viii) programs under title IV of chapter 2 of part I of that Act, relating to the Overseas Private Investment Corporation; and
 - (ix) other programs involving trade-related or humanitarian assistance; and
- (B) sales, or financing on any terms, under the Arms Export Control Act, other than sales or financing provided for narcotics-related purposes following notification in accordance with the prior notification procedures applicable to reprogrammings pursuant to section 634A of the Foreign Assistance Act of 1961.
- (8) SEVERE FORMS OF TRAFFICKING IN PERSONS—The term “severe forms of trafficking in persons” means—
- (A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
 - (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- (9) SEX TRAFFICKING—The term “sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.
- (10) STATE—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and territories and possessions of the United States.
- (11) TASK FORCE—The term “Task Force” means the Interagency Task Force to Monitor and Combat Trafficking established under section 105.
- (12) UNITED STATES—The term “United States” means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

- (13) VICTIM OF A SEVERE FORM OF TRAFFICKING—The term “victim of a severe form of trafficking” means a person subject to an act or practice described in paragraph (8).
- (14) VICTIM OF TRAFFICKING—The term “victim of trafficking” means a person subjected to an act or practice described in paragraph (8) or (9).

SEC. 104. ANNUAL COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.

- (a) COUNTRIES RECEIVING ECONOMIC ASSISTANCE—Section 116(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(f)) is amended to read as follows:

“(f)(1) The report required by subsection (d) shall include the following:

- (A) A description of the nature and extent of severe forms of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, in each foreign country.
- (B) With respect to each country that is a country of origin, transit, or destination for victims of severe forms of trafficking in persons, an assessment of the efforts by the government of that country to combat such trafficking. The assessment shall address the following:
- (i) Whether government authorities in that country participate in, facilitate, or condone such trafficking.
 - (ii) Which government authorities in that country are involved in activities to combat such trafficking.
 - (iii) What steps the government of that country has taken to prohibit government officials from participating in, facilitating, or condoning such trafficking, including the investigation, prosecution, and conviction of such officials.
 - (iv) What steps the government of that country has taken to prohibit other individuals from participating in such trafficking, including the investigation, prosecution, and conviction of individuals involved in severe forms of trafficking in persons, the criminal and civil penalties for such trafficking, and the efficacy of those penalties in eliminating or reducing such trafficking.
 - (v) What steps the government of that country has taken to assist victims of such trafficking, including efforts to prevent victims from being further victimized by traffickers, government officials, or others, grants of relief from deportation, and provision of humanitarian relief, including provision of mental and physical health care and shelter.

- (vi) Whether the government of that country is cooperating with governments of other countries to extradite traffickers when requested, or, to the extent that such cooperation would be inconsistent with the laws of such country or with extradition treaties to which such country is a party, whether the government of that country is taking all appropriate measures to modify or replace such laws and treaties so as to permit such cooperation.
- (vii) Whether the government of that country is assisting in international investigations of transnational trafficking networks and in other cooperative efforts to combat severe forms of trafficking in persons.
- (viii) Whether the government of that country refrains from prosecuting victims of severe forms of trafficking in persons due to such victims having been trafficked, and refrains from other discriminatory treatment of such victims.
- (ix) Whether the government of that country recognizes the rights of victims of severe forms of trafficking in persons and ensures their access to justice.

(C) Such other information relating to trafficking in persons as the Secretary of State considers appropriate.

“(2) In compiling data and making assessments for the purposes of paragraph (1), United States diplomatic mission personnel shall consult with human rights organizations and other appropriate nongovernmental organizations.”

(b) COUNTRIES RECEIVING SECURITY ASSISTANCE—Section 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2304) is amended by adding at the end the following new subsection:

- “(h)(1) The report required by subsection (b) shall include the following:
- (A) A description of the nature and extent of severe forms of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, in each foreign country.
 - (B) With respect to each country that is a country of origin, transit, or destination for victims of severe forms of trafficking in persons, an assessment of the efforts by the government of that country to combat such trafficking. The assessment shall address the following:
 - (i) Whether government authorities in that country participate in, facilitate, or condone such trafficking.
 - (ii) Which government authorities in that country are involved in activities to combat such trafficking.

- (iii) What steps the government of that country has taken to prohibit government officials from participating in, facilitating, or condoning such trafficking, including the investigation, prosecution, and conviction of such officials.
 - (iv) What steps the government of that country has taken to prohibit other individuals from participating in such trafficking, including the investigation, prosecution, and conviction of individuals involved in severe forms of trafficking in persons, the criminal and civil penalties for such trafficking, and the efficacy of those penalties in eliminating or reducing such trafficking.
 - (v) What steps the government of that country has taken to assist victims of such trafficking, including efforts to prevent victims from being further victimized by traffickers, government officials, or others, grants of relief from deportation, and provision of humanitarian relief, including provision of mental and physical health care and shelter.
 - (vi) Whether the government of that country is cooperating with governments of other countries to extradite traffickers when requested, or, to the extent that such cooperation would be inconsistent with the laws of such country or with extradition treaties to which such country is a party, whether the government of that country is taking all appropriate measures to modify or replace such laws and treaties so as to permit such cooperation.
 - (vii) Whether the government of that country is assisting in international investigations of transnational trafficking networks and in other cooperative efforts to combat severe forms of trafficking in persons.
 - (viii) Whether the government of that country refrains from prosecuting victims of severe forms of trafficking in persons due to such victims having been trafficked, and refrains from other discriminatory treatment of such victims.
 - (ix) Whether the government of that country recognizes the rights of victims of severe forms of trafficking in persons and ensures their access to justice.
- (C) Such other information relating to trafficking in persons as the Secretary of State considers appropriate.
- (2) In compiling data and making assessments for the purposes of paragraph (1), United States diplomatic mission personnel shall consult with human rights organizations and other appropriate nongovernmental organizations.”

SEC. 105. INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING.

- (a) **ESTABLISHMENT**—The President shall establish an Interagency Task Force to Monitor and Combat Trafficking.
- (b) **APPOINTMENT**—The President shall appoint the members of the Task Force, which shall include the Secretary of State, the Administrator of the United States Agency for International Development, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of Central Intelligence, and such other officials as may be designated by the President.
- (c) **CHAIRMAN**—The Task Force shall be chaired by the Secretary of State.
- (d) **ACTIVITIES OF THE TASK FORCE**—The Task Force shall carry out the following activities:
 - (1) Coordinate the implementation of this division.
 - (2) Measure and evaluate progress of the United States and other countries in the areas of trafficking prevention, protection, and assistance to victims of trafficking, and prosecution and enforcement against traffickers, including the role of public corruption in facilitating trafficking. The Task Force shall have primary responsibility for assisting the Secretary of State in the preparation of the reports described in section 110.
 - (3) Expand interagency procedures to collect and organize data, including significant research and resource information on domestic and international trafficking. Any data collection procedures established under this subsection shall respect the confidentiality of victims of trafficking.
 - (4) Engage in efforts to facilitate cooperation among countries of origin, transit, and destination. Such efforts shall aim to strengthen local and regional capacities to prevent trafficking, prosecute traffickers and assist trafficking victims, and shall include initiatives to enhance cooperative efforts between destination countries and countries of origin and assist in the appropriate reintegration of stateless victims of trafficking.
 - (5) Examine the role of the international “sex tourism” industry in the trafficking of persons and in the sexual exploitation of women and children around the world.
 - (6) Engage in consultation and advocacy with governmental and non-governmental organizations, among other entities, to advance the purposes of this division.
- (e) **SUPPORT FOR THE TASK FORCE**—The Secretary of State is authorized to establish within the Department of State an Office to Monitor

and Combat Trafficking, which shall provide assistance to the Task Force. Any such Office shall be headed by a Director. The Director shall have the primary responsibility for assisting the Secretary of State in carrying out the purposes of this division and may have additional responsibilities as determined by the Secretary. The Director shall consult with nongovernmental organizations and multilateral organizations, and with trafficking victims or other affected persons. The Director shall have the authority to take evidence in public hearings or by other means. The agencies represented on the Task Force are authorized to provide staff to the Office on a non-reimbursable basis.

SEC. 106. PREVENTION OF TRAFFICKING.

- (a) **ECONOMIC ALTERNATIVES TO PREVENT AND DETER TRAFFICKING**—The President shall establish and carry out international initiatives to enhance economic opportunity for potential victims of trafficking as a method to deter trafficking. Such initiatives may include—
- (1) microcredit lending programs, training in business development, skills training, and job counseling;
 - (2) programs to promote women’s participation in economic decision-making;
 - (3) programs to keep children, especially girls, in elementary and secondary schools, and to educate persons who have been victims of trafficking;
 - (4) development of educational curricula regarding the dangers of trafficking; and
 - (5) grants to nongovernmental organizations to accelerate and advance the political, economic, social, and educational roles and capacities of women in their countries.
- (b) **PUBLIC AWARENESS AND INFORMATION**—The President, acting through the Secretary of Labor, the Secretary of Health and Human Services, the Attorney General, and the Secretary of State, shall establish and carry out programs to increase public awareness, particularly among potential victims of trafficking, of the dangers of trafficking and the protections that are available for victims of trafficking.
- (c) **CONSULTATION REQUIREMENT**—The President shall consult with appropriate nongovernmental organizations with respect to the establishment and conduct of initiatives described in subsections (a) and (b).

SEC. 107. PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.

- (a) **Assistance for Victims in Other Countries**—
- (1) **IN GENERAL**—The Secretary of State and the Administrator of the United States Agency for International Development, in consultation with appropriate nongovernmental organizations, shall establish and carry out programs and initiatives in

foreign countries to assist in the safe integration, reintegration, or resettlement, as appropriate, of victims of trafficking. Such programs and initiatives shall be designed to meet the appropriate assistance needs of such persons and their children, as identified by the Task Force.

(2) ADDITIONAL REQUIREMENT—In establishing and conducting programs and initiatives described in paragraph (1), the Secretary of State and the Administrator of the United States Agency for International Development shall take all appropriate steps to enhance cooperative efforts among foreign countries, including countries of origin of victims of trafficking, to assist in the integration, reintegration, or resettlement, as appropriate, of victims of trafficking, including stateless victims.

(b) Victims in the United States—

(1) ASSISTANCE—

(A) ELIGIBILITY FOR BENEFITS AND SERVICES—Notwithstanding title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, an alien who is a victim of a severe form of trafficking in persons shall be eligible for benefits and services under any Federal or State program or activity funded or administered by any official or agency described in subparagraph (B) to the same extent as an alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(B) REQUIREMENT TO EXPAND BENEFITS AND SERVICES—Subject to subparagraph (C) and, in the case of nonentitlement programs, to the availability of appropriations, the Secretary of Health and Human Services, the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and the heads of other Federal agencies shall expand benefits and services to victims of severe forms of trafficking in persons in the United States, without regard to the immigration status of such victims.

(C) DEFINITION OF VICTIM OF A SEVERE FORM OF TRAFFICKING IN PERSONS—For the purposes of this paragraph, the term “victim of a severe form of trafficking in persons” means only a person—

(i) who has been subjected to an act or practice described in section 103(8) as in effect on the date of the enactment of this Act; and

(ii)(I) who has not attained 18 years of age; or

(II) who is the subject of a certification under subparagraph (E).

(D) ANNUAL REPORT—Not later than December 31 of each year, the Secretary of Health and Human Services, in consultation with the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and the heads of other appropriate Federal agencies shall submit a report, which includes information on the number of persons who received benefits or other services under this paragraph in connection with programs or activities funded or administered by such agencies or officials during the preceding fiscal year, to the Committee on Ways and Means, the Committee on International Relations, and the Committee on the Judiciary of the House of Representatives and the Committee on Finance, the Committee on Foreign Relations, and the Committee on the Judiciary of the Senate.

(E) CERTIFICATION—

(i) IN GENERAL—Subject to clause (ii), the certification referred to in subparagraph (C) is a certification by the Secretary of Health and Human Services, after

consultation with the Attorney General, that the person referred to in subparagraph (C)(ii)(II)—

(I) is willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons; and

(II)(aa) has made a bona fide application for a visa under section 101(a)(15)(T) of the Immigration and Nationality Act, as added by subsection (e), that has not been denied; or

(bb) is a person whose continued presence in the United States the Attorney General is ensuring in order to effectuate prosecution of traffickers in persons.

(ii) PERIOD OF EFFECTIVENESS—A certification referred to in subparagraph (C), with respect to a person described in clause (i)(II)(bb), shall be effective only for so long as the Attorney General determines that the continued presence of such person is necessary to effectuate prosecution of traffickers in persons.

(iii) INVESTIGATION AND PROSECUTION DEFINED—For the purpose of a certification under this subparagraph, the term “investigation and prosecution” includes—

(I) identification of a person or persons who have committed severe forms of trafficking in persons;

(II) location and apprehension of such persons; and

(III) testimony at proceedings against such persons.

(2) GRANTS—

(A) IN GENERAL—Subject to the availability of appropriations, the Attorney General may make grants to States, Indian tribes, units of local government, and nonprofit, nongovernmental victims’ service organizations to develop, expand, or strengthen victim service programs for victims of trafficking.

(B) ALLOCATION OF GRANT FUNDS—Of amounts made available for grants under this paragraph, there shall be set aside—

(i) three percent for research, evaluation, and statistics;

(ii) two percent for training and technical assistance; and

(iii) one percent for management and administration.

(C) LIMITATION ON FEDERAL SHARE—The Federal share of a grant made under this paragraph may not exceed 75 percent of the total costs of the projects described in the application submitted.

(c) TRAFFICKING VICTIM REGULATIONS—Not later than 180 days after the date of the enactment of this Act, the Attorney General and the Secretary of State shall promulgate regulations for law enforcement personnel, immigration officials, and Department of State officials to implement the following:

(1) PROTECTIONS WHILE IN CUSTODY—Victims of severe forms of trafficking, while in the custody of the Federal Government and to the extent practicable, shall—

(A) not be detained in facilities inappropriate to their status as crime victims;

(B) receive necessary medical care and other assistance; and

(C) be provided protection if a victim’s safety is at risk or if there is danger of additional harm by recapture of the victim by a trafficker, including—

(i) taking measures to protect trafficked persons and their family members from intimidation and threats of reprisals and reprisals from traffickers and their associates; and

(ii) ensuring that the names and identifying information of trafficked persons and their family members are not disclosed to the public.

(2) ACCESS TO INFORMATION—Victims of severe forms of trafficking shall have access to information about their rights and translation services.

(3) AUTHORITY TO PERMIT CONTINUED PRESENCE IN THE UNITED STATES—Federal law enforcement officials may permit an alien individual's continued presence in the United States, if after an assessment, it is determined that such individual is a victim of a severe form of trafficking and a potential witness to such trafficking, in order to effectuate prosecution of those responsible, and such officials in investigating and prosecuting traffickers shall protect the safety of trafficking victims, including taking measures to protect trafficked persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates.

(4) TRAINING OF GOVERNMENT PERSONNEL—Appropriate personnel of the Department of State and the Department of Justice shall be trained in identifying victims of severe forms of trafficking and providing for the protection of such victims.

(d) CONSTRUCTION—Nothing in subsection (c) shall be construed as creating any private cause of action against the United States or its officers or employees.

(e) PROTECTION FROM REMOVAL FOR CERTAIN CRIME VICTIMS—

(1) IN GENERAL—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

“(I) is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000,

(II) is physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking,

(III)(aa) has complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking, or

(bb) has not attained 15 years of age, and

(IV) the alien would suffer extreme hardship involving unusual and severe harm upon removal; and

(ii) if the Attorney General considers it necessary to avoid extreme hardship—

(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, and parents of such alien; and

(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien,

if accompanying, or following to join, the alien described in clause (i).”

(2) CONDITIONS OF NONIMMIGRANT STATUS—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended—

(B) by adding at the end the following:

(1) No alien shall be eligible for admission to the United States under section 101(a)(15)(T) if there is substantial reason to believe that the alien has committed an act of a severe form of trafficking in persons (as defined in section 103 of the Trafficking Victims Protection Act of 2000).

(2) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year under section 101(a)(15)(T) may not exceed 5,000.

(3) The numerical limitation of paragraph (2) shall only apply to principal aliens and not to the spouses, sons, daughters, or parents of such aliens.

(4) DUTIES OF THE ATTORNEY GENERAL WITH RESPECT TO ‘T’ VISA NONIMMIGRANTS—Section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is amended by adding at the end the following new subsection:

(i) With respect to each nonimmigrant alien described in subsection (a)(15)(T)(i)—

(1) the Attorney General and other Government officials, where appropriate, shall provide the alien with a referral to a nongovernmental organization that would advise the alien regarding the alien’s options while in the United States and the resources available to the alien; and

“(2) the Attorney General shall, during the period the alien is in lawful temporary resident status under that subsection, grant the alien authorization to engage in employment in the United States and provide the alien with an ‘employment authorized’ endorsement or other appropriate work permit.”

(l)(1) If, in the opinion of the Attorney General, a nonimmigrant admitted into the United States under section 101(a)(15)(T)(i)—

(A) has been physically present in the United States for a continuous period of at least 3 years since the date of admission as a nonimmigrant under section 101(a)(15)(T)(i),

(B) has, throughout such period, been a person of good moral character, and

(C)(i) has, during such period, complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking, or

(ii) the alien would suffer extreme hardship involving unusual and severe harm upon removal from the United States,

the Attorney General may adjust the status of the alien (and any person admitted under that section as the spouse, parent, or child of the alien) to that of an alien lawfully admitted for permanent residence.

SEC. 108. MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.

(a) MINIMUM STANDARDS—For purposes of this division, the minimum standards for the elimination of trafficking applicable to the government of a country of origin, transit, or destination for a significant number of victims of severe forms of trafficking are the following:

(1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.

- (2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.
 - (3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.
 - (4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.
- (b) CRITERIA—In determinations under subsection (a)(4), the following factors should be considered as indicia of serious and sustained efforts to eliminate severe forms of trafficking in persons:
- (1) Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons that take place wholly or partly within the territory of the country.
 - (2) Whether the government of the country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked.
 - (3) Whether the government of the country has adopted measures to prevent severe forms of trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons.
 - (4) Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons.
 - (5) Whether the government of the country extradites persons charged with acts of severe forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes (or, to the extent such extradition would be inconsistent with the laws of such country or with international agreements to which the country is a party, whether the government is taking all appropriate measures to modify or replace such laws and treaties so as to permit such extradition).
 - (6) Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner that is consistent with the vigorous investigation

and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.

- (7) Whether the government of the country vigorously investigates and prosecutes public officials who participate in or facilitate severe forms of trafficking in persons, and takes all appropriate measures against officials who condone such trafficking.

SEC. 109. ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

SEC. 134. ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.

- (a) **AUTHORIZATION**—The President is authorized to provide assistance to foreign countries directly, or through nongovernmental and multilateral organizations, for programs, projects, and activities designed to meet the minimum standards for the elimination of trafficking (as defined in section 103 of the Trafficking Victims Protection Act of 2000), including—

- (1) the drafting of laws to prohibit and punish acts of trafficking;
- (2) the investigation and prosecution of traffickers;
- (3) the creation and maintenance of facilities, programs, projects, and activities for the protection of victims; and
- (4) the expansion of exchange programs and international visitor programs for governmental and nongovernmental personnel to combat trafficking.

- “(b) **FUNDING**—Amounts made available to carry out the other provisions of this part (including chapter 4 of part II of this Act) and the Support for East European Democracy (SEED) Act of 1989 shall be made available to carry out this section.”

SEC. 110. ACTIONS AGAINST GOVERNMENTS FAILING TO MEET MINIMUM STANDARDS.

(a) **STATEMENT OF POLICY**—It is the policy of the United States not to provide nonhumanitarian, nontrade-related foreign assistance to any government that—

- (1) does not comply with minimum standards for the elimination of trafficking; and
- (2) is not making significant efforts to bring itself into compliance with such standards.

(b) **REPORTS TO CONGRESS**—

(1) **ANNUAL REPORT**—Not later than June 1 of each year, the Secretary of State shall submit to the appropriate congressional committees a report with respect to the status of severe forms of trafficking in persons that shall include—

(A) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments fully comply with such standards;

(B) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not yet fully comply with such standards but are making significant efforts to bring themselves into compliance; and

(C) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not fully comply with such standards and are not making significant efforts to bring themselves into compliance.

(2) INTERIM REPORTS—In addition to the annual report under paragraph (1), the Secretary of State may submit to the appropriate congressional committees at any time one or more interim reports with respect to the status of severe forms of trafficking in persons, including information about countries whose governments—

(A) have come into or out of compliance with the minimum standards for the elimination of trafficking; or

(B) have begun or ceased to make significant efforts to bring themselves into compliance, since the transmission of the last annual report.

(3) SIGNIFICANT EFFORTS—In determinations under paragraph (1) or (2) as to whether the government of a country is making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking, the Secretary of State shall consider—

(A) the extent to which the country is a country of origin, transit, or destination for severe forms of trafficking;

(B) the extent of noncompliance with the minimum standards by the government and, particularly, the extent to which officials or employees of the government have participated in, facilitated, condoned, or are otherwise complicit in severe forms of trafficking; and

(C) what measures are reasonable to bring the government into compliance with the minimum standards in light of the resources and capabilities of the government.

(c) NOTIFICATION—Not less than 45 days or more than 90 days after the submission, on or after January 1, 2003, of an annual report under subsection (b)(1), or an interim report under subsection (b)(2), the President shall submit to the appropriate congressional committees a notification of one of the determinations listed in subsection (d) with respect to each foreign country whose government, according to such report—

(A) does not comply with the minimum standards for the elimination of trafficking; and

(B) is not making significant efforts to bring itself into compliance, as described in subsection (b)(1)(C).

(d) PRESIDENTIAL DETERMINATIONS—The determinations referred to in subsection (c) are the following:

(1) WITHHOLDING OF NONHUMANITARIAN, NONTRADE-RELATED ASSISTANCE—The President has determined that—

(A)(i) the United States will not provide nonhumanitarian, nontrade-related foreign assistance to the government of the country for the subsequent fiscal year

until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; or

(ii) in the case of a country whose government received no non-humanitarian, nontrade-related foreign assistance from the United States during the previous fiscal year, the United States will not provide funding for participation by officials or employees of such governments in educational and cultural exchange programs for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; and

(B) the President will instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to vote against, and to use the Executive Director's best efforts to deny, any loan or other utilization of the funds of the respective institution to that country (other than for humanitarian assistance, for trade-related assistance, or for development assistance which directly addresses basic human needs, is not administered by the government of the sanctioned country, and confers no benefit to that government) for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance.

(2) ONGOING, MULTIPLE, BROAD-BASED RESTRICTIONS ON ASSISTANCE IN RESPONSE TO HUMAN RIGHTS VIOLATIONS—The President has determined that such country is already subject to multiple, broad-based restrictions on assistance imposed in significant part in response to human rights abuses and such restrictions are ongoing and are comparable to the restrictions provided in paragraph (1). Such determination shall be accompanied by a description of the specific restriction or restrictions that were the basis for making such determination.

(3) SUBSEQUENT COMPLIANCE—The Secretary of State has determined that the government of the country has come into compliance with the minimum standards or is making significant efforts to bring itself into compliance.

(4) CONTINUATION OF ASSISTANCE IN THE NATIONAL INTEREST—Notwithstanding the failure of the government of the country to comply with minimum standards for the elimination of trafficking and to make significant efforts to bring itself into compliance, the President has determined that the provision to the country of non-humanitarian, nontrade-related foreign assistance, or the multilateral assistance described in paragraph (1)(B), or both, would promote the purposes of this division or is otherwise in the national interest of the United States.

(5) EXERCISE OF WAIVER AUTHORITY—

(A) IN GENERAL—The President may exercise the authority under paragraph (4) with respect to—

- (i) all non-humanitarian, nontrade-related foreign assistance to a country;
- (ii) all multilateral assistance described in paragraph (1)(B) to a country; or
- (iii) one or more programs, projects, or activities of such assistance.

(B) AVOIDANCE OF SIGNIFICANT ADVERSE EFFECTS—The President shall exercise the authority under paragraph (4) when necessary to avoid significant adverse effects on vulnerable populations, including women and children.

SEC. 111. ACTIONS AGAINST SIGNIFICANT TRAFFICKERS IN PERSONS.

(a) **AUTHORITY TO SANCTION SIGNIFICANT TRAFFICKERS IN PERSONS—**

(1) **IN GENERAL—**The President may exercise the authorities set forth in section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701) without regard to section 202 of that Act (50 U.S.C. 1701) in the case of any of the following persons:

(A) Any foreign person that plays a significant role in a severe form of trafficking in persons, directly or indirectly in the United States.

(B) Foreign persons that materially assist in, or provide financial or technological support for or to, or provide goods or services in support of, activities of a significant foreign trafficker in persons identified pursuant to subparagraph (A).

(C) Foreign persons that are owned, controlled, or directed by, or acting for or on behalf of, a significant foreign trafficker identified pursuant to subparagraph (A).

(2) **PENALTIES—**The penalties set forth in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) apply to violations of any license, order, or regulation issued under this section.

(d) **EXCLUSION OF PERSONS WHO HAVE BENEFITED FROM ILLICIT ACTIVITIES OF TRAFFICKERS IN PERSONS—**Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by inserting at the end the following new subparagraph:

(H) **SIGNIFICANT TRAFFICKERS IN PERSONS—**

(i) **IN GENERAL—**Any alien who is listed in a report submitted pursuant to section 111(b) of the Trafficking Victims Protection Act of 2000, or who the consular officer or the Attorney General knows or has reason to believe is or has been a knowing aider, abettor, assister, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons, as defined in the section 103 of such Act, is inadmissible.

(ii) **BENEFICIARIES OF TRAFFICKING—**Except as provided in clause (iii), any alien who the consular officer or the Attorney General knows or has reason to believe is the spouse, son, or daughter of an alien inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity, is inadmissible.

“(iii) **EXCEPTION FOR CERTAIN SONS AND DAUGHTERS—**Clause (ii) shall not apply to a son or daughter who was a child at the time he or she received the benefit described in such clause.”

SEC. 112. STRENGTHENING PROSECUTION AND PUNISHMENT OF TRAFFICKERS.

(a) **TITLE 18 AMENDMENTS—**Chapter 77 of title 18, United States Code, is amended—

(1) in each of sections 1581(a), 1583, and 1584—

(A) by striking “10 years” and inserting “20 years”; and

(B) by adding at the end the following: “If death results from the violation of this section, or if the violation includes kidnapping or

an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.”;

(2) by inserting at the end the following:

Sec. 1589. Forced labor

Whoever knowingly provides or obtains the labor or services of a person—

- (1) by threats of serious harm to, or physical restraint against, that person or another person;
- (2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or
- (3) by means of the abuse or threatened abuse of law or the legal process,

shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

Sec. 1590. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor

Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

Sec. 1591. Sex trafficking of children or by force, fraud or coercion

(a) Whoever knowingly—

- (1) in or affecting interstate commerce, recruits, entices, harbors, transports, provides, or obtains by any means a person; or
- (2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1),

knowing that force, fraud, or coercion described in subsection (c)(2) will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

- (b) The punishment for an offense under subsection (a) is—
 - (1) if the offense was effected by force, fraud, or coercion or if the person transported had not attained the age of 14 years at the time of such offense, by a fine under this title or imprisonment for any term of years or for life, or both; or
 - (2) if the offense was not so effected, and the person transported had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title or imprisonment for not more than 20 years, or both.
- (c) In this section:
 - (1) The term “commercial sex act” means any sex act, on account of which anything of value is given to or received by any person.
 - (2) The term “coercion” means—
 - (A) threats of serious harm to or physical restraint against any person;
 - (B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
 - (C) the abuse or threatened abuse of law or the legal process.
 - (3) The term “venture” means any group of two or more individuals associated in fact, whether or not a legal entity.

Sec. 1592. Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor

- (a) Whoever knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person—
 - (1) in the course of a violation of section 1581, 1583, 1584, 1589, 1590, 1591, or 1594(a);
 - (2) with intent to violate section 1581, 1583, 1584, 1589, 1590, or 1591; or
 - (3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person’s liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, shall be fined under this title or imprisoned for not more than 5 years, or both.
- (b) Subsection (a) does not apply to the conduct of a person who is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, if that conduct is caused by, or incident to, that trafficking.

Sec. 1593. Mandatory restitution

- (a) Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalties authorized by law, the court shall order restitution for any offense under this chapter.
- (b) (1) The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses, as determined by the court under paragraph (3) of this subsection.
 - (2) An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.
 - (3) As used in this subsection, the term "full amount of the victim's losses" has the same meaning as provided in section 2259(b)(3) and shall in addition include the greater of the gross income or value to the defendant of the victim's services or labor or the value of the victim's labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act (29 U.S.C. 201 et seq.).
- (c) As used in this section, the term "victim" means the individual harmed as a result of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or a representative of the victim's estate, or another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named such representative or guardian.

Source: U.S. Congress. House of Representatives. Victims of Trafficking and Violence Protection Act of 2000. 106th Congress, 2nd Session, 2000. H.R. 3244 (3–6). <http://www.state.gov/j/tip/laws/61124.htm>.

ANALYSIS

The Trafficking Victims Protection Act of 2000 (TVPA) was the first comprehensive law in the world on trafficking in persons. An unusually long "Purpose and Findings" section lays out the complexity of the problem. One of the findings at the end of this section (22) links the fight against human trafficking to the founding documents of the United States:

The Declaration of Independence recognizes the inherent dignity and worth of all people. It states that all men are created equal and that they are endowed by the Creator with certain inalienable rights. The right to be free from slavery and involuntary servitude is among those unalienable rights. Acknowledging this fact, the United States outlawed slavery and involuntary servitude in 1865, recognizing them as evil institutions that must be abolished. Current practices of sexual slavery and trafficking of women and children are similarly abhorrent to the principles upon which the United States was founded.

Another finding recognizes the long tradition in the international community of recognizing and condemning grave violations of human rights and cites over a dozen human rights treaties, conventions, resolutions, and reports including the Universal Declaration of Human Rights; the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the 1948 American Declaration on the Rights and Duties of Man; the 1957 Abolition of Forced Labor Convention and others. In this way, the new law is set firmly in the context of previous decades, indeed centuries of work to abolish of slavery and guarantee basic human rights to all citizens.

The debate about “forced” versus “free” prostitution surfaced again during the negotiations around the TVPA, in discussions about the definition of trafficking in persons. The question was whether the term “sex trafficking” should be defined simply as procuring a person for the purpose of a commercial sex act or should it require a means of trafficking by *force, fraud, or coercion*. Recall the earlier debate between human rights advocates in which they argued that prostitution should be considered a form of work and a person should be able to voluntarily choose to prostitute and feminists who argued that prostitution was inherently harmful and per se violence against women. The battle between these two positions had polarized and threatened to derail the introduction of the bill. It continued until close to the last iteration of the TVPA, when drafters, working with NGOs, developed a “two-tiered” definition of trafficking that allowed the bill to move forward. The law defines “sex trafficking” as the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act. This definition satisfies the basic understanding of feminists that trafficking includes any kind of movement into prostitution, and sets the stage for a broader understanding of the harm of prostitution and other commercial sex acts.

However, the law also created a new “severe forms of trafficking” and defines it as:

- (A) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion.
- (B) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through use of force, fraud, or coercion, for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery (Sec. 103).

The bill also included a clause prohibiting any sex trafficking of children and did not require evidence of force, fraud or coercion for anyone under the age of 18. Not everyone was pleased by this compromise. However, this two-tiered definition allowed the bill to move forward with most stakeholders still on board.

Other important provisions in the law included the creation of a President’s Interagency Task to Monitor and Combat Trafficking in Persons, a cabinet-level Task Force, with members appointed by the president (Sec. 105). The law mentions the secretary of state, the administrator of the United States Agency for International Development, the attorney general, the secretary of labor, the secretary of health and human services, the director of central intelligence, and such other officials as may be designated by the president. Since the TVPA passed in 2000, another ten agencies that play a vital role in addressing trafficking have been added. This task

force is charged with coordinating the implementation of the TVPA as well as other tasks like measuring and evaluating progress of the United States and other countries in preventing trafficking, prosecuting traffickers, and protecting and assisting victims.

The TVPA adopts the 3Ps (prevention, prosecution, and protection) in Sections 106, 107, and 112 of the law. Section 106 Prevention of Trafficking attempts to address root causes of trafficking, asking the president to establish initiatives that tackle deeper systemic issues such as poverty, education, and gender discrimination. It also mandates public awareness and information programs on human trafficking for the general public and for those who may be potential victims.

Among the many provisions in Section 107 on protection and assistance for victims is one key provision that was for years, *sui generis*: this was the creation of a “T” visa for victims who had been trafficked into the United States, which gave them protection from deportation or repatriation. The law established a temporary legal residency of three years in the United States, with the possible adjustment to permanent residency.

Shortly after the passage of the TVPA, the United States catapulted to the world stage because of provisions in the law that required the U.S. Department of State to assess and rate every country on its significant progress in addressing trafficking. While there was concern from some NGOs and intergovernmental organizations (IOs) about what gave the United States the right to judge other countries, the stark fact was that no nation had targeted the international aspects of the crime of trafficking. The new law notes in the findings that trafficking in persons is a transnational crime and that “to deter international trafficking and bring its perpetrators to justice, nations including the United States must recognize that trafficking is a serious crime.” It required the United States to work bilaterally and multilaterally to promote cooperation among countries, and in a telling phrase it said, “The United States must also urge the international community to take strong action in multilateral fora to engage recalcitrant countries in serious and sustained efforts to eliminate trafficking in persons and protect trafficking victims.”

In Section 108 of the TVPA, legislators defined minimum standards for eliminating trafficking in persons and in Section 110 they set up three tiers for judging whether a country is making significant efforts to bring itself into compliance with these minimum standards. They asked for an Annual Report from the State Department assessing and rating each country as Tier 1, Tier 2, or Tier 3. This Annual Report, now known as the Trafficking in Persons Report, is delivered to Congress once a year in June, as required by law. It is also available to the public. The tier rating are as follows:

- Tier 1—countries whose governments fully comply with the minimum standards.
- Tier 2—countries whose governments do not fully comply but are making significant efforts to bring themselves into compliance.
- Tier 3—countries whose government do not fully comply and are not making significant progress in bringing themselves into compliance.

This might have been just another report from the State Department to Congress but for the fact that Section 110 of the TVPA put teeth into it in the form of sanctions. Any country on Tier 3 would be subject to withholding of non-humanitarian, non-trade-related assistance. As defined in the law, this affects large parts of the foreign assistance budget including cultural and education exchange monies, every multilateral development bank, including the International Monetary Fund, and even military assistance. This enforcement capability turned the annual Trafficking in Persons Report into an important diplomatic tool for urging, encouraging, and pressuring countries into drafting and passing laws prohibiting trafficking, enforcing those laws, assisting victims, and other efforts legislators knew would be required in other countries in order to deter human trafficking.

The new law was not perfect: it focused too much on the international aspects of human trafficking, and not enough on the domestic problems; it neglected the role of demand for cheap labor and for commercial sex in fueling the market for human trafficking, it missed key issues such as the health consequences of human trafficking. Nevertheless, it set a new standard in human rights and brought worldwide attention to the serious problem of human trafficking. The genius of this new law was almost immediately recognized and felt in the United States, the UN, and countries around the world, especially, as we shall see in the next chapters, as the law was implemented.

FURTHER READING

- Goodman, Caitlyn S. *Human Trafficking: Modern-Day Slavery in Need of a Modern-Day Solution*, Thesis submitted to Johns Hopkins University, December 2014. <https://scholarship.library.jhu.edu/bitstream/handle/1774.2/37297/GOODMAN-THESIS-2014.pdf>.
- Hertzke, Allen D. *Freeing God's Children: The Unlikely Alliance for Global Human Rights*. New York: Rowman & Littlefield Publishers, Inc., 2004.
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- Sheldon-Sherman, Jennifer A.L. "The Missing 'P': Prosecution, Prevention, Protection, and Partnership in the Trafficking Victims Protection Act." *Penn State Law Review* 117 (2). http://www.pennstatelawreview.org/117/2/117-2-Article_Sheldon-Sherman.pdf.

NATIONAL SECURITY DIRECTIVE ON TRAFFICKING IN PERSONS (2002)

- **Document:** Trafficking in Persons National Security Presidential Directive—NSPD-22
 - **When:** December 16, 2002
 - **Where:** Washington, D.C.
 - **Significance:** Following the passage of the TVPA, it became clear that the federal agencies tasked with implementing the law needed a directive from the president, both to ensure that trafficking in persons was added to the mission and mandate of each relevant agency, and to coordinate between federal agencies. The NSPD-22 was the first presidential directive on human trafficking.
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DOCUMENT

SUBJECT: Combating Trafficking in Persons

This National Security Presidential Directive instructs federal agencies to strengthen their collective efforts, capabilities, and coordination to support the policy to combat trafficking in persons.

Policy Principles

The policy of the United States is to attack vigorously the worldwide problem of trafficking in persons, using law enforcement efforts, diplomacy, and all other appropriate tools. Trafficking in persons is a transitional threat, involves grave violations of human rights, and is an affront to human dignity and the principles for which this country stands. We must combat this trafficking and protect and assist the victims both domestically and globally.

It is important that all relevant agencies in the United States Government work together to address this worldwide problem. Trafficking in persons is often linked to organized crime, and profits from trafficking enterprises help fuel other illegal activity. The growth of vast transnational criminal networks supported in part by trafficking in persons fosters official corruption and threatens the rule of law. Trafficking in persons can have a destabilizing effect on nations, particularly vulnerable less developed countries where erosion of the rule of law and decreased foreign investment can lead to increased poverty, violence, and other negative societal consequences. Our commitment to eradicate trafficking in persons reflects our values and our responsibility to defend human rights; it is, therefore, a critical element of the foreign policy of the United States.

Our policy must include:

- Vigorously enforcing the law against all those who traffic in persons, including recruiters, transporters, harborers, buyers, and sellers, and including members of international criminal cartels and networks;
- Raising awareness at home and abroad about this unacceptable practice and how it can be eradicated;
- Identifying, protecting, and assisting those exploited by trafficking;
- Reducing the vulnerability of individuals to trafficking through increased education, economic opportunity, and protection of human rights; and
- Employing diplomacy and foreign policy tools to encourage other nations to work with us to combat this crime and hold accountable those who are engaged in it.

Our policy is based on an abolitionist approach to trafficking in persons, and our efforts must involve a comprehensive attack on such trafficking, which is a modern-day form of slavery. In this regard, the United States Government opposes prostitution and any related activities, including pimping, pandering, or maintaining brothels, as contributing to the phenomenon of trafficking in persons. These activities are inherently harmful and dehumanizing. The United States Government's position is that these activities should not be related as a legitimate form of work for any human being.

The policy of the United States is to treat trafficked people as victims. To that end, we will support initiatives that provide education and employment opportunities to victims of trafficking, as well as shelter and services as these victims rebuild their lives. We will also support initiatives to help prevent trafficking, particularly among vulnerable populations such as women and children, including effective educational campaigns to warn them of the dangers posed by traffickers.

Structure

Given the transitional nature of this problem, strong coordination among agencies working on domestic and foreign policy is crucial. I have established the President's Interagency Task Force to Monitor and Combat Trafficking in Persons to coordinate domestic and international implementation of our policies to combat trafficking in persons in accordance with Executive Order 13257. The Task Force shall oversee the development of strategy, planning, and implementation in accordance with Executive Order 13257 of the United States Government policies on this issue, supported by a Senior Policy Advisory Group under the Democracy, Human Rights, and International Operations Policy Coordination Committee (PCC).

Through the Senior Policy Advisory Group of the PPC, the Department of State, Department of Justice, Department of Labor, Department of Homeland Security, Department of Health and Human Services, Department of Defense, Department of the Treasury, U.S. Agency for International Development (USAID), Central Intelligence Agency, Office of Management and Budget, and others shall work together as needed to develop a coordinated strategy for active diplomatic engagement,

marshalling law enforcement resources, gathering and sharing intelligence, obtaining international cooperation, and providing specialized law enforcement training as necessary to combat trafficking in persons. Under the direction of the Secretary of State, the Office to Monitor and Combat Trafficking in Persons in the Department of State will assist the Secretary, the Task Force, and the Senior Policy Advisory Group of the PCC with advice in the implementation of the Trafficking Victims Protection Act of 2000 (Division A of Public Law 106–386) and Task Force initiatives.

Definitions

This directive adopts the definitions contained in the Trafficking Victims Protection Act of 2000 (Division A of Public Law 106–386).

Plan of Action

1. Implementing Training in United States Government Agencies

Departments and agencies shall ensure that all the appropriate offices within their jurisdiction are fully trained to carry out their specific responsibilities to combat trafficking. This includes interagency cooperation and coordination on the investigation and prosecution of trafficking. At a minimum, the following Department of Justice components shall have training programs in place: the Federal Bureau of Investigation, the Civil Rights Division, the Criminal Division, the Office of Justice Programs, and the U.S. Marshals Service. In addition the Departments of Homeland Security, State, Defense, Labor, and Health and Human Services, and other departments and agencies, as necessary, shall develop and implement training programs.

The United States hereby adopts a “zero tolerance” policy regarding United States Government employees and contractor personnel representing the United States abroad who engage in trafficking in persons. Departments and agencies shall adopt policies and procedures to educate, as appropriate, personnel and contract employees on assignment or official travel abroad about trafficking in persons, to investigate, as appropriate, any allegations of involvement in trafficking by such personnel, and to punish, as appropriate, those personnel who engage in trafficking in persons. To the extent permitted by law, punishment may include disciplinary actions such as debarment and suspension procedures for United States Government contractors engaged in trafficking.

2. *[Paragraph redacted because it was classified]*

3. Developing Cooperation with State and Local Law Enforcement in the United States

To combat trafficking through the country, interagency and inter-jurisdictional cooperation is essential. Federal, States, and local law enforcement will need to take the initiative in investigations and prosecution.

Local law enforcement officers play a crucial role in identifying trafficking in their jurisdictions. The Departments of Labor, Justice, Homeland Security, and Health and Human Services shall coordinate and offer specialized training and assistance to

State and local law enforcement, as appropriate, to assist them in recognizing those exploited by trafficking and in combating trafficking rings and perpetrators.

In addition, the training shall help law enforcement to distinguish between trafficking in persons and migrant smuggling and recognize efforts to abuse the immigration system for trafficking purposes.

The Department of Health and Human Services, in conjunction with the Departments of Justice and Homeland Security, and other departments and agencies, as appropriate, shall develop a strategy to better identify and assist those adults and minors who have been victims of a severe form of trafficking.

[Part of paragraph redacted because it was classified.]

Strengthening the Work of Regional and International Organizations to Prevent and Combat Trafficking: The Department of State in conjunction with the Departments of Justice, Health and Human Services, Homeland Security, and Labor, and USAID shall through the Senior Policy Advisory Group, develop priorities and objectives for combating trafficking in persons through multilateral instructions, including the United Nations, the G-8, the Organization for Security and Cooperation in Europe (OSCE), the Association of Southeast Asian Nations, the African Union, and the Organization of American States.

4. *[Paragraph redacted because it was classified.]*

5. Integrating and Coordinating International Programs

There are a variety of new and existing foreign assistance tools, including domestic and international grant-making programs, contracts, and sub-contracts, Memorandum of Understanding, technical assistance agreements, other funding mechanisms, public awareness campaigns, and other activities, that have been or can be used to combat trafficking in persons.

Department and agencies shall coordinate U.S. foreign assistance programs, including those that provide funding to governmental or non-governmental organizations, bilaterally, multilaterally, or through international organizations, and public awareness programs to combat trafficking in persons. Departments and agencies will seek to ensure that contractors receiving U.S. funding are not engaged in trafficking or activities intended to further trafficking. Departments and agencies will ensure that their priorities are consistent with the policy set forth in this Directive as well as the Department of State's annual Trafficking in Persons Report tier classifications. Departments and agencies will develop a consensus, through interagency consultations and in consultation with United States Missions overseas, on the highest priority countries to receive anti-trafficking assistance.

Implementation

Department and agency heads shall expedite implantation of this Presidential Directive. Agencies shall review their internal structures, personnel requirements, capabilities, information systems, professional education programs, training procedures, legislative authorities, and budgets to accommodate the provisions of this Directive. The Democracy, Human Rights, and International Operations PCC shall

monitor agency implementation of this Directive and advise Deputies on any actions needed to improve implementation. Department and agency heads shall within 90 days of the effective date of this Directive, promulgate plans to implement this Directive. Plans should be submitted to and coordinated with the Senior Policy Advisory Group of the Democracy, Human Rights, and International Operations PCC.

Source: National Security Presidential Directive 22. Trafficking in Persons. December 16, 2002. www.combat-trafficking.army.mil/documents/policy/NSPD-22.pdf.

ANALYSIS

The National Security Presidential Directive 22 (NSPD) was the first Presidential Executive Order to address human trafficking. Two years after the Trafficking Victims Protection Act became law, President Bush began to shape the way U.S. government agencies and departments would work together to combat trafficking in persons. Presidential directives are high-level communications from the president of the United States to Executive Branch agencies. They direct those agencies to take action. The Directive set the bar for the U.S. government, calling human trafficking an “affront to human dignity.”

Although the United States was just beginning the fight to combat trafficking, the NSPD recognized its connection to transnational and organized criminal enterprises. The recognition that this type of crime can lead to corruption and threaten the rule of law helped to coalesce the U.S. government response. It laid out the roles and responsibilities of the agencies and departments and created a framework of cooperation between them.

One of the most important provisions in the NSPD is the statement that outlines the policy perspective of U.S. government on prostitution and related activities (pimping, pandering, procuring, for example), linking these as contributing to trafficking in persons. Although it is one simple paragraph, the policy placed the United States in direct opposition to the approach of the Netherlands, Germany, and other countries where prostitution is legal. It states that the United States believes that prostitution and related activities are “inherently harmful and dehumanizing,” and therefore should not be legalized and regulated as a legitimate form of work.

Another important provision in the Directive is the statement that the United States has a “zero tolerance” policy towards government personnel and contractors caught in trafficking. The paragraph addressing this problem references peacekeeping missions around the world and requires U.S. agencies to train peacekeepers to prevent them from becoming a part off the problem of trafficking. This foreshadowed the serious problems of trafficking in government contracting that would become the subject of future anti-trafficking law in the United States.

Because an Executive Order is a declaration from the president which has the force of law, the NSPD was a strong signal from the United States that every agency in the Executive Branch would work to eradicate human trafficking.

FURTHER READING

- “Enforcing U.S. Policies Against Trafficking in Persons: How Is the U.S. Military Doing?”
An Issue Forum Jointly Convened by the Commission on Security and Cooperation in Europe and the House Armed Services Committee, September 21, 2004.
- White House Press Release on National Security Presidential Directive 22, “Combating Trafficking in Persons,” Office of the White House Press Secretary, February 25, 2003, Retrieved from Department of Homeland Security Digital Library. <https://www.hsdl.org/?view&did=470299>.

U.S. v. CADENA (2002 AND 2015)

- **Document:** Department of Justice press releases on the *U.S. v. Cadena* case
 - **When:** September 12, 2002 and January 26, 2015; actual crimes took place 1996–1998
 - **Where:** Miami, Florida, and Washington, D.C.
 - **Significance:** In 1998, the first case of sex trafficking in the United States broke in the news. Sixteen defendants, part of a Mexican extended family running an organized criminal trafficking network, were indicted on charges of conspiring to bring women and girls from Mexico to the United States with promises of good jobs in the United States and then forcing them into prostitution. Though few of the official documents say, it is thought that from 1996 to 1998, the Cadena family trafficked hundreds of females into the United States for purposes of commercial sexual exploitation. This case shocked the nation because of the brutality of the traffickers. These two documents tell the story of the U.S. Department of Justice arrest, prosecution, conviction, and sentencing of 3 of the 16 perpetrators. As can be seen from the two indictments, the first arrests came in 1998, but it was not until 2015 that the United States successfully tracked down and convicted the last of the family members who were a part of this vicious trafficking ring.
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DOCUMENTS

September 13, 2002

Florida man part of Mexican Trafficking Ring pleads guilty to involuntary servitude charges

Assistant Attorney General for Civil Rights Ralph F. Boyd, Jr. and Marcos Daniel Jiménez, the United States Attorney for the Southern District of Florida, announced today that a defendant pleaded guilty yesterday in federal District Court in West Palm Beach, Florida to conspiring with others to hold women and girls from Mexico in involuntary servitude.

In April of 1998, the defendant, Hugo Cadena-Sosa, and fourteen others were charged by superseding indictment with conspiring to lure women and girls from Mexico to Florida with promises of good jobs and better lives, and forcing them into prostitution and holding them as sexual slaves in brothel houses in Florida and the Carolinas, during the period from August 1996 until February 1998.

Cadena-Sosa, a fugitive since 1997, was arrested for illegal re-entry on May 14, 2002, taken into custody on his outstanding FBI warrant, and arraigned on the

pending federal civil rights charges. Cadena-Sosa is a member of the Cadena family from Veracruz, Mexico, who is alleged to have smuggled young Mexican females into the United States to work in the Cadena's brothel houses in Fort Pierce, Okeechobee, Avon Park, Palm Beach, Lake Worth and Fort Myers, Florida.

As part of his plea agreement, the defendant admitted that the victims were forced to work at the Cadena's brothel houses as prostitutes until they paid the Cadena family a \$2,000 smuggling fee. In some cases, the victims were locked in a room with no windows and given no money. The victims were forced into prostitution in order to pay their smuggling fee and were threatened with beatings and reprisal attacks against their families in Mexico. Several victims, many of whom were underage, attempted to escape and were hunted down and returned to the brothels, where they were punished by beatings and confinement. Several of the victims were underage.

"Those who seek to profit from modern-day slavery will be punished," said Ralph F. Boyd Jr., Assistant Attorney General for Civil Rights. "The Justice Department is committed to protecting the victims of human trafficking."

The defendant is currently being held in federal custody and faces a maximum sentence of five years in prison and a \$250,000 fine. Seven others have pleaded guilty to civil rights conspiracy charges in this case, admitting that they assisted Cadena-Sosa and other family members in the operation of the brothels, and are serving sentences ranging from two and a half to 10 years. There remain six members of the Cadena family charged in the superseding indictment who are at large. The fugitives are defendants Juan Luis Cadena, Carmen Cadena, Rafael Alberto Cadena, and Abel Cadena, Antonia Sosa and Patricio Sosa.

The Civil Rights Division and the United States Attorney for the Southern District of Florida commend the investigative work of the United States Border Patrol and the Federal Bureau of Investigation, who continue to investigate the case and are seeking to ensure that the fugitives are brought to justice.

Source: U.S. Department of Justice. "Florida Man Part of Mexican Trafficking Ring Pleads Guilty to Involuntary Servitude Charges." September 13, 2002. https://www.justice.gov/archive/opa/pr/2002/September/02_crt_525.htm.

January 26, 2015

Mexican National Sentenced to 15 Years for Participating in a Brutal Family Run Sex Trafficking Organization

The Department of Justice today announced a sentencing and guilty plea for two members of a family-run sex trafficking organization based in southern Florida. Rafael Alberto Cadena-Sosa was sentenced by U.S. District Court Judge Joes E. Martinez to serve 15 years in prison and Carmen Cadena pleaded guilty before U.S. District Court Judge Jose Martinez for participating in a brutal family run sex trafficking organization.

Rafael Alberto Cadena-Sosa, 46, a Mexican national, was sentenced to serve 15 years in prison for conspiring and holding a person in a condition of involuntary servitude. Judge Martinez also ordered Cadena-Sosa to pay \$1,261,563 in restitution to sixteen different victims.

On Oct. 9, 2014, Cadena-Sosa pleaded guilty to conspiracy and to holding a person in a condition of involuntary servitude. As part of his plea, Cadena-Sosa admitted that he, along with other family members and associates, approached women and girls, some as young as fourteen years old, in Veracruz, Mexico, and lured them into coming to the United States using false promises of legitimate jobs. After illegally smuggling women and girls into the United States, Cadena-Sosa and other family members imposed a smuggling debt and used brutal physical force and violence, sexual assaults, and threats of death and bodily harm to the victims and their families to compel the victims to engage in prostitution 12 hours a day, six days a week and turn over the proceeds to the defendants to pay down the smuggling debts the defendants imposed. Cadena-Sosa and other family members would also search for victims who had run away from a brothel and subject them to beatings and rapes upon capture.

Carmen Cadena, 48, a Mexican national, pleaded guilty to one count of conspiracy for conspiring with other members of the Cadena organization to unlawfully encourage and bring undocumented victims into the U.S.; unlawfully transport victims within the U.S.; unlawfully harbor victims within the U.S.; unlawfully coerce and transport victims, including victims as young as 14-years-old, into the U.S. for purposes of illegal sexual activity; and unlawfully use extortionate means to collect extensions of credit made to the victims.

Cadena faces a maximum sentence of five years in prison and a fine of \$500,000. Sentencing is scheduled to occur on May 18, 2015. According to the terms of the plea agreement, the parties will jointly recommend the maximum sentence of five years in prison and \$1,261,563 in restitution to 16 victims.

Sixteen defendants were charged in a superseding indictment filed in 1998. Mexican authorities arrested Rafael Alberto Cadena-Sosa and Carmen Cadena and extradited them to the United States in November 2013 and December 2014, respectively. Four other members of the Cadena sex trafficking organization have been convicted, including Cadena-Sosa's uncle, Rogerio Cadena, who pleaded guilty in 1999 and was sentenced to 15 years; Cadena-Sosa's brother, Abel Cadena-Sosa, who was convicted in Mexico and sentenced to 24 years, and two other brothers, Hugo and Juan Luis Cadena-Sosa—Carmen Cadena's husband—, who pleaded guilty in 2002 and 2008, and were sentenced to five years and 15 years respectively. Six other defendants previously pleaded guilty in federal court in connection with the scheme, and one was convicted in state court for a murder outside a Cadena-run brothel.

Since 2009, the Departments of Justice and Homeland Security as well as law enforcement agencies in Mexico, have worked to develop high-impact prosecutions to dismantle human trafficking networks operating across the U.S.-Mexico border, bring human traffickers to justice, restore the rights and dignity of human trafficking victims, and reunite victims with their children held under the trafficking networks' control. These efforts have resulted in numerous successful prosecutions, including U.S. federal prosecutions of over 50 defendants in multiple cases in Georgia, New York, Florida, and Texas since 2009.

“No human being should have to endure the violence and brutality these young women and girls suffered at the hands of the Cadena organization,” said Acting Assistant Attorney General Vanita Gupta for the Civil Rights Division. “These violations of the victims’ individual rights and freedom are intolerable and the Department of Justice will continue in its commitment to bringing human traffickers to justice and restore the rights and dignity of the courageous survivors of this crime.”

“Rafael Cadena-Sosa and Carmen Cadena preyed on vulnerable girls and young women and lured them to the United States with the promise of a better life,” said U.S. Attorney Wilfredo A. Ferrer for the Southern District of Florida. “Instead, Cadena-Sosa and his family and associates robbed these victims of their freedom and dignity, brutally beat them and subjected them to modern-day slavery. The dismantling of the Cadena organization reaffirms our unwavering commitment to prosecute those who seek to profit at the expense of the suffering of to others. We will continue to work with our domestic and international law enforcement partners to bring justice to those who engage in this inhumane practice. This case is one example of bilateral progress to effectively dismantle human trafficking networks operating across the U.S.-Mexico border.”

“The long prison sentence imposed upon Rafael Alberto Cadena-Sosa is a testament to the cooperation and commitment of numerous law enforcement agencies both here and in Mexico to stop this appalling criminal activity,” said Special Agent in Charge George L. Piro of the FBI Miami Office. “We will continue working with our partners to dismantle human trafficking networks such as this one that operate in the shadows and brutalize their victims.”

Source: U.S. Department of Justice. “Mexican National Sentenced to 15 Years for Participating in a Brutal Family Run Sex Trafficking Organization.” January 26, 2015. <https://www.justice.gov/opa/pr/mexican-national-sentenced-15-years-participating-brutal-family-run-sex-trafficking>.

ANALYSIS

The Cadena case is now one of thousands of human trafficking cases in the United States but at the time it was uncovered, it sent shock waves through the United States. The case broke before the passage of the Trafficking Victims Protection Act, and made clear the complexity of the problem. By studying all aspects of it, the drafters of the law were able to add new provisions.

U.S. v. Cadena demonstrated, in the way no text book or academic study ever could, the reach of the criminal enterprise of human trafficking. The trafficking started in a small town in Vera Cruz, Mexico, with recruiters who took advantage of the poverty in small towns, but also of the hopes for the future of young women and girls. It extended through transporters, who moved hundreds of young women and girls over a four-year period, driving them in cars and vans from Vera Cruz as

far North as they could. It is over 600 miles from Vera Cruz, Mexico, to Brownsville, Texas. The Cadena brothers, the *polleros* (pollero means chicken smuggler—the Mexican slang for those who bring people into the United States), walked the last 100 miles on foot. According to some of the survivors, after a day-long car-ride, it took them four days to walk the desert and cross the Rio Grande into Texas. There they were picked up by cars and vans waiting to transport them to Avon Park, a small town in mid-Florida, which is where one of the many trailer brothels the Cadenas ran was placed.

The brothers used a combination of violence—vicious beatings, assaults, rapes—threats, and intimidation—to the girls themselves, and to their family and friends back in Vera Cruz—to maintain control and obtain compliance. They also used drugs and alcohol, forced abortion, and other methods of controlling the women and girls.

Though little is known about their marketing techniques, they ran a thriving business. More study needs to be done to find out who the clientele/buyers were, but from the little we do know, it seemed to be mostly migrant workers, but also men from local Florida towns. The men bought a ticket—a condom—for \$20 and lined up to use the girls. After rescue, the victims claimed that they were forced to have sex with between 20 and 30 men a day and that their bodies were constantly bruised and swollen.

U.S. v. Cadena brought home the fact that the United States did not have adequate laws that criminalized the wide range of offenses involved in the trafficking scheme. Borrowing from some of the early reports of suspect activities involved in trafficking in other countries, legislators defined trafficking as the *recruitment, harboring, transportation, provision, or obtaining*—five words that reached the whole pipeline of activity involved in a trafficking case like the Cadena case. Since then, several new activities have been added to the law (including soliciting, patronizing, and advertising) to incriminate the buyers who are also a part of the trafficking scheme.

One other important aspect of the Cadena case was the victims' need for protection and assistance. At the time of the raid, victims were first held in detention along with the traffickers, and then, when interrogations and interviews were complete, law enforcement officials discovered that they had nowhere to place them. The victims' basic needs such as food, clothing, shelter, medical assistance, and translation services could not be met. In response, the findings section of the TVPA says, "adequate services and facilities do not exist to meet victims' needs regarding health care, housing, education, and legal assistance." Further, an entire section (Section 107) of the U.S. law is devoted to protection and assistance for victims of trafficking and mandates that victims will have access to services "to the same extent as an alien who is admitted to the United States as a refugee." This provided an extensive framework of services for foreign-born victims of trafficking in the United States. As we will see in Chapter 6, it would be another ten years before the legislature would directly address the problem of U.S. citizens who were trafficking victims.

FURTHER READING

- Dank, Meredith, et al. *Estimating the Size and Structure of the Underground Commercial Sex Industry in Eight Cities*. Washington, DC: The Urban Institute, 2014. http://www.urban.org/research/publication/estimating-size-and-structure-underground-commercial-sex-economy-eight-major-us-cities/view/full_report.
- “Florida Responds to Human Trafficking.” Florida State University, Center for the Advancement of Human Rights, Fall 2003. http://www.cahr.fsu.edu/sub_category/thereport.pdf.
- Lederer, Laura. “Rosa’s Story: A Victim of the Cadena Brothers Trafficking Ring,” based on the first interviews with Cadena victims in 1999. www.globalcenturion.org.

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A DEEPER UNDERSTANDING OF THE PROBLEM

INTRODUCTION

In a decade of activity—from a few in the trenches, to a human rights movement to a few legislators leading in Congress, to the comprehensive Trafficking Victims Protection Act (TVPA) that created a governmental infrastructure for response—we have viewed the rise to and the tipping point in the 21st-century antislavery movement. Yet as more joined the battle, bringing with them passion and principle, the problem also emerged, through reports, cases, investigations, and research. It became clear that rather than simply trafficking for purposes of prostitution or forced labor, there were many new forms of trafficking, from a black market for human organs, to more specialized types of trafficking such as domestic minor sex trafficking or domestic servitude. Labor trafficking, too, emerged as a complicated issue, sometimes involving large corporations in a corrupted supply chain that facilitated slavery. Questions about the nature and scope of the problem arose again, as new organizations began to question statistical analyses. Some groups believed the figures describing the problem were inflated, while others claimed that even the largest estimate, 27 million in slavery, was far too low.

In 2016, Walk Free, an Australian antislavery organization, sent representatives to 140 countries around the world to understand the prevalence of slavery and found that 45.8 million are currently enslaved. Were 20 million more people enslaved in the last 15 years, or are we just developing better methods to count what is already a reality? Does the question matter if the figure is accurate? And if the figure is accurate, what to do about it? In-depth investigations and research became more important as the realization that more and better information was needed to design better programs to prevent trafficking, prosecute traffickers, and protect and assist victims. In addition, the instruments, strategies, tactics, and techniques developed up to the year 2000 needed to be deepened and strengthened—or in some cases scrapped—if we were to be able to successfully eradicate slavery. We needed 21st-century tools to fight 21st-century trafficking.

This chapter explores the emergence of new organizations and new approaches to combat trafficking. It begins with an address by Martina Vandenberg, at that time Director of the Women's Rights Division of Human Rights Watch, who discusses the multi-various forms of trafficking in different geographic areas around the world. It then looks at some of the emerging questions about the right focus for ending human trafficking: should it be on the supply (the men, women, and children being trafficked), on the distribution (the traffickers, who are in this for the money), or on the demand (the buyers, whether labor or sex trafficking, who fuel the market for forced labor or commercial sex)? Increasingly, these early visionaries argued, the focus should be on the demand side of the triangle of activity.

COMPLICITY, CORRUPTION, AND HUMAN RIGHTS (2002)

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- **Document:** Martina Vandenberg, “Complicity, Corruption, and Human Rights: Trafficking in Human Beings”

- **When:** 2002
 - **Where:** *Case Western Reserve Journal of International Law*, Volume 34, Issue 3, at School of Law Case Western Reserve University
 - **Significance:** Human Rights Watch conducted some of the first in-depth investigations of human trafficking around the world. From an early report of trafficking of Burmese women to Thailand in 1993, to an investigation on trafficking from Thailand to Japan that began in 1994 and culminated in a report in the year 2000, they identified specific forms of trafficking, and reported on it. The HRW approach was to document trafficking by interviewing the victims, sifting through government documents including police records and court reports, and making a human rights case that could be presented to the U.S. government, the government in which the trafficking was taking place, and to the public at large. The significance of these reports is clear: they provide detailed information on the way trafficking manifests in a particular country or set of countries, and in this way provide in-depth information on the way trafficking manifests in that region. This speech, given at Case Western Reserve University, took findings from their investigations on trafficking in a number of countries and identified overarching issues such as corruption, lack of rule of law, weak criminal justice infrastructure, and official government complicity that allow trafficking to flourish.
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DOCUMENT

Human Rights Watch was founded in 1978. We conduct systematic human rights investigations of abuses in some seventy countries around the world, including the United States. We defend freedom of thought and expression, due process and equal protection of the law. We document and denounce murders, arbitrary detentions, disappearances, torture, discrimination and violations of international humanitarian law, also known as war crimes. Most importantly, Human Rights Watch does not accept money from any government or any United Nations agency, directly or indirectly. Human Rights Watch adopted this policy because it gives us both the right and the privilege to criticize all governments and the U.N.—which we do with both alacrity and great care.

Ultimately, Human Rights Watch's goal is to hold governments accountable. But to whom should they be accountable? We hold them accountable to all of us, accountable to all of you, but most of all, accountable

FLOR'S STORY

In the winter of 2001, I became a victim of slavery in the garment industry in Los Angeles. I was an easy target for my trafficker: I was a desperate mother who had just lost my baby because I didn't have the money to take her to the hospital when she got sick.

I was taking sewing classes and my sewing teacher was approached by a trafficker because she knew a lot of women who knew how to sew and were desperate to go to the US. I was definitely interested. I had to leave my mom and my children behind [in Mexico]. I was told that when I got to the U.S. I will have a job . . . When I arrived in Los Angeles, I quickly realized it had all been

a lie. My trafficker told me that I owed her \$3,000 for bringing me to the U.S. and that I had to work to pay her back. I was forced to work 18 hours a day making dresses that were being sold for \$200 in department stores. When the workers in the factory [went] home, I had to clean the factory. I was forced to sleep at the factory in a storage room, and I had to share a single mattress with another victim. I was forbidden to talk to anyone or [to leave]. I was given one meal a day and I had 10 minutes to eat.

If I took longer, I was punished. [Another worker] gave me her phone number on a piece of paper, and told me that if I needed help, I could call her, [but] I was so afraid, I didn't really trust anybody. My trafficker told me that if I ever go to the police, they wouldn't believe me. She said that she knew where my children and my mother lived [in Mexico] and that I wouldn't want them to pay the consequences. I thought I was going to die. I thought I would never see my children again. I finally got the courage to call my co-worker and I went to a pay phone to call my co-worker but I didn't know how the pay phone worked. After a while, someone walked by and I asked him if he spoke Spanish, and he did. He helped me dial the phone number and my co-worker came and picked me up. The FBI was already investigating my trafficker. They connected me with a non-profit group who found me shelter and helped me with all my basic necessities because I had nothing when I escaped. Ultimately, my trafficker was charged with labor abuse and got a light sentence—only 6 months of house arrest.

Source: <http://thecnnfreedomproject.blogs.cnn.com/2011/04/05/i-was-enslaved-for-40-days/>.

to the victims of gross human rights violations—the victims of human rights violations that Human Rights Watch researchers document around the world every day. Today, I would like to share some of the accounts that women trafficked around the world have related to me and to my colleagues at Human Rights Watch. These women, survivors of trafficking into forced prostitution, told their stories to our researchers in brothels, in detention centers, in prisons, and, for the lucky ones, in shelters run by non-governmental organizations.

I will begin in Japan. In September of 2000, Human Rights Watch published findings from a six-year investigation on the trafficking human beings from Thailand into Japan for forced prostitution. The report contained dozens of interviews and testimonies of women who found themselves trapped in debt bondage and servitude. One of those women, Miew, spent more than two years working as a hostess in a so-called dating snack bar. She served drinks at the bar and accompanied clients to nearby hotels to provide sexual services. She had been recruited in Thailand with the promise of a generous salary each month, but when she arrived, she was told that she would have to work without any compensation whatsoever until she paid off a debt of 5 million Yen, about \$43,000 U.S. Dollars. Her manager immediately confiscated her passport. Miew believed that if she tried to escape she would be caught either by the Japanese gangs or by the police. She was housed under constant surveillance in an apartment just next door to the bar. Motion sensi-

tive lights tracked the movements of all the women in the apartments, making it impossible for her to go out without being noticed.

After working there for two months, Miew's debt had actually gone up, not down. The debt ballooned to 6 million Yen, about \$51,000 U.S. Dollars, which included the cost of room, board and so-called protection fees, as well as a substantial fine for giving her phone number to her parents, a forbidden act. All the fines and expenses well exceeded the amount that she had actually been able to repay on her debt.

Human Rights Watch investigators met another woman, Tip, who arrived in Japan in March of 1999. She too had been promised a lucrative job as a waitress at a restaurant where she could work, save money, and remit money home to her family. But when she arrived, she was told that she had a debt of 4.5 million Yen, \$38,500 U.S. Dollars, for the cost of her travel and expenses relating to her job placement. She was put to work in a brothel where the owners kept her in a small room and forced her to provide sexual services to customers. She was only allowed to keep 2,000 Yen per sexual act, but at the same time she was charged 34,000 Yen each day

for rent and for protection money. In fact, she had to serve eighteen clients per day before even one client's payment would be applied against her debt.

Whether women, children, or men—because trafficking can also happen to men—are trafficked into Japan, Western Europe, or the United States, victims trafficked into forced prostitution and other forms of forced labor find themselves treated as criminals, as illegal aliens, or both. Most are arrested or detained. Some are tried and convicted for prostitution, document fraud, or undocumented status. Their traffickers, in stark contrast, more often than not continue to work with total impunity. Women trafficked into forced prostitution face the added stigma of having worked in the sex industry. Many of the trafficked women I have interviewed over the past four years knew that they would work in the sex industry. But they did not know, and could not possibly have known, that they would be sold as chattel, held in debt bondage, and forced to work in a modern-day form of slavery. The women that Human Rights Watch researchers have met around the world have been sold from owner to owner to owner.

Human Rights Watch found similar abuses in Bosnia and Herzegovina. In March 1999 and again in March 2001, Human Rights Watch researchers traveled to Bosnia to investigate trafficking of women and girls into forced prostitution. Our researcher's uncovered brothels scattered throughout both entities of Bosnia and Herzegovina. The brothels were filled with women from Ukraine, Moldova, and Romania. Women in the brothels reported to us that they had been sold from brothel owner to brothel owner, placed in debt bondage, threatened and beaten. One woman from Ukraine told us:

I came to work in a bar. I knew nothing when they took me to Serbia. I was sold there four times to different men. They brought me to a bar and told me I had to work as a prostitute. And so I worked. But they never paid me. And every time I refused to work they beat me.

Court documents and United Nations internal records obtained by Human Rights Watch indicated extensive police complicity and corruption. This corruption made trafficking possible—and highly profitable. In some towns, the local police actually held the women's passports in the police station, making escape virtually impossible. Local police frequently patronized the brothels, sending a message to the women that it would be futile to go to the police: the police were the owners' friends. Trafficking victims identified local police officers as clients. In one town, the police owned part of a nightclub as members of their local soccer club. The club manager decided that it would be great if the club also offered prostitution, so he purchased several trafficked women. In yet another case, a local police officer moonlighted as a waiter in a brothel. Trafficking victims in the Republika Srpska city of Prijedor told investigators that local police officers received free sexual services in the clubs in exchange for falsifying visas and work permits. Some of those same trafficking victims identified nine international police officers, members of the U.N. International Police Task Force ("IPTF"), as their clients.

Human Rights watch also found evidence of complicity and involvement in trafficking-related activities by U.S. civilian contractors employed to provide

services for SFOR, Stabilization Force, and the NATO-led military peacekeepers in Bosnia. The contractors faced numerous allegations of buying women, transporting trafficked women, and violence against trafficking victims. A United Nations report on trafficking, published in May 2000, confirmed these allegations, stating that one SFOR contractor purchased two women, one from Moldova and one from Romania, from a bar owner for 7,000 Deutschmarks. One of the two was a girl of sixteen. One U.S. contractor confessed to U.S. military criminal investigators that he had purchased a woman from a brothel owner named "Degeli," who ran a nightclub located near the U.S. Military base. The contractor told investigators that he had paid Degeli 1,600 Deutschmarks for a Moldovan woman and an automatic weapon. He did not face criminal prosecution.

In all, between 1999 and October 2001, over 329 trafficked women and girls returned home from Bosnia and Herzegovina through a repatriation program run by the International Organization on Migration, an intergovernmental organization.

Human Rights Watch defines trafficking to include all acts and attempted acts related to the recruitment, transport, transfer, sale or purchase of human beings for the purpose of placing them into conditions of servitude, including forced marriage, in which labor is extracted through physical and/or nonphysical means of coercion including debt bondage, blackmail, fraud, deceit, isolation, threat or use of physical force and psychological pressure. Trafficking must be understood to apply to all labor sectors, not just the sex industry. Whether a person is trafficked into a sweat shop or trafficked into a brothel, the human rights violations that he or she experiences are fundamentally the same. This definition tracks the definition included in the U.N. Trafficking Protocol supplementing the Convention against Transnational Organized Crime, which was opened up for signature in December of 2000 by the United Nations. As of October 2001, over 90 countries had signed the protocol, and three had ratified it. The process of ratification drags along very slowly as countries must rewrite domestic legislation to bring it into line with the provisions of the Trafficking Protocol.

The United States recently passed anti-trafficking legislation that reflects a similar understanding of trafficking as a phenomenon. President Clinton signed it into law on October 28, 2000. The law is a response to CIA statistics that between 45,000 and 50,000 women and girls are trafficked into the United States every year for forced prostitution and forced labor. Identifying trafficked persons and providing services for them in the United States has only just started. An organization in Los Angeles, the Coalition to Abolish Slavery and Trafficking, also known as CAST, works in the vanguard of non-governmental organizations providing victims of trafficking with comprehensive services and support. The organization identifies and provides housing, medical care, psychological counseling, translators, and legal assistance for trafficking victims.

We often see trafficking portrayed as a problem that occurs elsewhere, not in our cities and towns. But the human rights abuses associated with trafficking in the United States continue, and much more must be done. In most countries, including the United States, trafficked persons continue to be treated as illegal aliens and as criminals. Victims of trafficking find themselves arrested, deported, not protected. Some governments in countries of origin have, in fact, interpreted

the prevention of trafficking to mean prevention of women's travel, simply trading one human rights violation for another. In one small town in Romania, local Romanian police collected the passports of women suspected to have engaged in prostitution so that those women could no longer travel. Again, this was not trafficking prevention, but discrimination and a violation of the women's human rights.

Some states have adopted a law enforcement approach, rather than a rights-based approach that would focus on the human rights abuses associated with trafficking. These countries have pressed for prosecution. Human Rights Watch has long advocated the prosecution of traffickers. That is not the problem. Governments often portray women's reluctance to testify as the only reason why they cannot prosecute or convict traffickers. But the reality is that prosecution efforts require trafficking victims to take enormous risks to participate in trials against the perpetrators. The victims are forced to do so without witness protection, without relocation, and often without any acknowledgement of the danger that they face. One example in the United States includes a case of a woman who wore a wire to meet with one of her traffickers in 1998. She gathered evidence for the prosecution, which planned to prosecute the trafficker for document fraud. She received no protection, no special status in terms of her visa. Until there is serious witness protection in place for victims of trafficking, prosecutions cannot go forward.

Around the world, trafficking victims are abused by their traffickers as they travel to the country of destination and by their "owners" upon arrival then face abuse at the hands of the very state authorities who have a responsibility under international and domestic law to protect them. Human rights organizations, like Human Rights Watch, Amnesty International, WITNESS, and the International Human Rights Law Group, in cooperation with local non-governmental organizations, have pushed hard over the last decade to bring international attention to the global phenomenon of trafficking. Most fervently, we seek to put an end to police corruption and state complicity, without which trafficking could not flourish. For example, in Greece, trafficking has become an enormous problem. Little bars, little restaurants, little clubs scattered throughout the Greek islands that used to offer fish, now offer trafficked women, many of them from the former Soviet Union and Eastern Europe. When Human Rights Watch met with the Greek Minister of Public Order, Michalis Chrysochoidis, in 2000 and again in 2001, he confirmed that some Greek police officers had been arrested and convicted for corruption charges, many of them related to trafficking.

Like their international counterparts, local non-governmental organizations have worked tirelessly to expose the grim consequences of trafficking. But for the local groups this exposure can be dangerous. La Strada-Ukraine, one of the leading anti-trafficking organizations in Eastern Europe and the former Soviet Union, received death threats after they publicly named several companies that they knew fronted for trafficking organizations in recruiting women in Ukraine. When they contacted the police in 1998 to report that they had received these threats, the police did not offer protection, but instead confirmed that they, indeed, were in danger. An officer who came to visit the La Strada office told staff members that the authorities could not possibly protect them.

In Israel, a local sex workers' rights organization called *We Are Worthy* published a newsletter in Hebrew and Russian in 1997. The members distributed this newsletter throughout the brothels in Tel Aviv and Jerusalem. Most of the articles dealt with HIV/AIDS education and how to use condoms. But the newsletter also contained one line that stated, "Isn't it unbelievable that women who are here working from Russia, their owners charge 150 shekels for a session, but they only get 15 shekels?" Because of that one line, and because the sex workers' rights organization had dared to distribute the newsletter in brothels where trafficked Russian-speaking women worked, the leader of the sex workers' rights organization began receiving death threats.

It is not only risky for non-governmental organizations in the field, it is risky for the victims themselves. While many people use the language of "rescue" and emphasize "rescuing victims," few people stop to reflect on what "rescue" means for the victims of trafficking into forced prostitution. More often than not, in countries around the world, rescue means nothing more than getting arrested and being held in a prison cell where you may be guarded by men who were your clients yesterday. It often means having a television camera thrust into your face, as those who conduct the raids prepare to game publicity and additional funding. And in the most corrupt countries, "rescue" can mean being handed back over to your traffickers for a fee.

The language of "rescue" is dangerous in this particular context. Not only does it strip trafficking victims of agency—they do not "escape," but are "rescued" by others—but it fails to acknowledge that the risk does not vanish once a victim has left the trafficker's immediate control. The debts do not disappear. Family members remain at home and in danger of retaliation from traffickers. Going home is not necessarily safe. The traffickers know where the women live, they know where their families are, and make threats that are both credible and completely terrifying. Approximately 80% of the imprisoned trafficking victims awaiting deportation that I interviewed in the Israeli Neve Tirza prison in 1997 had children. The primary reason that they had agreed to travel abroad, the very reason that they had agreed to work at all, to take this risk, was because they wanted to send money home to their children. Those children remained in the women's countries of origin—Ukraine, the Russian Federation, Lithuania, and Romania—quite often living with the trafficked women's own mothers. Those children provided primary tools of blackmail used by the traffickers.

Traffickers around the world have developed a protocol of their own: the purchase price for each victim becomes the basis for his or her debt, a debt that the victim must work off in order to escape. Those debts are not legal. They are contrary to public policy and contrary to law. But the trafficking victims do not know that, and the traffickers have highly effective enforcement mechanisms to convince the women and men who are trafficked that these debts are very real. The debts supposedly cover transportation, fines for infractions, clothing, even housing in the brothels. The "owners" increase the debts with interest fees, fines, and simple accounting fraud. In some cases, brothel owners forced women to pay for their own medical care. Trafficking victims in Israel told researchers from the Israel Women's Network that women held in the brothels were forced to have sex without using condoms because clients were willing to pay extra for sex without condoms. The women who became

pregnant had to pay for illegal abortions themselves out of their so-called earnings, of which there were none. Traffickers simply added the medical costs on to the trafficked person's debt. The women also faced a five hundred dollar fine for each day after the abortion that they could not work.

I would like to leave you with some success stories that can remind all of us that we can combat these human rights abuses. The trafficking outlook is not completely hopeless.

In Eastern Europe and the former Soviet Union, anti-trafficking activists established a network of organizations, the La Strada network. La Strada, with organizations in Ukraine, Bulgaria, Bosnia and Herzegovina, Moldova, the Czech Republic, Poland, and Macedonia, provides services for victims of trafficking, including psychological counseling, hotlines, medical care, and shelter. La Strada also assists returning trafficking victims recover from the trauma of trafficking, trauma resulting from traffickers' use of rape, physical violence, psychological abuse, and terror as tools of control. La Strada has a hotline in each of these countries and has received hundreds of calls from women trapped in slavery-like conditions in the Balkans, in Eastern Europe, in the Middle East, and in the United States. They have also received hundreds of calls from women and men who are considering migrating and want to know if the companies they signed up with are legitimate. La Strada provides this information, as well as pointers on what rights migrants have in countries of destination.

In one case, reported in early 1998 by the *New York Times*, La Strada received a call from a woman imprisoned in a brothel in Italy. She had no idea where she was. She did not even know what city she was in. She had borrowed a passed-out drunk customer's cell phone and called her mother in Ukraine. Her mother called La Strada. La Strada contacted the Italian police. The trafficked woman described exactly which bus line went by her window in front of the brothel. Using the numbers on the bus lines and a description of what she saw outside that window, law enforcement authorities in Italy located the brothel and found this woman.

In another case in 1999, international police and local police jointly raided a brothel in Bosnia and Herzegovina. One trafficked woman had managed to make a call out. She called her father in the Ukraine, and he went to the police. The police contacted Interpol. Interpol contacted the local police in Bosnia and the United Nations Mission in Bosnia. The United Nations followed up, and two days later, local police, accompanied by international police officers, raided the brothel, and found the woman and three others living in utter squalor in small rooms behind the nightclub. The women wanted to leave and eventually were able to return home.

La Strada-Ukraine, after long negotiations with Ministry of Interior officials, received permission in 1997 to meet trafficking victims immediately as they disembarked from their flights in Kiev. A La Strada representative met each returning trafficking victim at the arrival gate and walked each woman through passport control. That accompaniment proved important, particularly because many of the women returned home with completely irregular documents, their traffickers having stripped them of their passports. After taking the women through passport control and fending off the passport control officers, La Strada staff members would slip the women out a back exit of the airport. Women returning unassisted feared finding traffickers waiting in the arrival area, eager to traffic returning women back out of

the country, ready to sell them to another willing purchaser in another country. Instead, traffickers found themselves thwarted by a small, plucky NGO.

Accountability matters. I began today with the statement Human Rights Watch's goal, ultimately, is accountability. Together, international human rights organizations and local human rights organizations, are winning the fight to combat trafficking. We measure our progress in small steps: a ratification of the protocol here, a model witness protection program there, a successful prosecution somewhere else. Together, we can eradicate this modern day form of slavery, protect the human rights of all persons, and ensure that those government officials who facilitate trafficking—police officers on the take, corrupt members of ministries of the interior, corrupt members of ministries of foreign affairs providing false passports to traffickers—face prosecution. I look forward to the day when trafficking victims no longer sit in prison, and the day when their traffickers do. Thank you.

Source: Vandenberg, Martina. "Complicity, Corruption, and Human Rights: Trafficking in Human Beings." *Case Western Reserve Journal of International Law* 34 (3) (2002). Used by permission of *Case Western Reserve Journal of International Law*.

ANALYSIS

In the decade before and the decade after the passage of the TVPA, the investigations Human Rights Watch (HRW) and others conducted were critical in identifying serious weaknesses in law, policy, and practice. In an era when U.S. newspaper reporters were not covering small foreign countries or vulnerable populations, they often broke stories that would otherwise have been neglected. These early reports, structured to shed light on a particularized human trafficking problem in a way that captured international attention, played an important role in helping the public understand the crime of trafficking and the harm of it from a victim's perspective.

The reports each took a similar form. They started with a description of HRW's understanding of the problem. This included recruiting practices, trafficking and transportation routes and patterns; advertising and sale of human beings; transporting, based upon extensive interviews with the victims, which also shed light on the crime and the criminals by exposing their modus operandi; describing the culpability of governments and government officials, outlining international and domestic legal protections; describing the response (usually little if any) of the governments involved outlining the response of the international community including the UN and other intergovernmental organizations, making key recommendations to foreign national governments, the U.S. government, the international community. These reports set a standard for further investigations as the first decade of the 21st century continued.

FURTHER READING

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BEST PRACTICES FOR ADDRESSING DEMAND (2004)

- **Document:** Dr. Donna M. Hughes, “Best Practices to Address the Demand Side of Trafficking”
 - **When:** August 2004
 - **Where:** University of Rhode Island, Women’s Studies Program
 - **Significance:** This report was the first to focus on the buyers in sex trafficking, documenting the importance of addressing the demand for commercial sex as a driver for sex trafficking, and suggesting ways to reduce and eradicate the demand for commercial sex.
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DOCUMENT

Each year, hundreds of thousands of women and children around the world become victims of the global sex trade. They are recruited into prostitution, often using tactics involving force, fraud, or coercion. Criminals working in organized networks treat the victims like commodities, buying and selling them for profit. This modern-day form of slavery is called sex trafficking.

The transnational flow of women and children for the sex trade occurs among sending, transit, and receiving countries. Traffickers recruit victims in sending countries, where there is poverty, unemployment, or political instability that motivate people to seek work and opportunities in other countries. They move victims through transit countries on the way to their destinations. In receiving countries, the pimps await the arrival of the women and children they have ordered for their prostitution operations. Men come to establishments offering prostitution to pay money for sex acts. The dynamics of this trade in women and children for sex acts is a balance between the supply of victims from sending countries and the demand for victims in receiving countries.

Sex trafficking, slavery, and prostitution are not new forms of exploitative criminal activity. Over a hundred years ago, sex trafficking was called the “white slave trade” and prostitution was called “vice.” Societies that value the freedom and dignity of people have long recognized the harm of these activities to women, families, and communities, and consider them incompatible with universal standards for human rights. In 2002, President George W. Bush directed the U.S. government to adopt an “abolitionist approach” to combating trafficking in persons. He said: “Prostitution and related activities, which are inherently harmful and dehumanizing, contribute to the phenomenon of trafficking in persons . . .”

Analyzing trafficking and prostitution as parts of an interlocking system reveals how the components are linked, and studying the dynamics of supply and demand for victims reveals what keeps the system working.

Over the past decade, most of the analyses of the causes of sex trafficking have focused on factors in the sending countries. And efforts to combat trafficking have aimed to stop trafficking on the supply side through education and prevention campaigns in sending countries to alert people about the phenomenon of trafficking. Potential victims are warned about the tactics used by recruiters and the consequences of trafficking, with the aim of reducing the supply of victims. In comparison, there have been few campaigns or efforts aimed at reducing the demand for victims.

The movement to abolish trafficking and sexual exploitation needs a more comprehensive approach, one that includes analyses of the demand side of trafficking, and develops practices to combat the demand in receiving countries. A focus on the demand side means making men personally responsible and accountable for their behavior that contributes to the sex trade. In October 2003, at the United Nations, President George W. Bush spoke about the role of the demand in perpetuating the global sex trade: “Those who patronize this industry debase themselves and deepen the misery of others.”

The demand for victims to be used for commercial sex acts can be divided into three components. The first factor is the men (and occasional women) who seek out women, children, and sometimes men, for the purpose of purchasing sex acts. The purchasers of sex acts are the primary actors and constitute the primary level of the demand. Without them making the decision to buy sex acts, prostitution would not exist.

Men who solicit and buy sex acts are often called “customers,” “clients,” and “consumers.” These terms normalize men’s behavior. In this report these men will be called “purchasers of sex acts” or sometimes by the term of common usage—“johns.”

The second factor or level of demand is the profiteers in the sex industries. They include the traffickers, pimps, brothel owners, and supporting corrupt officials who make money from sex trafficking and prostitution. They make a profit by supplying victims to meet the demand created by men. They have vested economic interests in maintaining the flow of women from sending to receiving countries. They are criminals and often members of transnational organized crime networks.

The third factor is the culture that indirectly creates a demand for victims by normalizing prostitution. Media depictions of prostitution and other commercial sex acts, such as stripping and lap dancing, that romanticize or glamorize these activities influence public knowledge and opinions about the sex trade. These images suggest that prostitution is a victimless crime. Individual writers, academics, and groups advocating the idea that prostitution is a form of work for women claim that providing sexual services can be an empowering for women. These representations usually overlook the violence and victimization involved, or suggest that more empowerment is the solution to exploitation and abuse of victims of the global sex trade.

All of these factors are supported by cultural attitudes that relegate women and girls to second class status in society. In places where women and girls or certain ethnicities or classes of women and girls are devalued, there is more acceptance of prostitution and the exploitation of a female relative in prostitution to financially support the family.

Men who purchase sex acts have for the most part remained invisible and anonymous in the universal consciousness on prostitution. They are “faceless and nameless.” When the topic of prostitution arises, the focus is usually on the women, and their participation in prostitution is the focus of analyses and debates. Women’s behavior is often considered to be the sole cause of prostitution. Their imagined experiences and motivations are represented in countless novels and movies. The new focus on the demand requires that we consider men’s responsibility for the existence and continuation of prostitution, and how they create the demand for women and children to be used in prostitution.

The [International Organization for Migration (IOM)] study found that men, who knowingly purchased sex from trafficked women, did not perceive consent as an issue for women in prostitution. They viewed all women and girls in prostitution as objects or commodities over which they had temporary powers of possession after they paid their money. Some men indicated that purchasing sex from someone forced into prostitution gave them the advantage of being able to control them. Two Indian men thought they might receive better treatment from women forced into prostitution because the women would be “isolated and unhappy” and might turn to them for support and care. Other men said they did not want to have sex with someone forced into prostitution because it was “a sexual turn-off.” Even though some men said they did not like the idea of purchasing sex from a woman who was not fully consenting, they admitted that they may have done so because they were drunk or could not afford the more expensive prostitutes they imagined were more likely to be consenting. The researchers pointed out that the men have stereotypes, of what they think a victim looks like that are based on race, skin color, ethnicity, and cost of the sex act.

There is one behavior of men that is rarely covered in surveys and rarely reported by men: acts of violence against prostitutes. Men do not usually voluntarily admit to committing violent crimes. One research study on men convicted of soliciting prostitutes who were court ordered to attend a psychoeducational program found that 38 percent of them admitted that they had “previously committed other illegal sexual acts, but had not been caught or convicted.” The survey did not ask about the nature of the illegal sex acts. Most researchers do not ask the men questions about violent behavior, instead they ask questions that are more sympathetic to men’s motivations and decision to purchase sex acts.

Women and children in prostitution are subjected to high rates of violence and abuse from the men who pay them for sex acts. In some men’s minds, the act of paying money entitles them to do whatever they want to a woman or child.

In the early 1980s, a study of 200 women and girls in street prostitution, most of whom were minors (70% were under 21, almost 60% were 16 or under, and numbers were 10 and 11 years old), in the San Francisco area found that 70 percent of them had been raped or sexually assaulted by a man an average of 31 times, and 65 percent of them had been physically abused or beaten by men an average of 4 times. According to the women and girls perceptions of why men beat or raped them: 40 percent said the men “got off on it, enjoyed it, and thought it was part of sex;” 32 percent said it was because the men couldn’t or didn’t want to pay the money promised; and 16 percent said it was because the men hated prostitutes or hated women in general. Forty-six percent said the beatings were arbitrary—“no

specific reason, just crazy, that's how they are"—and eight percent said they did not know the reason. More than 75 percent of the victims said there was nothing they could do about the men's abuse.

A frequent assumption about why men purchase sex acts is that they are single, lonely or have an unsatisfactory sexual relationship with their partner. Research findings from surveys and interviews of men who purchase sex act indicate that this may be an incorrect assumption for many men. The majority of men surveyed or interviewed in the studies reviewed were married or had a steady partner (57%, 59%, 70%). In these studies, at least half of the men had families.

Not surprising, the more often men purchased sex acts the more likely they were to accept the idea that sex is a commodity. In addition, the more they thought that sex was a legitimate commodity; the more they had attitudes that justified violence against women. They conveyed their attitudes in supporting violence against women by indicating that they agreed with rape myths (thinking that women are responsible for rapes, invite rape, and are not hurt by rape), were attracted to violent sexuality, and refused to use condoms for commercial sex acts. The researchers concluded that a commodified view of sexuality could be related to lack of respect for and violence against prostitutes.

To address the demand side of sex trafficking and prostitution, several countries have recently passed new laws that criminalize men who purchase sex acts. Sweden is unique in that it is the first country to pass a law exclusively criminalizing the buyers of commercial sex acts. In Sweden, under the "Act Prohibiting the Purchase of Sexual Services" passed in 1998, prostitution was defined as a form of male violence against women. The harmful effects of prostitution are considered gross violations of women and girls' integrity, dignity, and rights as human beings. Sweden considers prostitution to be a serious form of oppression of women.

Sweden's action is also noteworthy because it is going against a trend in the European Union to legalize prostitution. In 2000, the Netherlands and Germany legalized prostitution and brothels.

The Swedish law is having an impact around the world as its new approach is discussed. Since it was passed, the debates on how to solve the problem of prostitution are no longer restricted to two alternatives either prohibition, in which all prostitution-related acts are criminalized, or legalization, in which prostitution is regulated. Now an abolitionist approach is available which distinguishes between victims and perpetrators.

Some cities in the U.S. have implemented car confiscation programs for men arrested for soliciting a prostitute. There have been legal challenges to this practice. In West Palm Beach, Florida, police designed the Prostitute Impact Prevention Education (PIPE) program. The purpose was to address "the inequity in the prosecution of men and women arrested for solicitation of prostitution." When women were arrested, they faced jail time and high bonds, while the men who were arrested received a small fine. Jail time was rarely imposed on the men. Under the new PIPE program, when a man is arrested the traffic division impounds and searches his vehicle. The car is held until the man pays a \$500 administrative fee to the city and towing and storage charges to the tow company. The man is arrested and released on bond, or held overnight if he is unable to pay the bond.

Traveling for the purpose of buying sex acts is referred to as sex tourism. Certain cities and areas around the world have become notorious as destinations for sex tourists. In an effort to curb sex tourism, especially the sexual abuse of children, a number of countries have passed laws on the extra-territorial sexual abuse of children. There are now 32 countries with extra-territorial laws which allow for prosecution of national citizens for crimes committed abroad, regardless of whether the offence is punishable under the law of the country where it occurred. In addition, 12 countries have adopted specific anti-child sex tourism measures beyond extra-territorial legislation.

Across the United States and Canada, a number of cities have implemented education programs for men arrested for soliciting sex acts. John schools are becoming increasingly popular in the U.S. and Canada. Based on the slang term “john” for a man who purchases sex acts, these programs are informally called “john schools.” Their purpose is to eliminate recidivism for men who purchase sex acts.

Recidivism is measured by whether men are re-arrested within a one- to two-year period within a certain area—sometimes a city or state. All the john schools report very low re-arrest rates for the men who attend the schools.

The low incidence of re-arrests among men who attended a john school may indicate that the education programs are successful interventions to change men’s behavior. On the other hand, re-arrest rates for men caught soliciting prostitutes who do not attend john schools are also very low. According to an officer in a vice unit in a large U.S. city, he could only remember re-arresting one man. Interviews with experts in the area of prostitution agree that once a man is caught soliciting a prostitute, he is rarely caught again. This is most likely because most men are caught by the use of female decoys on the street. Men learn to recognize and avoid them or purchase sex acts in venues, such as escort services and massage parlors, where decoy police officers cannot or do not work.

Communities are hurt by prostitution when streets become marketplaces for the buying of sex acts. Used condoms and drug paraphernalia litter the streets, and sex acts are often completed in cars or semi-public areas within the sight of residents. Often prostitution is considered “quality of life” crime, meaning that prostitution causes harm to the neighborhood by reducing the quality of life. The victimization and harm to individuals, particularly the women, is rarely seen or understood.

A few neighborhood associations have strategically started to focus on the demand. One city started a project to highly publicize the names of men arrested for soliciting a prostitute. [They] will display billboards with the names of men convicted of soliciting a prostitute.

“Black books” are records that pimps, brothel owners, and escort service operators keep of the names, phone numbers, addresses, credit card information, sexual preferences, and behavior of men who patronize their prostitution operations. The actual “black book” today is often a computerized address book or accounting system. When police raid prostitution operations, these records are seized as evidence.

Feminists have often charged that men in power collude with each other to keep men’s use of prostitutes a secret from their families and the public. Feminists contend that men in power often condemn prostitution, particularly prostitutes, but privately collude with each other to keep prostitution available. The disposition of

“black books” and officials’ efforts to keep them from public inspection seems to support that claim.

Men are no longer invisible in their role of perpetuating prostitution and sex trafficking. A more comprehensive view of the global sex trade has brought the “demand” side to the attention of activists, scholars, and officials.

Research on men who purchase sex acts has found an array of personal and psychological problems and criminal motives behind men’s decision to buy sex acts. The findings have drawn attention to the need to focus on men’s behavior instead of the steady focus on the victims of prostitution and sex trafficking. Sven Axel Månsson, who for many years has advocated for more critical evaluation of and action against purchasers of sex acts, believes this new focus will bring about greater responsibility and accountability for men’s behavior. In commenting on the Swedish law, which criminalizes the buying of sexual services, he says there are: “positive consequences of the anonymity around prostitution being broken, with the client to a great extent being forced to confront the social and human implications of his actions.” He has issued an international call for a “radical reconsideration of men’s responsibility in prostitution. . . . Prostitution must be defined as a male issue. Prostitution is about men’s sexuality, not women’s.”

Much more research on men as the primary actors in creating a demand for victims is needed. In Europe, the Committee on Women’s Rights and Equal Opportunities has opened an inquiry into the consequences of the sex industry in the European Union. Their report for the European Parliament calls for studies to examine the reasons behind the sexual behavior of men at the national and European Union level.

Reorienting society’s approaches to prostitution offers hope to victims, communities, and even men themselves, for intervention in a destructive activity that violates the dignity and integrity of individuals, families, and entire nations. New laws, research, and programs as described in this report, particularly in the U.S. and Sweden, are creating new ways to deal with age-old problems.

A balanced approach to combating sex trafficking and prostitution requires focusing on both the supply and the demand side of these problems in both sending and receiving countries. A comprehensive approach offers the best strategies and likely successful outcomes to combating this form of slavery.

Source: Hughes, Donna M. “Best Practices to Address the Demand Side of Sex Trafficking.” 2004. http://works.bepress.com/donna_hughes/20/. Used by permission of Donna Hughes.

ANALYSIS

In 2002, when Norma Hotaling spoke before Congress, she urged a greater focus on the purchasers of sex noting that without buyers, there would be no demand for commercial sex, and if there were no demand for commercial sex, then traffickers would not traffic human beings for sex, and there would be no victims. This triangle of activity—people for sale, buyers, and sellers—that is, supply, demand,

distribution, with demand for the “product” driving the supply and suppliers—is a classic marketing analysis.

Shortly after her testimony, several long-time anti-trafficking advocates began talking about a focus on the demand side of trafficking. They noted that nongovernmental organizations (NGOs) and faith-based organizations (FBOs) involved in victim “rescue and restore” could ostensibly be rescuing and restoring victims ad infinitum unless the market demand for commercial sex was disrupted and reduced. In 2004, the Office to Monitor and Combat Trafficking in Persons commissioned Dr. Donna Hughes to investigate the demand side of the crime of trafficking and to recommend best practices in addressing demand. From this first paper, researchers, law enforcement officials, and law-makers have been attempting to develop new evidence-based demand reduction practices. For example, over 40 NGOs developed “Johns Schools,” and several states drafted and passed laws aimed at the buyer. In addition, the U.S. Department of Defense added a statute to the Uniform Code of Military Justice that prohibited patronizing a prostitute. It was the first federal law aimed at the purchase of sex. In 2009, an Assistant U.S. Attorney in Missouri was the first to utilize the TVPA to address the demand side of human trafficking by also prosecuting the customers of sex trafficking victims. Her argument was that the definition of trafficking in the TVPA included suspect activities of recruiting, transporting, harboring, obtaining, and selling, and that while cases to date had focused on the traffickers, buyers of commercial sex acts were guilty of “obtaining” commercial sex. She was successful in convicting a buyer who purchased sex with a minor. Several other cases followed and appeals wound their way through the court system, with final verdict in 2013 affirming these convictions. In 2015, the Justice for Victims of Trafficking Act (JVTA) added new suspect activities to the definition of sex trafficking, including soliciting and patronizing, giving law enforcement officials more tools for prosecuting and convicting buyers of commercial sex.

There is very little data in the United States on the number of men purchasing sex, and even less demographic data on age, race, ethnicity, education, marital status, work, but studies in other countries have generally shown that buyers of commercial sex come from all walks of life. There is even less information on whether buyers know about and understand human trafficking. More data will help disaggregate the market and give advocates better tools for intervention and prevention of the purchase of sex. For example, a recent sting operation in Chicago (2017) aimed at buyers of sex found that the typical buyer was a married man between the ages of 30 and 40 with at least a high school education and a job. The sheriff’s office aggregated data from 3,500 solicitation arrests made by law enforcement officials in 80 different localities around the United States. Dr. Hughes’s study was the first to suggest that educational programs, laws, and law enforcement could be best practices in reducing and eradicating demand for commercial sex. Shortly after her research was published, a new concern arose—this time about demand for forced labor. The impetus was a case of labor trafficking in the supply chain in U.S. government contracts, especially the U.S. Department of Defense, as the article “The Invisible Army” reveals.

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U.S. v. KIL SOO LEE (2004)

- **Document:** Federal Bureau of Investigation, “Anatomy of an International Human Trafficking Case, Pt. 1 and 2 Kil Soo Lee and the Case of the Samoan Sweatshop”
 - **When:** This summary was written July 2004. The final appeal was argued and submitted November 13, 2006, filed December 27, 2006
 - **Where:** American Samoa
 - **Significance:** Shortly after the Cadena case (see Chapter 4), another case broke, this one in American Samoa, a territory of the United States in the Pacific Ocean. It involved the forced labor and involuntary servitude of over 250 Vietnamese and Chinese people in a sweatshop. When the conditions of the workers were first uncovered, the public could not believe this kind of involuntary servitude could have been taking place on U.S. soil. This story is significant because it is the first federal labor trafficking case, and also for the superb investigative work of the FBI and its local partners, who gathered the evidence that made it possible for the U.S. government to prosecute and convict this trafficker.
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DOCUMENT

Want a specific reason why the FBI continues to develop its global reach, equipped with the analytic capabilities, linguistic skills, financial acumen, law enforcement partnerships, and worldwide offices needed to disable sophisticated international criminal and terrorist threats?

Then consider the case of Kil Soo Lee . . . convicted of enslaving more than 250 garment workers in his factory in American Samoa. It all started in the late 1990s, when Lee crafted a ruthless business plan to mass-produce clothes for top U.S. retailers.

Lee built his factory on a remote island of American Samoa, an unincorporated U.S. territory 2,300 miles south of Honolulu. That way, he could use the “Made in America” label on his clothes but not draw attention to his operation.

He recruited more than 250 skilled garment workers from Vietnam and China, mostly young women, enticing them with promises of a steady job that could help support their children and families back home. To guarantee this new job in America, he demanded an exorbitant down payment of as much as \$6,000 from each worker.

When the employees arrived, he placed them on grueling schedules in horrid conditions and paid them next to nothing. Then, he kept the workers in line through threats, beatings, starvation, false arrests, sexual assaults, debt repayment schemes, deportation, and other tactics—all enforced by security guards in a gated compound.

In time, though, the dark underbelly of this Samoan sweatshop came to light:

- One employee, while returning from a visit of jailed co-workers, took an “SOS” note and threw it out of the window of the company car. The note was found and passed on to the Department of Labor (DOL). After investigating, DOL levied fines and ordered Lee to pay back wages. (Since Lee was strapped for cash, DOL wrote the checks, but Lee forced his workers to give him the money and he deported those who didn’t.)
- In November 2000, Lee ordered his guards to beat or kill any workers who weren’t producing clothes fast enough. A mass attack ensued; one woman had her eye gouged out with a pipe. Word of the beatings reached law enforcement, and in February 2001, FBI agents in Honolulu launched a massive investigation.

It took a concerted, international effort [to bring Kil Soo Lee to justice]. Why? Because:

- Among victims, witnesses, and others involved in the case, four different languages besides English were spoken—Korean, Vietnamese, Chinese, and Samoan.
- Kil Soo Lee had financial and business dealings not just in American Samoa, but in South Korea, New York City, and elsewhere.
- When Lee ran into financial problems and was forced to shut down the plant, the workers (now key witnesses to Lee’s crimes) scattered across the world. Some were deported to their native lands before investigators arrived; more than 200 workers were given temporary visas so that they could testify at trial, but they then settled in some 20 different states around the country, making it hard to contact them.

[We started] with our special agents. Agents from the FBI office in Honolulu, which covers American Samoa, made the 2,000-mile trip to the island. They began initial interviews; surveyed the factory; seized records, computers, and other evidence; and started plotting out investigative strategies. Within days, agents had quickly gathered enough information to arrest Kil Soo Lee before he could flee U.S. soil. But to build a strong case, a team of experts around the world helped gather more evidence:

- Agents in some 20 different FBI offices, stretching from coast to coast, interviewed witnesses and served grand jury and trial subpoenas.
- Our Vietnamese, Chinese, and Korean language specialists translated documents and served as interpreters during interviews.
- Our victim witness specialists nationwide helped the victims who stayed in the U.S. find services and kept them informed of case developments.
- FBI offices in Seoul and Bangkok ran down leads with the help of overseas partners. . . . Our computer experts extracted digital evidence from seized computers, and financial analysts and paralegal specialists dealt with complex financial issues.

- Law enforcement partners in places like Honolulu and American Samoa—along with U.S. government officials in the Department of Justice, the Labor Department, Immigration, and Customs—worked closely with the FBI from start to finish.

Kil Soo Lee was found guilty on 14 counts—including human rights violations, money laundering, and extortion. Two associates, including the factory manager, were also convicted.

And the victims? More than 200 have remained in the U.S., finding jobs and making new lives for themselves. It's to them that this case is dedicated.

Source: Federal Bureau of Investigation. “Anatomy of an International Human Trafficking Case, Pt. 1 and 2. Kil Soo Lee and the Case of the Samoan Sweatshop.” https://archives.fbi.gov/archives/news/stories/2004/july/kilsoolee_071604.

ANALYSIS

American Samoa is a territory of the United States located on an island in the Pacific Ocean. The United States has 16 territories, which are administrative entities directly overseen by the federal government. American Samoa is one of five inhabited territories and it has its own local government. Residents of American Samoa are not U.S. citizens; rather, they are U.S. nationals who can freely enter and leave the United States. Kil Soo Lee was a resident of American Samoa, a U.S. national, and the owner of Daewoosa, a garment factory making clothes for U.S. companies. Over a period of 10 years, there had been numerous complaints about working conditions at Daewoosa. The U.S. Department of Labor (DOL) had investigated these complaints of unlawful labor practices, but apparently through threats and intimidations and other practices, Lee had been able to maintain control of workers and dodge criminal charges. In one DOL investigation in 1999, he was ordered to pay back wages that he had withheld from workers, but after the checks were written, he made the workers sign over their checks to him.

This case is interesting because it raises the question of when low wages, poor labor practices, and worker exploitation cross the line and become labor trafficking. In Kil Soo Lee's case, that crossing became clear when Daewoosa received a large clothing order from J. C. Penney. To ensure timely delivery of goods, he gave orders to his managers to beat any worker who was not working fast enough. According to testimony, one of the seamstresses was waiting for a piece of material to get to her so that she could sew her portion, but a guard thought she was being lazy. “Immediately thereafter, [he] grabbed the shirt collar of . . . the worker and choked her until she was unable to breath. When Vietnamese workers came to her rescue, approximately 20 Samoan guards attacked the seamstresses with plastic plumbing pipes.” During the altercation, one Vietnamese worker lost her eye. Several other Vietnamese workers were injured. In describing the event, one worker testified, “It was [like] watching a film where the people are being brutally beaten to the point of like massacre . . . [T]here was a lot of blood on the line and on the floor of the factory and on the fabrics.”

The U.S. government spent several years preparing for trial. Over 300 workers were involved; over 200 were interviewed for the case. The case involved three dedicated prosecutors for two years, additional prosecutors, paralegals, and victim witness support, and over 30 federal agents. The trial lasted four months and featured testimony from more than 16 victims, as well as law enforcement and fact witnesses, physical evidence, and documents in five languages. Cases like these, involving hundreds of victims, are labor intensive, but important to prosecute. As we will see later in this chapter, *U.S. v. Kil Soo Lee* was an early case that paved the way for criminal cases against other large corporations trafficking hundreds of workers, this time in the hospitality industry in the United States.

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U.S. v. PIPKINS (2004)

- **Document:** *U.S. v. Pipkins*
 - **When:** August 2004, actual trafficking took place 1997–2001
 - **Where:** U.S. Court of Appeals, Eleventh Circuit
 - **Significance:** In this case in Atlanta, Georgia, prosecutors brought multiple charges against the defendants, who trafficked young women and girls as young as 12 years old into prostitution. At the time, hundreds of pimps were operating with impunity in the Atlanta area. Police routinely rounded up and arrested the young women and girls, but rarely the traffickers and never the buyers. Georgia’s pimping law was weak. It was rarely enforced, and when it was, the penalties for pimping even a 12-year-old were only a few months. The TVPA had been in force less than a year when this case began. Prosecutors searched for a law that would send a message to anyone trafficking children for purposes of prostitution. This case is significant because it is the first sex trafficking case in which prosecutors used RICO—the Racketeering Influenced Corrupt Organizations Act. Following the successful prosecution of this case, charging conspiracy and racketeering in addition to other human trafficking charges became common.
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DOCUMENT

I. Introduction

In November of 2001, police arrested fifteen Atlanta pimps. A grand jury subsequently returned a 265-count indictment naming these fifteen pimps, involving conduct spanning from 1997 to November 2001. Thirteen of the pimps named in the indictment pleaded guilty. Only two—Defendants Charles Floyd Pipkins and Andrew Moore (“the Defendants”)—proceeded to trial. The evidence at trial demonstrated that Pipkins and Moore prostituted juvenile females—at least one of whom was as young as 12—from at least 1997 until their arrest in late 2001. The Defendants were convicted of conspiracy, in violation of 18 U.S.C. § 1962(d), to violate the Racketeering Influenced Corrupt Organizations Act (“RICO”), and of violations of a host of other criminal statutes. They appeal.

Pipkins and Moore raise a number of issues. Most noteworthy is whether the evidence supports the jury’s finding that they agreed to participate in an enterprise that met the statutory definition of a RICO enterprise. We affirm the Defendants’ convictions and sentences.

II. Background and Procedural History

Defendant Pipkins (known as “Sir Charles”) and Defendant Moore (known as “Batman”) were pimps who operated in southwest Atlanta in an area around Metropolitan Avenue (formerly called Stewart Avenue) known as the “track.”

To persuade underage females to prostitute for them, the Defendants (and other pimps charged in the indictment) presented a vision of ostentatious living, promising fame and fortune. Pimps perpetrated this myth with their own flamboyant dress, flashy jewelry, and exotic, expensive cars. To support this apparently extravagant lifestyle, each pimp kept a stable of prostitutes with a well-defined pecking order. At the top of each pimp’s organization was his “bottom girl,” a trusted and experienced prostitute or female associate. Next in the pimp’s chain of command was a “wife-in-law,” a prostitute with supervisory duties similar to those of the bottom girl. A pimp’s bottom girl or wife-in-law often worked the track in his stead, running interference for and collecting money from the pimp’s other prostitutes. The bottom girl also looked after the pimp’s affairs if the pimp was out of town, incarcerated, or otherwise unavailable.

The pimps also recognized a hierarchy among their own. “Popcorn pimps,” “wanna-bes,” and “hustlers” were the least respected, newer pimps. A “guerilla pimp” (as other pimps and prostitutes considered Moore) primarily used violence and intimidation to control his prostitutes. Others were regarded as “finesse pimps,” who excelled in the psychological trickery needed to deceive juvenile females and to retain their services. Finally, “players” (apparently, in this case, Pipkins) were successful, established pimps who were well-respected within the pimp brotherhood.

Both pimps and prostitutes generally referred to their activities as “the game.” To the pimps, an important component of the game was domination of their females through endless promises and mentally sapping wordplay, physical violence, and financial control. The pimps created a system in which their prostitutes were incapable of supporting themselves or escaping their reliance on the pimp. A prostitute lived either in her pimp’s home or in a room at a motel or boarding house paid for by the pimp. The pimp provided clothes for his prostitute, as well as money for the prostitute to fix her hair and nails. The pimp also provided condoms to the prostitute, or money to buy condoms. Also, the pimp frequently used threats of violence to control his prostitutes, or rewarded his prostitutes with drugs for meeting monetary goals. Other times, a pimp dispensed drugs to a prostitute to ensure that she was able to function through the night and into the early morning hours.

The pimping subculture in Atlanta operated under a set of rules, presented in the video called *Really Really Pimpin’ in Da South*. This videotape was made in Atlanta by Pipkins and Carlos Glover, a business associate. *Really Really Pimpin’ in Da South* featured prominent Atlanta pimps, including Pipkins, explaining the rules of the game. This video, along with its companion piece, *Pimps Up Hoes Down*, outlined the pimp code of conduct, and was repeatedly shown to new pimps and prostitutes alike to concisely explain what was expected of a prostitute. The origin of *Pimps Up Hoes Down* is unknown. In essence, these videos taught that prostitutes were required to perform sexual acts, known as “tricks” or “dates,” for money.

Prostitutes turned tricks in adult clubs, in parking lots, on mattresses behind local businesses, in cars, in motel rooms, or in rooming houses. A prostitute charged \$30 to \$80 for each trick, and was required to turn over all of this money to her pimp. Some pimps gave their prostitutes a “quota” to earn over \$1,000 a night.

Despite the pimps’ best efforts to subjugate their prostitutes, the rules allowed a prostitute to move from one pimp to another by “choosing.” This was accomplished by the prostitute making her intentions known to the new pimp, and then presenting the new pimp with money, a practice known as “breaking bread.” The new pimp would then “serve” the former pimp by notifying him that the prostitute had entered his fold. The former pimp was bound to honor the prostitute’s decision to choose her new pimp. A prostitute who frequently moved from pimp to pimp was known as a “Choosey Susie.” And, a prostitute might “bounce” from pimp to pimp by moving among different pimps without paying for the privilege of choosing.

Choosing another pimp was not without risk for the prostitute. A prostitute could be punished for merely looking at another pimp; this was considered “reckless eyeballing.” Owner pimps apparently were afraid that if their prostitutes were sufficiently impressed with another pimp’s vehicle, clothes, and manner, she might choose a new pimp.

Other rules governed a prostitute’s conduct. She was required to surrender all of the money from her dates; if she did not, she would be guilty of “cuffing.” She was also required to unquestioningly obey her pimp and treat him with respect; if she did not, she was “out of pocket.” At the whim of her pimp, a prostitute was obligated to have sexual intercourse with him, another pimp, or even another prostitute.

The pimps sometimes brutally enforced these rules. Prostitutes endured beatings with belts, baseball bats, or “pimp sticks” (two coat hangers wrapped together). The pimps also punished their prostitutes by kicking them, punching them, forcing them to lay naked on the floor and then have sex with another prostitute while others watched, or “trunking” them by locking them in the trunk of a car to teach them a lesson.

The pimps did not service only the Metropolitan Avenue clientele. For example, Pipkins branched out on the Internet, forming a web-based escort service which allowed customers to select a particular prostitute from pictures posted on a website. Also, pimps sometimes sent their prostitutes to Peachtree Street in Midtown Atlanta because patrons paid a premium for prostitutes in that neighborhood. Pipkins entertained members of a municipal police force at his home on at least one occasion, where they engaged in sexual intercourse with his prostitutes.

While all the pimps did not pool their profits from prostitution, some did. And the pimps generally aided each other. Pimps bailed each other’s prostitutes out of jail; mentored younger pimps; swapped prostitutes with each other to get a better “fit;” warned other pimps and their prostitutes of the presence of police; provided condoms, rides, and rooms for each other’s prostitutes; jointly organized private prostitution parties; recruited juvenile prostitutes together; recruited juvenile prostitutes for each other; divided the track geographically to reduce competition; and traveled out of town together to prostitute females in other cities. Pimps also operated as a price-fixing cartel to regulate the prices that their prostitutes charged for different sexual services.

At trial, four pimps indicted in this case, Michael Davis (known as “Hollywood”), Bryant Weaver Bell (known as “Worm”), Terrance Anderson (known as “Scooby”), and Camari Burrough (known as “KK”), testified on behalf of the Government. Fourteen prostitutes also testified for the Government. At the conclusion of the evidence, the district court submitted twenty-four counts to the jury.

The jury found Pipkins and Moore guilty on Count 1, which charged them with conspiring to participate in a juvenile prostitution enterprise affecting interstate commerce through a pattern of racketeering activity, in violation of 18 U.S.C. § 1962(d). Pipkins was also found guilty on the following counts: Count 8, enticing juveniles to engage in prostitution, in violation of 18 U.S.C. § 2422(b); Count 84, using interstate facilities to carry on prostitution, in violation of 18 U.S.C. § 1952(a)(3); Counts 104 and 105, extortion, in violation of the Hobbs Act, 18 U.S.C. § 1951; Count 172, involuntary servitude, in violation of 18 U.S.C. § 1584; Count 244, transfer of false identification documents, in violation of 18 U.S.C. § 1028; and Count 252, distribution of marijuana and cocaine to minors, in violation of 21 U.S.C. § 859. The jury acquitted Pipkins on the involuntary servitude charge in Count 171.

In addition to Count 1, the jury also found Moore guilty on the following counts: Count 14, enticing juveniles to engage in prostitution; Count 85, using interstate facilities to carry on prostitution; Counts 109, 110, 117–118, extortion; Counts 176, 177, 181, 183, 184, and 185, involuntary servitude; and Count 253, distribution of marijuana and cocaine to minors. The jury acquitted Moore on the involuntary servitude charges in Counts 114 and 116.

The district court sentenced Pipkins to 20 years’ imprisonment on Count 1; 5 years’ imprisonment on Count 84; 20 years’ imprisonment on Count 104; 20 years’ imprisonment on Count 105; 20 years’ imprisonment on Count 172; and 15 years’ imprisonment on Count 244; these sentences to run concurrently. Pipkins was also sentenced to 10 years’ imprisonment on Count 252 and 10 years’ imprisonment on Count 8, to run concurrently with each other but consecutive to sentences on all other Counts. Thus, Pipkins’s total sentence of imprisonment was 30 years.

The district court sentenced Moore to 20 years’ imprisonment on Count 1; 15 years’ imprisonment on Count 14; 5 years’ imprisonment on Count 85; 20 years’ imprisonment on Counts 109 and 110; 20 years’ imprisonment on Counts 176, 177, and 181; and 40 years’ imprisonment on Count 253, all to run concurrently. Moore also received a sentence of 20 years’ imprisonment on Counts 117 and 118; and 20 years’ imprisonment on Counts 183, 184, and 185, to run concurrently to each other, but consecutive to Count 1. So, Moore’s total sentence of imprisonment was 40 years.

IV. Discussion

A. *The RICO Conspiracy*

Count One charged the Defendants with violating 18 U.S.C. § 1962(d) by conspiring to violate the substantive RICO statute. It alleged as RICO predicate acts: juvenile prostitution, kidnapping, extortion, money laundering, transferring false identification documents, distributing controlled substances to minors, and

making threats of murder. The Government proceeded at trial on a theory that the overall objective of the conspiracy was to make money prostituting juveniles.

To establish a RICO conspiracy, the Government had to prove that the Defendants “objectively manifested, through words or actions, an agreement to participate in the affairs of [an] enterprise through the commission of two or more predicate acts.” Specifically, the Defendants must have agreed to participate in (1) an enterprise; (2) that was engaged in or affected interstate commerce; and (3) that engaged in a pattern of racketeering activity.

To prove that the Defendants conspired to participate in an enterprise, the Government must show agreement on the overall objective, or that the Defendants agreed personally to commit two predicate acts. The Government’s position at trial was that each of the Defendants committed two or more predicate acts.

Pipkins and Moore contend that their RICO conspiracy convictions should be reversed because the Government failed to prove: (1) the existence of a RICO enterprise, and (2) that the enterprise had the necessary effect on interstate commerce. We examine each of the Defendants’ contentions in turn.

1. The RICO Enterprise Issue

The Defendants contend that the evidence at trial was insufficient to prove the existence of a RICO enterprise. . . .

The Government invites us to hold that the evidence showed that all of the pimps charged in this indictment constituted a RICO enterprise. The Defendants, on the other hand, invite us to hold that their convictions cannot stand unless the evidence showed that all of these indicated southwest Atlanta pimps constituted a RICO enterprise. We decline both invitations, and address a more narrow question: whether the evidence supports a finding that the Defendants agreed to participate in any RICO enterprise-whether or not the enterprise included all these southwest Atlanta pimps.

The court’s instructions to the jury correctly summarized the definition of a RICO enterprise:

The term “enterprise” includes any partnership, corporation, association or other legal entity or any union or group of individuals associated in fact although not a legal entity. An association in fact enterprise may consist of a group of persons associated together for a common purpose of engaging in a course of conduct.

The Government must prove the existence of such an enterprise by evidence of an ongoing organization, formal or informal, and by evidence that the various associates functioned as a continuing unit. So it is-an enterprise is-in this case is people associated in fact together for a common purpose of engaging in a course of conduct that has a continuity to it. It’s ongoing.

a. Pipkins’s Enterprise

The evidence at trial supports the jury’s finding that Pipkins agreed to participate in an enterprise, the overall objective of which was to make money prostituting juveniles. The evidence presented the jury with at least two possibilities for finding

that there was an enterprise: the jury could have concluded that Pipkins and KK were the chief executives in a juvenile female prostitution enterprise that they organized; alternatively, the jury could have concluded that three pimps—Pipkins, Scooby, and KK—collectively headed up a prostitution enterprise involving juvenile females. In either case, the enterprise's activities included traveling intrastate and interstate to prostitute juvenile females, recruiting juvenile prostitutes, attending the Player's Ball, mentoring a junior pimp, commingling funds and profits, and dividing the track to reduce competition among prostitutes.

We have previously summarized evidence that supports the notion that there was extensive cooperation among the southwest Atlanta pimps generally, all of whom associated on a continuing basis in an informal organization. But we now focus first on additional evidence that supports the conclusion that Pipkins and KK headed up a juvenile prostitution enterprise, and second, on evidence that supports an alternative conclusion that Pipkins, Scooby, and KK conducted the affairs of a juvenile prostitution enterprise.

Substantial evidence supports a finding that Pipkins and KK conducted a juvenile prostitution enterprise. We note some highlights. Pipkins and KK kept a stable of juvenile prostitutes, including JF5, JF6, "Red," "Candace" (who previously worked for Moore), JF48, "Sugar," "Lisa," "Special," "Too Tall" (who, although bearing a tattoo of "Sir Charles" on her leg, later became Moore's bottom girl), "Ne-ne," "Peaches," "Passion," "Kimberly," and "China Doll." Pipkins and KK provided drugs to their prostitutes, and took them to the track to work. Also, Pipkins and KK provided their prostitutes a place to live, food, clothing, condoms, and money to get their hair and nails done.

Pipkins brought KK into his enterprise by mentoring him as a junior pimp. After purchasing a copy of *Really Really Pimpin' in Da South* at a local barber shop, KK recognized Pipkins and sought his counsel on becoming a pimp. Pipkins invited KK to move into his house, and the two began a symbiotic business relationship. In addition to providing rides to the track for each other and each other's prostitutes, Pipkins and KK supervised each other's prostitutes and collected the money they earned.

Additionally, Pipkins disciplined his prostitutes in front of KK, teaching KK his method. For example, after Pipkins learned that JF5 had been smoking marijuana with one of Scooby's prostitutes, Pipkins directed JF5 to lay naked on the ground in front of Pipkins, KK, and other prostitutes. Pipkins then forced JF5 to have oral sex with JF6 (who had just returned from a night of prostitution) in the presence of Pipkins and KK.

Pipkins and KK worked the track together, with KK on-site and Pipkins appearing as necessary to prevent any disputes from escalating. The following anecdote illustrates such an agreement. JF6, one of Pipkins's prostitutes, formerly worked for Worm. While Worm was in jail, he gave JF6 to "Fantastic," an unindicted pimp, but Worm later claimed that he had not been properly served. After Worm was released, KK was working the track one evening when Worm arrived and verbally assaulted JF6, who had moved to Pipkins from Fantastic. KK called Pipkins on a cell phone to inform him of the commotion, and Pipkins soon arrived to speak with Worm. Pipkins told Worm that because he got JF6 from someone else (and had apparently properly served that other pimp), Worm should consider himself served as well.

Most tellingly, Pipkins and KK had an agreement to operate in tandem. According to KK, Pipkins said that KK “had a good catch hand and that [Pipkins] had a good turn out hand, and that I could catch the girls and he would turn them out.” (R.21 at 1484.) KK explained that this meant that he was adept at finding and bringing girls to Pipkins’s house; Pipkins would win the girls’ loyalties, explain the rules of the game, and convince them to prostitute for him and KK. KK also worked as a tattoo artist, and tattooed “Sir Charles” on one of Pipkins’s prostitutes. KK took several of Pipkins’s other prostitutes to get tattoos for which Pipkins paid. Clearly, there was evidence to support a finding that Pipkins and KK agreed to form an enterprise to make money through juvenile prostitution.

As we previously noted, an alternative view that has support in the evidence is that Pipkins, Scooby, and KK collectively could be viewed as the leaders of a juvenile prostitution enterprise in which all of them participated. Pipkins traveled extensively with Scooby, driving out of town with him to prostitute females. They drove to Columbus, Georgia several times to prostitute in the back of The Foxy Lady, an adult entertainment establishment near a military base. Another time, Pipkins and Scooby went to Memphis, Tennessee to prostitute two girls at another strip club, The Queen of Hearts. Pipkins and Scooby traveled together because Scooby did not like to take long trips alone and because protection of their prostitutes was enhanced by having their prostitutes dance and work together. This benefitted the pimps because the prostitutes were more “motivated” to prostitute when their safety was assured.

While in Memphis, Pipkins and Scooby jointly persuaded a female working the drive-through window at McDonald’s to quit on the spot and join Pipkins’s organization in Atlanta. And, on another trip to Memphis, Scooby found a female who wanted to return with him to Atlanta to prostitute, but who did not have the looks required to join his stable. Remembering that Pipkins’s driver’s license was suspended and noting that this female had a car, Scooby contacted Pipkins on his cell phone and coaxed him to accept this female because she would be able to ferry both Pipkins and other prostitutes to and from the track.

In 1999, Pipkins, Scooby, Herman Hutson, Jr. (known as “Redd”), and Curtis Webb, Pipkins’s tailor, along with one of Pipkins’s prostitutes, traveled together to the Player’s Ball in Detroit, Michigan. The Player’s Ball is an annual event, akin to a nationwide pimp trade show, which rotates through major cities. At the Player’s Ball, pimps showcased their finest attire and prostitutes in the hopes of being named “Pimp of the Year.” Pipkins, Scooby, and Redd were apparently the only pimps in attendance from Atlanta, and were disappointed to discover that the Pimp of the Year had been preselected from the host Detroit contingent. Pipkins took five prostitutes to a different Player’s Ball in downtown Atlanta; Scooby also attended.

On another occasion, Pipkins and Scooby agreed to work different ends of the track to avoid direct competition and price undercutting between their prostitutes. Scooby testified that his and Pipkins’s prostitutes had different “looks.” Dividing the track into discrete “territories” reduced the likelihood of consumer confusion and of any possible price-related problems between the prostitutes.

From this copious evidence, the jury could have concluded that Pipkins participated in a RICO enterprise with Scooby and KK. Pipkins and Scooby functioned horizontally, traveling together, fixing prices on the track, and recruiting and

swapping prostitutes with one another. In contrast, Pipkins and KK operated vertically with Pipkins serving as KK's mentor. Pipkins allowed KK to live in his house and groomed him as a successor, looking after his prostitutes while benefitting from KK's youth and rapport with juvenile females.

Whether it involved Pipkins, Scooby, and KK, or Pipkins and KK alone, the jury could have concluded that there was an informal, ongoing organization. The evidence supports a finding that there was continuous association among these pimps, and that they worked together to make money prostituting juveniles. Thus, we conclude that there was sufficient evidence that Pipkins agreed to participate in a RICO enterprise.

...

2. The Effect on Interstate Commerce Issue

The substantive RICO offense, which the conspiracy statute references, requires proof that the enterprise was either (1) engaged in interstate commerce, or (2) that its activities affected interstate commerce. . . .

Both Pipkins and Moore used automobiles and the interstate highways to take underage prostitutes across state lines, as well as elsewhere in Georgia. Pipkins drove JF5 to Milwaukee, Wisconsin and most likely New York City where Pipkins prostituted her and kept the money. Scooby and Pipkins took prostitutes to work champagne rooms at strip clubs in Memphis, Tennessee and recruited prostitutes on the same trip. Moore also recruited at least one prostitute from Alabama who worked for him in Atlanta. And, Worm and Moore drove to Anniston, Alabama to evade a police dragnet in Atlanta and prostitute females.

Additionally, the pimps and their prostitutes used instrumentalities of interstate commerce—pagers, telephones, and mobile phones—to communicate with each other while conducting business. Pipkins used the Internet to promote his online escort service which advertised JF48 and JF54 as prostitutes. Finally, the pimps furnished their prostitutes with condoms manufactured out of state, purchased from Atlanta gas stations.

This evidence undoubtedly supports a finding that the enterprise was engaged in interstate commerce. It also supports a finding that the activities of the enterprise affected interstate commerce. Because the evidence was sufficient to support the jury's finding, we affirm their RICO conspiracy convictions.

B. The Hobbs Act Extortion Convictions

The jury convicted both Defendants of violating the Hobbs Act by extorting money from juvenile prostitutes. The Hobbs Act criminalizes conduct that “in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by extortion.”

1. Pipkins's Conduct Was Extortion

Pipkins contends that his conduct did not amount to extortion; this contention is meritless. Extortion is “the obtaining of property from another, with his consent,

induced by wrongful use of actual or threatened force, violence, or fear.” According to Pipkins, the juvenile females voluntarily turned over their prostitution earnings to him as part of the rules of the game, which they knew about prior to beginning their “independent contractor” relationship with him. Therefore, he argues, the money never belonged to the prostitutes, and thus, any force or violence Pipkins used to extract “his” money from his prostitutes could not constitute extortion.

Pipkins’s view of the facts is belied by the record. JF33 testified that she gave all of her money earned through prostitution to Pipkins because she had no choice, as Pipkins would beat her if she kept the proceeds for herself. When Pipkins learned that she had kept earnings, Pipkins hit her. JF5 also turned over all of the money she earned prostituting for fear of Pipkins beating her. These earnings were substantial: one night, Pipkins required her to meet a quota of \$1,000.

Pipkins instituted and perpetuated a system in which his juvenile prostitutes turned over their earnings because of his threats and physical violence. This supports Pipkins’s convictions on the Hobbs Acts extortion charges.

...

C. Pipkins’s Involuntary Servitude Conviction

Pipkins contends that the evidence was insufficient to support his conviction for unlawfully and willfully holding or selling 15-year-old JF5 in involuntary servitude, in violation of 18 U.S.C. § 1584 (“Whoever knowingly and willfully holds to involuntary servitude or sells into any condition of involuntary servitude, any person for any term.” has committed the offense of involuntary servitude.).

A conviction under § 1584 requires proof that “the victim [was] forced to work for the defendant by the use or threat of physical restraint or physical injury.” If a defendant keeps a victim in involuntary servitude through such fear of physical harm that the victim is afraid to leave, regardless of any opportunity to escape, the defendant has violated § 1584.

Pipkins argues that he could not have placed JF5 in involuntary servitude, as she was free to leave at any time. Pipkins notes that JF5 first prostituted for herself, then “bounced” from Lil Jeff to Playboy to Black to Cowboy before prostituting for Pipkins. Then, after prostituting for Pipkins for two to three weeks, JF5 left Pipkins for Scooby, then returned to Pipkins, and left again to work for Scooby. Pipkins asserts that the first time JF5 left, she did so voluntarily, leaving with one of Scooby’s prostitutes. And, after leaving, she maintained contact with Pipkins either by telephone or in person in his home.

We reject this argument. Pipkins held JF5 in involuntary servitude by forcing her to prostitute herself and turn over all of her earnings to him, lest she endure a beating at his hands. On one occasion, he gave her a \$1,000 quota for the night before she could return home. He also had sexual intercourse with her; she testified that she didn’t have a choice because Pipkins was “intimidating.” And, in KK’s presence, he punished her for smoking marijuana with one of Scooby’s prostitutes by forcing her to have oral sex with another prostitute, JF6, who had just returned from a night of prostituting. Relating to this forced sexual encounter, JF5 testified that Pipkins told her that he wouldn’t hit her, but that he didn’t have to hit her to hurt her.

Section 1584 requires that involuntary servitude be for “any term,” which suggests that the temporal duration can be slight. Thus, the language of § 1584 negates Pipkins’s argument that JF5 was never in involuntary servitude because she freely traveled between pimps. The record supports a finding that Pipkins held JF5 in involuntary servitude for at least part of the time that she prostituted for him.

We therefore conclude that the evidence was sufficient to support Pipkins’s conviction for involuntary servitude of JF5.

VI. Conclusion

For the foregoing reasons, the convictions and sentences of Pipkins and Moore are AFFIRMED.

Source: U.S. v. Pipkins, 378 F.3d 1281 (2004).

ANALYSIS

U.S. v. Pipkins was a clarion call about the shocking kinds of trafficking taking place in the United States. As media reports of sex trafficking on continents around the world reached the United States, citizens began to understand that foreign-born traffickers like the Cadena brothers could traffic women and children across the border into the United States. Cultural differences, political and economic instability, gender inequality, and other “root causes” in countries around the world made it easy to categorize trafficking, particularly sex trafficking, as one more foreign problem that could be helped by U.S. AID, mission trips, and other kinds of relief and development programs. When Charles Pipkins was arrested and went to court, our attention slowly turned from the international aspects of trafficking to our own country. Pipkins was a U.S. citizen, as were all the 14 other pimps who were a part of his trafficking ring. Even more horrifying, many of the victims he trafficked into prostitution were juveniles, some as young as 12 years old. They were all U.S. citizens and part of the Atlanta African American community.

The case began with an observant juvenile justice judge who noticed younger and younger children coming into her courtroom charged with prostitution. At the time, Georgia, like most other states in the United States, arrested the women, not the men or the pimps/traffickers. Usually, local police did street round-ups once or twice a week, out of the Vice division. Unfortunately, children in prostitution were handled in the same way. Some said that the fault could be attributed to societal perspectives about prostitution; others noted that when children were arrested for almost any crime, lack of programs, including shelters, services, alternative education, and family interventions, made juvenile detention the only viable alternative. As one local newspaper reporter wrote:

In Georgia, pimps are rarely arrested, even when the prostitute is a child. When pimps are charged, their cases often are dismissed or result in a small fine, court records show.

There are no reliable statistics on the number of prostituted children, although Atlanta judges say they are seeing an alarming growth in their courtrooms. But statistics for adults show a clear disparity in the system's treatment of pimps and prostitutes. Since 1972, 401 adults—nearly all women—went to prison in Georgia for prostitution; no one went to prison for just pimping. (Hansen 2001 (January 7))

Georgia's pimping law was a part of the problem—in the year 2000, it was a misdemeanor to pimp. This may have contributed to the culture of exploitation that flourished in some communities in Georgia. Another part of the problem was the willingness of buyers to purchase sex with a child. A third aspect is the lack of economic development in parts of our own cities, which in some ways allowed what the judge called "criminal subcultures" to emerge and thrive. These subcultures glorified pimps and pimping, where "how to" books on pimping, and "pimp balls" were an accepted part of the culture. It may be difficult now to understand how traffickers could operate with impunity 20 years ago, but they did.

The judge's decision refers to this pimping subculture in his holding, noting a thriving culture that glorified the pimping of women and children. Pipkins and the other traffickers "presented a vision of ostentatious living . . . fame and fortune. Pimps perpetrated this myth with their own flamboyant dress, flashy jewelry, and exotic, expensive cars." They traveled around the country, attended pimping balls, such as the Players Ball, and created videos purveying their lifestyles as glamorous and exciting. With this image of a life of ease and glory, they were able to attract young women and children—children as young as 10 and 11 years old—to their entourage, where they then used all the means we have seen in earlier cases—physical and emotional abuse, violence, threats, and intimidation—to force young victims into sexual slavery.

Such was the context when this case broke. Juvenile judges pressed for reform of the system starting with Georgia's pimping law, which they wanted increased to a felony for pimping children. Case managers and probation officers for the victims called for a 180 degree change in the focus of law enforcement officials—from arresting the victims to arresting the pimps and the buyers. And service providers advocated for a different approach for children—shelters and services as opposed to juvenile detention. Even in the case of the most hardened child, they argued, the systems have failed them. Researchers and investigative journalists turned up information about the imbalance in the system.

Meanwhile, as Georgia grappled with changing its weak laws and refocusing its law enforcement response, the case passed to the federal government. The TVPA had just passed, and while there were new statutes on sex trafficking with penalties of 20 years to life for trafficking children into prostitution, the law was so new it had not been tried yet. The AUSA (Assistant U.S. Attorney) Janis Gordon looked for a case that would allow her to send a message to traffickers in Atlanta and across the United States. Gordon looked at the highly organized, and in some ways sophisticated, pimping subculture in Atlanta and made a comparison to organized crime. Gordon argued that street gangs are the new mob in the United States—they are organized crime at its worst. She made the decision to charge the fifteen pimps under

the racketeering laws. To convict, she had to prove that they operated as an enterprise under the definition in RICO. As we read, she was successful, and on appeal, the court upheld the original judgment, sending Charles Pipkins and several others in his enterprise to jail for decades.

This case was significant in many ways. It was the first big intra-national sex trafficking case; that is, it happened within U.S. borders and involved U.S. citizens trafficking other U.S. citizens. It brought attention to the weak laws and their enforcement in states across the nation. It unpacked, in some detail, the very real subcultures thriving on sex trafficking inside our country. Finally, although at the time Gordon was pressured to use the TPVA, her approach of charging and prosecuting under RICO statutes has since been vindicated, and most prosecutors now use RICO statutes as well as the TVPA when three or more traffickers are involved.

FURTHER READING

- Adolescent Girls in Georgia's Sex Trade: An In-Depth Trafficking Study 2007, Juvenile Justice Fund.
- Hansen, Jane O. "Selling Atlanta's Children." *Atlanta Constitution Journal*, January 7, 8, 9, 2001. <http://www.ajc.com/news/news/selling-atlantas-children/nmzbb/>.
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- Priebe, Alexandra, and Cristen Suhr. *Hidden in Plain View: The Commercial Sexual Exploitation of Girls in Atlanta*. Atlanta: Atlanta Women's Agenda, 2005. <http://docplayer.net/2568929-Hidden-in-plain-view.html>.

GLOBAL REPORT ON TRAFFICKING IN PERSONS (2009)

- **Document:** United Nations Office of Drugs and Crime Global Report on Trafficking in Persons: A Crime That Shames Us All
 - **When:** 2009
 - **Where:** Information from 155 countries
 - **Significance:** This report on human trafficking assesses the nature and scope of human trafficking and what countries have been doing to counter it. For almost ten years, the only UN agency that addressed trafficking was UNICEF and, because of its mandate on children's issues, its perspective was decidedly limited. When the United Nations Office on Drugs and Crime (UNODC) recognized trafficking as a serious transnational criminal threat, the problem gained gravitas in the international community.
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DOCUMENT

After much neglect and indifference, the world is waking up to the reality of a modern form of slavery. The public and the media are becoming aware that humans prey upon humans for money. Parliaments are passing appropriately severe laws. The judiciary is facing its anti-slavery responsibility, with more prosecutions and convictions. Civil society and (to a lesser extent) the private sector are mobilizing goodwill and resources to assist victims.

Hearing this wake-up call, politicians as well as ordinary people ask me two sets of questions. First, they want to know how big the crime of human trafficking really is: how many victims are there? Who are the traffickers, what are their routes and their gains? What are the trends, namely is the problem getting ever more severe? Why and where?

Second, people want to know what to do, individually and collectively. Why aren't governments and the United Nations, why aren't we all, doing more? Some people are even willing to mobilize personal resources to fight this crime: but for whom and how?

The first set of questions needs to be answered as a matter of priority. Only by understanding the depth, breadth and scope of the problem can we address the second issue, namely, how to counter it.

...

1. Collecting the Data

In order to break the picture down into manageable pieces, 10 researchers were assigned geographic regions and were placed in appropriate UNODC field offices

around the world. In addition, the UN-affiliated European Institute for Crime Prevention and Control (HEUNI) was asked to gather data for Europe and North America. These researchers contacted the relevant national governments and non-governmental organizations with the purpose of collecting the available data under three subject areas:

- Information on legislative and administrative frameworks, including the status of anti-trafficking laws; the creation of government victim protection and support programmes; the establishment of special law enforcement units on trafficking in persons; and the drafting of national action plans to deal with the human trafficking problem.
- Criminal justice data, including the number of investigations, arrests, prosecutions and convictions.
- Information on victim services, including the number of victim identified by public authorities and sheltered by service providers; and the number of foreign victims returned to their home countries.

In the end, information was collected for 155 countries and territories, some more complete than others. Still, this is a remarkable coverage rate given the topic, the timeframe and the resources available. It is difficult to generalize about the countries that were not covered by this research. In some instances, researchers may not have been persistent enough, focusing their attention on other countries. In other cases, countries formally declined to participate or failed to provide all the available information. A few countries had no information to contribute. In general, however, the researchers were able to gather more data on more countries than has ever been assembled before in one place.

2. What the data represent

The first category of information gathered—legislative and institutional arrangements to combat human trafficking—is at once simple and complex. With regard to the national laws, one measure is for countries to be grouped into those with a specific offence that criminalizes at least trafficking in persons for the purposes of sexual exploitation and forced labour and that have no restriction regarding the age or the gender of the victim; those whose specific offence on trafficking in persons is restricted to some forms of exploitation and to some category of victims (e.g., trafficking for sexual exploitation, child trafficking) or without a clear definition of the offence; and those criminalizing trafficking in persons through other offences due to the absence of a specific offence on trafficking in persons. Beyond this basic measure, a more detailed legislative analysis than that made in this report would be necessary to evaluate the compliance of the States' laws with the Trafficking Protocol. The purpose of gathering this category of information was to establish whether countries criminalize the minimum forms of exploitation included in the Trafficking Protocol.

The second category of data has the advantage of being quantifiable and is thus more concrete. This category captures the application of the laws, which is important because while international pressure can compel legislative action, it is largely symbolic if the executive arm of government does not follow up. The goal is to

provide genuine deterrents to transnational anti-social activity, and this is not accomplished until some offenders are actually convicted. It is impossible to convict traffickers where there are no traffickers to convict, of course, and since there are no reliable estimates about the scale of human trafficking, it would be thereby senseless to prescribe some model level of criminal justice activity. On the other hand, there are many parts of the world where human trafficking is known to exist but where there is little or no law enforcement response.

These data also give us important clues about the activity of human trafficking itself. Each charge laid gives some indication that a particular form of trafficking is present. Both the offenders and their victims have an age, a gender and a nationality, so any given case provides an example of who is trafficking whom. It is of great interest to those involved in law enforcement that people from one corner of the world are becoming victims in another, perhaps brought there by people from another region altogether. Even if the number of cases is small, if they persist across time, this suggests an issue ripe for international cooperation.

What these data fail to demonstrate is the amount of trafficking that is actually taking place. This is because quite a few things need to happen before a human trafficker is ever sentenced to prison. The country concerned must have laws prohibiting the activity, and it must have a law enforcement apparatus capable of—and willing to—detect crimes of this sort. It helps if this apparatus is supported by a public that reports suspicious activity and a legal/social service structure that encourages and supports victims to step forward and testify against their trafficking offenders. Provided that offenders are tried and jailed, there still needs to be some system of data collection that registers this event as a human trafficking conviction. Finally, the government in question must decide that it is willing to share this information with a body like the United Nations.

As a result, very little can be concluded from the criminal justice data alone as to where the problem is most acute or whether the response of any given country is proportional to the challenge it faces. There are a few countries that regularly return large numbers of human trafficking convictions, and it can safely be concluded that these countries have both a problem and are taking action to address it. But equally troubled countries may do little in response and thereby produce no statistics. Others may have relatively small markets for the trafficking and exploitation of human beings, but through diligent investigation, detect a disproportionately large number of incidents compared to other countries. Even within a particular country, it is difficult to say whether a trend towards a greater or lesser number of convictions is a result of true changes in the number of offences occurring or whether these variations are due to changes in the amount of attention given to the issue or the mechanisms for reporting the data. In the end, the amount of criminal justice activity is a highly ambiguous indicator.

Luckily, criminal justice data are not the only source of information on trafficking. Another set of institutions—those dedicated to providing services to victims—is capable of keeping its own set of figures and observations. These groups gather detailed information about the people they serve and, while not collected under oath, this information may be more reliable due to the use of a victim-centered approach and the non-adversarial context in which it is garnered. Victim information—the topic

of the third heading of data collected for this report—can be compared and contrasted with that collected in the criminal justice process.

3. Countries covered

UNODC accessed information on legislation, criminal justice statistics and data on offenders and victims identified by State authorities and other institutions for 155 countries and specially administered territories for the period 2003–2007.

Given time and budget constraints, some countries and some information could not be covered. For other countries, the information was too difficult to collect, either because it was not accessible to competent authorities or the information could not be supplied because it simply did not exist. Additionally, some countries preferred not to share their information.

The results and analysis presented in this report are based on the available information collected from these 155 countries and specially administered territories.

...

4. The potential for progress

The massive pool of information collected for this report is both profoundly informative and fundamentally unsatisfying. It provides a sound baseline that calls out for sustained supplementation. Many countries have only recently passed human trafficking-specific legislation or created supporting institutions. The number of human trafficking convictions and the recorded number of victims assisted have increased every year during the period examined. As these numbers grow, so does the depth and accuracy of the data collected.

This report should stand as a pilot for a much-needed barometer of human trafficking activity. It provides a preliminary snapshot of the situation but has the potential to become much more. To have real meaning, this undertaking needs to be sustained through inclusion in a regular data collection exercise. The periodical United Nations Survey of Crime Trends and Operations of Criminal Justice Systems (CTS), and the instruments adopted to monitor the implementation of the United Nations Convention on Transnational Organized Crime within the framework of the Conference of the Parties to the convention can be used to regularly collect such information.

It is now known that at least 155 countries and territories are willing to contribute information on human trafficking to a common database. Some inputs were better than others, but at least Member States have been put on notice as to the kind of information that should be collected. And, as this collection becomes regularized, it may be possible to gather more data. For example, many countries can say how many victims and offenders of any given citizenship passed through their systems, but these two groups of people are not currently cross-linked.

Ultimately, the goal should be to provide a data-base robust enough that questions of concern to the international community can be answered: What are the specific trafficking trends, and what are the main trafficking patterns and flows? Where is trafficking in persons most acute and how might it be recognized? Without an answer to these questions, appropriation of scarce resources becomes guesswork, and

measurement of progress very unreliable. Sound information is needed to support decisions on a topic as important as human trafficking. This report shows that this information can be gathered economically and quickly. The international community cannot afford to go without it.

Source: United Nations Office on Drugs and Crime. "Global Report on Trafficking in Persons." February 2009, 6, 14–15, 18. https://www.unodc.org/documents/Global_Report_on_TIP.pdf. Used by permission of the United Nations.

ANALYSIS

The first UNODC Trafficking in Persons Report dissects trafficking to show the percentage of countries who have introduced a specific office to trafficking in person into their legislation, which countries have made it a criminal offense, the gender of the traffickers, the gender of the victims.

This report shows the large global picture of trafficking with information willingly provided by countries, some of who had data on certain topics, but not on others, or just declines to release the data. The fewest countries provided data on sheltered victims of TIP. This is an outstanding first step for the United Nations to raise awareness and publish a compiled report of the global issue. Unfortunately, it is important to note that not all countries participated, most notably China, Saudi Arabia, and Iran. Reported numbers are merely scratching the surface of what is really going on, keeping in mind that human trafficking is intertwined with organized crime, corruption, and other forms of illicit trade and trafficking (arms, wildlife, drugs). Additionally, human trafficking was only defined in some countries as sex trafficking, and it did not consider forced labor or other practices that is considered in more recent definitions of trafficking. Trafficking at this point is a low-risk and high-profit industry that funds criminals, gangs, cartels, and corrupt governments.

FURTHER READING

UNODC on Human Trafficking and Migrant Smuggling. <http://www.unodc.org/unodc/en/human-trafficking/index.html?ref=menuaside>.

THE INVISIBLE ARMY (2011)

- **Document:** Sarah Stillman, “The Invisible Army: For Foreign Workers on U.S. Bases in Iraq and Afghanistan, War Can Be Hell”
- **When:** Spring 2011
- **Where:** *New Yorker* magazine
- **Significance:** This article broke the story of trafficking in government contracting. How ironic it was for the U.S. government to find that ten years after implementing the TVPA, its own contracts for goods and services in embassies, military installations, and even in aid operations were unwittingly involved in trafficking in countries around the world.

DOCUMENT

It was lunchtime in Suva, Fiji, a slow day at the end of the tourist season in September of 2007, when four men appeared in the doorway of the Rever Beauty Salon, where Vinnie Tuivaga worked as a hair stylist. The men wore polished shoes and bright Hawaiian shirts, and they told Vinnie about a job that sounded, she recalls, like “the fruits of my submission to the Lord all these years.” How would she like to make five times her current salary at a luxury hotel in Dubai, a place known as the City of Gold? How would she like to have wealthy Arab customers, women who paid ridiculous fees for trendy cut-and-color jobs?

“I’ll talk it over with my husband,” she replied, coolly, but her pulse was racing. Vinnie, who was forty-five, had never worked abroad, but she often dreamed of it while hearing missionaries’ lectures at her local church . . . She could see herself working in one of the great cosmopolitan capitals. The offer seemed like her big break, the chance to send her teen-age daughter to hospitality college and to pay her youngest son’s fees for secondary school.

Later that week, at a salon around the corner, Lydia Qeraniu, thirty-two, heard a similar offer. A quick-witted woman with a coquettish smile and a figure that prompted Fijian men to call out “*uro, uro!*”—slang for “yummy”—Lydia was thrilled by the prospect of a career in Dubai. So were many other women in beauty shops and beachside hotels across Fiji. A Korean Air flight to Dubai would be leaving from Nadi International

THE VICTIM AT THE CENTER

What does the phrase “victim-centered” mean? The 2012 edition of the Trafficking in Persons Report published by the U.S. Department of State says this:

Tr trafficked people have typically been tricked, lied to, threatened, assaulted, raped, or confined. But the term “victim” does not mean that a person who has suffered those crimes was necessarily incapable or helpless. In many cases, these people have shown tremendous strength in the face of horrible adversity. Law enforcement agents, good Samaritans, and civil society are often instrumental in helping a victim escape the trafficking situation. For some, freedom comes as a result of summoning the courage to escape their abuser when the opportunity presents itself.

Sound policy both acknowledges that a crime has occurred and honors victims’ agency and autonomy. The foundation of a government’s victim-protection response must necessarily be rooted in

that country's anti-trafficking law. An effective anti-trafficking statute provides a clear definition of who constitutes a trafficking victim and sets forth the legal status and recourse to which victims are entitled.

As part of a comprehensive victim protection effort, governments have the responsibility to proactively identify victims and potential victims of trafficking. They have a responsibility to extricate victims from exploitation and, whenever possible, to prevent the crime from occurring in the first place. They have a responsibility to provide victims with the ability not only to leave servitude, but to reenter society as a free man, woman, or child with adequate tools to resume their lives and contribute positively to society.

Source: U.S. Department of State. 2012. *Trafficking in Persons Report, June 2012*. <https://www.state.gov/j/tip/rls/tiprpt/2012/192351.htm>.

Airport in a few days. The women just had to deliver their résumés, hand over their passports, submit to medical tests, and pay a commission of five hundred dollars to a local recruitment firm called Meridian Services Agency.

Soon, more than fifty women were lined up outside Meridian's office to compete for positions that would pay as much as thirty-eight hundred dollars a month—more than ten times Fiji's annual per-capita income. Ten women were chosen, Vinnie and Lydia among them. . . . On the morning of October 10, 2007, the beauticians boarded their flight to the Emirates. More than half of the women left husbands and children behind. In the rush to depart, none of them examined the fine print on their travel documents: their visas to the Emirates weren't employment permits but thirty-day travel passes that forbade all work, "paid or unpaid"; their occupations were listed as "Sales Coordinator." And Dubai was just a stopping-off point. They were bound for U.S. military bases in Iraq.

Lydia and Vinnie were unwitting recruits for the Pentagon's invisible army: more than seventy thousand cooks, cleaners, construction workers, fast-food clerks, electricians, and beauticians from the world's poorest countries who service U.S. military logistics contracts in Iraq and Afghanistan. Filipinos launder soldiers' uniforms, Kenyans truck frozen steaks and inflatable tents, Bosnians repair electrical grids, and Indians provide iced mocha lattes. The Army and Air Force Exchange Service (AAFES) is behind most of the commercial "tastes of home" that can be found on major U.S. bases, which include . . . fast-food courts featuring Taco Bell, Subway, Pizza Hut, and Cinnabon. (AAFES's motto: "We go where you go.")

The expansion of private-security contractors in Iraq and Afghanistan is well known. But armed security personnel account for only about sixteen per cent of the over-all contracting force. The vast majority—more than sixty per cent of the total in Iraq—aren't hired guns but hired hands. These workers, primarily from South Asia and Africa, often live in barbed-wire compounds on U.S. bases, eat at meagre chow halls, and host dance parties featuring Nepalese romance ballads and Ugandan church songs. A large number are employed by fly-by-night subcontractors who are financed by the American taxpayer but who often operate outside the law.

The wars' foreign workers are known, in military parlance, as "third-country nationals," or T.C.N.s. Many of them recount having been robbed of wages, injured without compensation, subjected to sexual assault, and held in conditions resembling indentured servitude by their subcontractor bosses. Previously unreleased contractor memos, hundreds of interviews, and government documents I obtained during a yearlong investigation confirm many of these claims and reveal other grounds for concern.

Amid the slow withdrawal of U.S. forces from Iraq and Afghanistan, T.C.N.s have become an integral part of the Obama Administration's long-term strategy,

as a way of replacing American boots on the ground. But top U.S. military officials are seeing the drawbacks to this outsourcing bonanza. Some argue, as retired General Stanley McChrystal did before his ouster from Afghanistan, last summer, that the unregulated rise of the Pentagon's Third World logistics army is undermining American military objectives. Others worry that mistreatment of foreign workers has become, as the former U.S. Representative Christopher Shays, who co-chairs the bipartisan Commission on Wartime Contracting, describes it, "a human-rights abuse that cannot be tolerated."

The process of outsourcing begins at major government entities, notably the Pentagon, which awarded its most recent prime logistics contract (worth as much as fifteen billion dollars a year) to three U.S.-based private military behemoths: K.B.R. (the former Halliburton subsidiary), DynCorp International, and Fluor. These "prime vendors" then shop out the bulk of their contracts to hundreds of global subcontractors, many based in Middle Eastern countries that are on the U.S. State Department's human-trafficking noncompliance list. Finally, these firms call upon thousands of Third World "manpower agencies"—small recruiting operations like Meridian Services.

A common recruiting story involves a tempting ad for Middle East "Salad Men" torn out of a newspaper, or an online job posting that promises "openings for cooks/chefs/master chefs for one of the best . . . middle east jobs." Given the desperate circumstances of many applicants, few questions are asked, and some subcontractors sneak workers to U.S. bases without security clearances, seeking to bypass basic wage and welfare regulations. "No one plays straight here," a foreign concession manager with six years of experience in Iraq told me. He introduced me to three young Nepali and Bangladeshi workers in a nearby Popeye's and Cinnabon, each of whom had paid a smuggler between three hundred and four hundred dollars to bring them onto the base with a fake letter of authorization. That's in addition to the money—an average of three thousand dollars—they had paid a recruiter in their home country to get the job.

Such sums are hardly unusual. A typical manpower agency charges applicants between two thousand and four thousand dollars, a small fortune in the countries where subcontractors recruit. To raise the money, workers may pawn heirlooms, sell their wedding rings or land or livestock, and take out high-interest loans. U.S. military guidelines prohibit such "excessive" fees. But, in hundreds of interviews with T.C.N.s, I seldom met a worker who had paid less than a thousand dollars for his or her job, and I never learned of a case in which anyone was penalized for charging these fees.

It's equally uncommon to meet a worker who receives the salary he or she was promised. A twenty-five-year-old Taco Bell employee on a major U.S. base in Iraq told me that he had paid a recruiting agency in Nepal four thousand dollars. "You'll make the money back so quick in Iraq!" he was assured. When he arrived in Baghdad, in May, 2009, he was housed in a shipping container behind the U.S. Embassy, in the Green Zone, where he slept on soiled mattresses with twenty-five other migrants from Nepal, India, and Bangladesh. Many learned that they were to earn as little as two hundred and seventy-five dollars a month as cooks and servers for U.S. soldiers—a fraction of what they'd been promised, and a tiny sliver of what U.S. taxpayers are billed for their labor. . . .

For those familiar with the service economies of the Gulf states, this labor pipeline is simply the latest extension of a transnational system that for decades has supplied Kuwait, Saudi Arabia, Jordan, and the United Arab Emirates with low-wage workers. It's just that these employees face mortar fire, rocket attacks, improvised explosive devices, and other risks of war—and that they are working, albeit through intermediaries, for the United States government.

Vinnie, Lydia, and the other Fijian beauticians landed in Dubai just before dawn in October, 2007. At the airport, they say, they were met by someone associated with Kulak Construction Company, a Turkish firm with millions of dollars in Pentagon subcontracts to do everything from building bowling alleys for troops to maintaining facilities on bases. The women were driven to a private hospital in the heart of the city. "It was very quiet there, because it was Ramadan," Vinnie recalls. In a small examination room, nurses gave them a series of blood tests and vaccinations. Vinnie asked what all the poking and prodding was for. "You'll need these for Iraq," one of the nurses explained.

"Oh, we went crazy when we heard that," the youngest of the Fijian women, a petite twenty-two-year-old former resort hostess named Melanie Gonebale, told me later. We spoke in her flimsy living quarters on Forward Operating Base Sykes, near Tal Afar, in northern Iraq. A Kevlar helmet and bulletproof vest sat at the foot of her bed. "We'd watched on TV every day about Iraq—the bombs, people dying." That night, the women contemplated running away. But a number of them had taken out loans to cover their recruiting fees, and Meridian had reportedly threatened some with more than a thousand dollars in early-termination fines if they left . . . The *Fiji Times* ran a story exposing Meridian Services Agency's recruiting fraud. But, even as the police pledged to investigate, they could do little to help the beauticians some nine thousand miles away.

The next morning, Vinnie, Lydia, and the other women flew to Iraq and found themselves on a convoy bound for Balad, forty miles north of Baghdad. There, on a U.S. base called Camp Anaconda—and known to soldiers as Mortaritaville, for its constant barrage of incoming mortar fire—they got more bad news. Instead of earning between fifteen hundred and thirty-eight hundred dollars a month, as they had been promised, the women were told that they would make only seven hundred dollars a month, a sum that was later reduced, under another subcontractor, to three hundred and fifty. "We were just all dumbstruck," Chanel Joy, who had earned several times as much working as a certified beauty therapist at a Fijian resort, recalled. "It was ridiculous, really, slave labor, absolutely ridiculous out here in a war zone." In the contract they signed in Iraq, their working hours were specified as "Twelve (12) hours per day and seven (7) days a week." Their "vacation" was a "Return ticket after the completion of the service." Appended to the contract was a legal waiver: "I am willingly and of my own free will have decided to go and work in Iraq, and I declare that no one in Fiji or out of Fiji has approach me to work in Iraq. . . . I am contented with my job. . . . I want to complete my contract, till then, I will not go back home." (A lawyer for Kulak Construction denied that the company had ever employed any women from Fiji, although the company's name appears on the women's contracts. He added, "Kulak has a good reputation for sixty years.")

For nearly two weeks, the ten women refused to do any work. “We decided we had to stick together,” Chanel, a dignified older woman with a mane of auburn curls, recounted. “Desert Sisters—that’s what we called each other.” Eventually, they agreed to a revised deal offering them eight hundred dollars a month. It was better than being stranded with no pay. The next morning, the beauticians were separated, and sent to different military camps. Two stayed at Camp Anaconda; three were flown to Tikrit; two went to Camp Diamondback, in Mosul; and three—Vinnie, Lydia, and Melanie—ended up in Tal Afar, after stints in Tikrit and Mosul. Before boarding their flights, the women received body armor and a tutorial on rocket attacks: how to duck and dive, then sprint to the nearest bunker until the “all clear” sirens sounded.

Only then, Vinnie told me, did her situation truly sink in. Climbing into a military helicopter in her weighty new gear, she decided that she would have to pray each night that the Lord would send her home alive. “Am I going to get hurt?” she wondered, as the Black Hawk took off. “Am I going to get killed? Who’s going to take care of my family, my children? Please, God, give me protection.”

Not every third-country national makes it home safely. Since 2001, more than two thousand contractor fatalities and more than fifty-one thousand injuries have been reported in Iraq and Afghanistan. For the first time in American history, private-contractor losses are now on a par with those of U.S. troops in both war zones, amounting to fifty-three per cent of reported fatalities in the first six months of 2010. Since many TCN deaths and injuries are never tallied—contractors are expected to self-report, with spotty compliance—the actual numbers are presumed to be higher.

Late one night in early April, 2008, I knocked on the door of Lydia and Vinnie’s shipping container to find Lydia curled up on the floor, knees to chest, chin to knees, crying. Vinnie told me, after some hesitation, that a supervisor had “had his way with” Lydia. According to the two women’s tearful account, non-consensual sex had become a regular feature of Lydia’s life. They said the man would taunt Lydia, calling her a “fucking bitch” and describing the various acts he would like to see her perform. Lydia trembled, her normally confident figure crumpled inward. “If he comes tonight, you have to scream,” Vinnie told Lydia, tapping her fist against the aluminum siding of the shipping container. “Bang on this wall here and scream!”

Abuses like these weren’t supposed to be happening. In early 2006, after reports of human trafficking, the Department of Defense launched an investigation into subcontractors’ working conditions. Government inspectors listed “widespread” abuses, including the illegal confiscation of workers’ passports, “deceptive hiring practices,” “excessive recruiting fees,” and “substandard worker living conditions.”

That April, George W. Casey, then the commanding general for Iraq, issued an order to private contractors and subcontractors there, seeking to establish guidelines for humane treatment. For the first time, T.C.N.s were entitled to “measurable, enforceable standards for living conditions (e.g. sanitation, health, safety, etc.),” including “50 feet as the minimum acceptable square footage of personal living space per worker.” All U.S. troops would receive training to help them recognize human trafficking and abuse, and major contractors were ordered to design a mandatory anti-trafficking awareness session for their employees.

But the Pentagon’s “zero tolerance” policy for violators proved largely toothless. In one incident, in December, 2008, U.S. military personnel discovered that

a warehouse operated off the base by a K.B.R. subcontractor, Najlaa International Catering, was filled with more than a thousand workers who appeared to be human-trafficking victims. Many of the men were sent home, but Najlaa retained its service contracts and won a new multimillion-dollar deal for operating a U.S.A.I.D. dining facility in the Green Zone . . .

When reporters asked the U.S. Army's Criminal Investigation Command (C.I.D.) for details last summer, they were told that allegations of the women's mistreatment had been investigated earlier and were "not substantiated." (According to an internal AAFES report, "allegations of rape never surfaced" in the organization's prior investigation of the women's recruitment.) C.I.D. officials declined to say whether any victims had been interviewed, and, when reached recently, a C.I.D. spokesman apologized for being unable to locate any record of the case. According to the spokesman, "C.I.D. takes allegations of sexual assault very seriously and fully investigates allegations where there is credible information that a crime may have occurred involving Army personnel or others accompanying the force." Lydia and Vinnie both say that no one from the military or AAFES spoke with them about the sexual-assault claims.

In the three years since Vinnie and Lydia returned from Iraq, thousands of third-country nationals have tried to make their grievances known, sometimes spectacularly. Previously unreported worker riots have erupted on U.S. bases over issues such as lack of food and unpaid wages. On May 1, 2010, in a labor camp run by Prime Projects International (P.P.I.) on the largest military base in Baghdad, more than a thousand subcontractors—primarily Indians and Nepalis—rampaged, using as weapons fists, stones, wooden bats, and, as one U.S. military policeman put it, "anything they could find."

The riot started as a protest over a lack of food, according to a whippet-thin worker in the camp named Subramanian. A forty-five-year-old former rice farmer from the Indian state of Tamil Nadu, Subramanian worked twelve-hour days cleaning the military's fast-food court. Around seven o'clock on the evening of the riot, Subramanian returned to the P.P.I. compound and lined up for dinner with several thousand other workers. But the cooks ran out of food, with at least five hundred left to feed. This wasn't the first time; empty plates had become common in the camp during the past year. Several of the men stormed over to the management's office, demanding more rice. When management refused, he recalls, dozens more entered the fray, then hundreds, and ultimately more than a thousand. Employees started to throw gravel at the managers. Four-foot pieces of plywood crashed through glass windows. Workers broke down the door to the food cellar and made off with as much as they could carry.

Only when U.S. military police arrived—followed by Ugandan security guards—did the camp fall quiet. Some workers attempted to hide, though there wasn't anywhere to go—just a sea of gravel dotted by an archipelago of dismal white shipping containers, in which workers slept in tightly packed rows of creaky bunks with colorful towels draped between them for privacy.

Several weeks after the riot, the defiant mood spread to other parts of the base. Workers in the neighboring camp of Gulf Catering Company (G.C.C.), another

subcontractor, staged a copycat riot, pelting their bosses with stones and accusing the company of failing to pay them their proper wages. That same week, more G.C.C. employees en route from a base in Balad set fire to their barracks to protest unpaid wages. Several buildings burned to the ground.

This was not unprecedented. In 2008, in another nearby labor compound . . . a company called Elite Home Group . . . sheltered and fed hundreds of foreign K.B.R. subcontractors in conditions that were foul. Nepalis in [the] compound erupted in rage—ripping up mattresses, tearing out electrical boxes, and destroying company computers. A manager at yet another K.B.R. subcontractor camp in Baghdad, Ziad Al Karawi, described how a thousand Indian and Sri Lankan men under his supervision slept on crowded floors: “rats and flies attacked us. . . . We had no beds to sleep at or tables to eat at. . . . No communication, no TV, no soap to wash or bathe, no visits from anyone from the company or K.B.R. . . . The workers had no choice except going out in a protest.”

In the wake of various uprisings, workers have been reprimanded and sent home. K.B.R. insists that its “business ethics and values” require that employees and subcontractors are treated with “dignity and respect,” that it adheres to U.S. government guidelines for the treatment of workers, and that it “follows rigorous policies, procedures, and training,” to protect the welfare of foreign-national workers. But, even after investigations by K.B.R. and the military, little seems to change. A spokesman for U.S. Central Command acknowledged that it “does not play a formal role in the monitoring of living conditions on U.S. bases,” although each base has a military chain of command responsible for “working with the entities involved to insure minimum standards are met.” Government officials rarely learn of these riots, most of which take place in compounds watched over by private guards. Nor do major media outlets. “We thought the journalists would come,” Imtiyas Sheriff, a thirty-eight-year-old G.C.C. bus driver and father from Sri Lanka, told me. “They call this Operation Iraqi Freedom, but where is our freedom?” Still, many of the workers have faith that the U.S. military wants to do right by them. In fact, the majority view American soldiers and marines as their sole protectors. “The American people are a good people,” the round-faced Sheriff said to me more than once, as we crouched in a sweltering bunker. “They will help us, if they know what is happening.”

The Fijian press has denounced Timoci Lolohea, Meridian’s director, as a “fraudster” and “con artist.” But some Fijian officials seemed to have condoned such activities, in the hope of bringing remittances from U.S. military operations. “The government knows that more men are leaving for Kuwait and Iraq and it is a good thing, because it is providing employment for the unemployed,” Fiji’s Minister for Labor, Kenneth Zinck, said back in 2005. Zinck was initially assigned to lead the government investigation into Meridian’s practices. In July of 2010, Lolohea (who did not respond to requests for comment) pleaded not guilty to charges of unlawful recruiting.

Through it all, Lolohea’s employment empire has remained. Recently, he put up a placard outside his house, advertising jobs in Dubai. He also opened a new office in Suva, where, each morning, throngs of workers have been lining up outside his

gate. They bring their passports and pockets stuffed with borrowed cash. They are undeterred by the large white sign at the entrance, which the police have ordered Lolohea to post, reading, “NO Recruitment Until Further Notice.” Most have heard the rumors about Lolohea’s shady past, and they know that he was long denounced in the local newspapers as one of “Fiji’s most wanted men.” But they’ve also heard that he’s offering a starting salary of six thousand dollars a month to prospective security guards and military logistics workers for his new company, Phoenix Logistics Corporation Limited. And so the crowds keep flocking to his illicit office in the midst of the rainy season—most of them eager young men in baggy jeans and baseball caps, or in traditional *sulu* skirts, but also the occasional woman, her head filled with dreams of a life in the City of Gold.

Source: Stillman, S. “The Invisible Army.” June 6, 2011. <http://www.newyorker.com/magazine/2011/06/06/the-invisible-army>. Used by permission of Condé Nast.

ANALYSIS

Human trafficking taking place in U.S. government contracting sounds like an oxymoron. It seemed beyond credulity that the U.S. government could be involved in labor trafficking. Yet starting in 2005, stories circulated about multibillion-dollar prime contractor firms subcontracting with smaller companies (most of them headquartered outside the United States), who then trafficked laborers from yet another country. Some organizations investigated, and a *modus operandi* emerged that showed that U.S. government acquisition and procurement professionals (those who purchase goods and services for U.S. government agencies) were creating proposal requests and managing contracts that had loopholes allowing unscrupulous contractors, vendors, and partners to take advantage of workers in the supply chain delivering services to U.S. government agencies. Stillman’s story is about the trafficking of an invisible army of workers providing food, janitorial, security, personal, and other services to the U.S. military stationed in Iraq and Afghanistan; however, further investigation revealed that many agencies potentially had large contracts in which trafficking was taking place. These included the U.S. Department of State (which, for example, built a new Embassy in Iraq mainly with third country nationals, now called “Other Country Nationals”) and U.S. AID (which lets contracts for supplies, construction, and other forms of aid) where abuses may have been rife in the contracting/subcontracting process.

Stillman’s story catalyzed the Executive and Legislative branches of government to take action, and over the next year, the White House and Congress both raced to address gaps in legislation and policy that allowed taxpayer money to be utilized for trafficking. The White House was the first to emerge with a solution in September 2012, in the form of an Executive Order from President Obama. It called for a series of new measures to add protections to government contracting process to protect workers at the bottom of the service supply chain. Shortly after, Congress codified most of these measures in the 2013 National Defense Authorization Act (NDAA) with Title XVII, Ending Trafficking in Government Contracting.

FURTHER READING

“Enforcing U.S. Policies Against Trafficking in Persons: How Is the U.S. Military Doing?”

An Issue Forum Jointly Convened by the Commission on Security and Cooperation in Europe and The House Armed Services Committee, September 21, 2004.

“Labor Abuses, Human Trafficking and Government Contracts: Is the Government Doing Enough to Protect Vulnerable Workers,” Hearing, House Oversight and Government Reform Committee, March 27, 2012. <https://oversight.house.gov/hearing/labor-abuses-human-trafficking-and-government-contracts-is-the-government-doing-enough-to-protect-vulnerable-workers/>.

STRENGTHENING PROTECTIONS AGAINST TRAFFICKING IN PERSONS IN FEDERAL CONTRACTS (2012)

- **Document:** Executive Order—Strengthening Protections Against Trafficking in Persons in Federal Contracts
- **When:** September 25, 2012
- **Where:** The White House Office of the Press Secretary
- **Significance:** President Barack Obama issued an Executive Order directing U.S. government agencies to address the problem of labor and sex trafficking in large government contracts. This Executive Order outlined the problem and made recommendations to agencies on how to identify potential trafficking in government contracting and add provisions to avoid it. It also made clear that U.S. government agencies had a legal responsibility to respond to any credible report of trafficking associated with government contracting.

DOCUMENT

By the authority vested in me as President by the Constitution and the laws of the United States of America, in order to strengthen protections against trafficking in persons in Federal contracting, it is hereby ordered as follows:

Section 1. Policy. More than 20 million men, women, and children throughout the world are victims of severe forms of trafficking in persons (“trafficking” or “trafficking in persons”)—defined in section 103 of the TVPA, 22 U.S.C. 7102(8), to

include sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age, or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion, for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

The United States has long had a zero-tolerance policy regarding Government employees and contractor personnel engaging in any form of this criminal behavior. As the largest single purchaser of goods and services in the world, the United States Government bears a responsibility to ensure that taxpayer dollars do not contribute to trafficking in persons. By providing our Government workforce with additional tools and training to apply and enforce existing policy, and by

HAROLD AND DANCY’S STORY

More than a decade ago, I moved to Cincinnati, believing my future employer had legally arranged a visa for me to work as a manager for a manufacturing company. The promised job fit my postgraduate education and professional experience in India, and paid well.

Instead, the man picked us up from the airport, took our money and personal documents for “safekeeping” and brought us to a restaurant where he forced my wife and I to spend the next 19 months working 15 hours a day, seven days a week—unpaid, and sleeping nearby on the floor of an unfurnished apartment.

With no papers, no knowledge of culture or law, limited English, and under threat of deportation, legal

providing additional clarity to Government contractors and subcontractors on the steps necessary to fully comply with that policy, this order will help to protect vulnerable individuals as contractors and subcontractors perform vital services and manufacture the goods procured by the United States.

In addition, the improved safeguards provided by this order to strengthen compliance with anti-trafficking laws will promote economy and efficiency in Government procurement. These safeguards, which have been largely modeled on successful practices in the private sector, will increase stability, productivity, and certainty in Federal contracting by avoiding the disruption and disarray caused by the use of trafficked labor and resulting investigative and enforcement actions.

Sec. 2. Anti-Trafficking Provisions. (a) Within 180 days of the date of this order, the Federal Acquisition Regulatory (FAR) Council, in consultation with the Secretary of State, the Attorney General, the Secretary of Labor, the Secretary of Homeland Security, the Administrator for the United States Agency for International Development, and the heads of such other executive departments and agencies (agencies) as the FAR Council determines to be appropriate, shall take steps necessary to amend the Federal Acquisition Regulation to:

- (1) strengthen the efficacy of the Government's zero-tolerance policy on trafficking in persons by Federal contractors and subcontractors in solicitations, contracts, and subcontracts for supplies or services (including construction and commercial items), by:
 - (A) expressly prohibiting Federal contractors, contractor employees, subcontractors, and subcontractor employees from engaging in any of the following types of trafficking-related activities:
 - (i) using misleading or fraudulent recruitment practices during the recruitment of employees, such as failing to disclose basic information or making material misrepresentations regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, living conditions and housing (if employer provided or arranged), any significant costs to be charged to the employee, and, if applicable, the hazardous nature of the work;
 - (ii) charging employees recruitment fees;

action and violence, it took more than one and a half years before we were able to escape. I had brought \$1,000 to the U.S. but the trafficker took it along with my papers. In addition, he took out a loan in my name and kept the money, telling me that it was the amount I owed for the apartment and costs associated with bringing us to the U.S. He told me the bank loan only covered ten percent of what we owed him. I tell my story today so that others can recognize the signs of bonded labor sooner—for themselves or for someone else.

Debt bondage is one of the most pervasive but least recognized forms of modern slavery. The first step toward ending it is recognizing that it happens everywhere. Once you know that fact, you can watch out for it in your everyday life.

Many victims of labor trafficking are immigrants, and they have been so physically and emotionally intimidated by their traffickers that they're often fearful of speaking with Americans. If you suspect something is wrong with someone you see regularly in a convenience store, gas station or restaurant, try starting a small conversation. Casual questions like "How do you like working here?" can open the door for a trafficking victim to confide and seek help.

Sources: <http://www.cincinnati.com/story/opinion/contributors/2016/01/27/opinion-know-signs-labor-trafficking/79441768/>.

<http://www.wcpo.com/news/local-news/slavery-in-blue-ash-the-dsouza-familys-story-of-human-trafficking-and-how-it-happened-here>.

<http://timesofindia.indiatimes.com/city/vadodara/Once-victims-they-now-fight-human-trafficking/article-show/29265894.cms>.

- (iii) destroying, concealing, confiscating, or otherwise denying access by an employee to the employee's identity documents, such as passports or drivers' licenses; and
- (iv) for portions of contracts and subcontracts:
 - (I) performed outside the United States, failing to pay return transportation costs upon the end of employment, for an employee who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working on a U.S. Government contract or subcontract;
 - (II) not covered by subsection (a)(1)(A)(iv)(I) of this section, failing to pay return transportation costs upon the end of employment, for an employee who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working on a U.S. Government contract or subcontract, if the payment of such costs is required under existing temporary worker programs or pursuant to a written agreement with the employee; provided, however
 - (III) that the requirements of subsections (a)(1)(A)(iv)(I) and (II) shall not apply to:
 - (aa) an employee who is legally permitted to remain in the country of employment and who chooses to do so; or
 - (bb) an employee who is a victim of trafficking and is seeking victim services or legal redress in the country of employment, or an employee who is a witness in a trafficking-related enforcement action;
 - (v) other specific activities that the FAR Council identifies as directly supporting or promoting trafficking in persons, the procurement of commercial sex acts, or the use of forced labor in the performance of the contract or subcontract;
- (B) requiring contractors and their subcontractors, by contract clause, to agree to cooperate fully in providing reasonable access to allow contracting agencies and other responsible enforcement agencies to conduct audits, investigations, or other actions to ascertain compliance with the TVPA, this order, or any other applicable law or regulation establishing restrictions on trafficking in persons, the procurement of commercial sex acts, or the use of forced labor; and
- (C) requiring contracting officers to notify, in accordance with agency procedures, the agency's Inspector General, the agency official responsible for initiating suspension or debarment actions, and law enforcement, if appropriate, if they become aware of any activities that would justify termination under section 106(g) of the TVPA, 22 U.S.C. 7104(g), or are inconsistent with the requirements of this

order or any other applicable law or regulation establishing restrictions on trafficking in persons, the procurement of commercial sex acts, or the use of forced labor, and further requiring that the agency official responsible for initiating suspension and debarment actions consider whether suspension or debarment is necessary in order to protect the Government's interest;

- (2) except as provided in subsection (a)(3) of this section, ensure that provisions in solicitations and clauses in contracts and subcontracts, where the estimated value of the supplies acquired or services required to be performed outside the United States exceeds \$500,000, include the following requirements pertaining to the portion of the contract or subcontract performed outside the United States:
 - (A) that each such contractor and subcontractor maintain a compliance plan during the performance of the contract or subcontract that is appropriate for the size and complexity of the contract or subcontract and the nature and scope of the activities performed, including the risk that the contract or subcontract will involve services or supplies susceptible to trafficking. The compliance plan shall be provided to the contracting officer upon request, and relevant contents of the plan shall be posted no later than the initiation of contract performance at the workplace and on the contractor or subcontractor's website (if one is maintained), and shall, at a minimum, include:
 - (i) an awareness program to inform employees about:
 - (I) the policy of ensuring that employees do not engage in trafficking in persons or related activities, including those specified in subsection (a)(1)(A) of this section, the procurement of commercial sex acts, or the use of forced labor; and
 - (II) the actions that will be taken against employees for violation of such policy;
 - (ii) a process for employees to report, without fear of retaliation, any activity that would justify termination under section 106(g) of the TVPA, or is inconsistent with the requirements of this order, or any other applicable law or regulation establishing restrictions on trafficking in persons, the procurement of commercial sex acts, or the use of forced labor;
 - (iii) a recruitment and wage plan that only permits the use of recruitment companies with trained employees, prohibits charging recruitment fees to the employee, and ensures that wages meet applicable host country legal requirements or explains any variance;
 - (iv) a housing plan, if the contractor or subcontractor intends to provide or arrange housing, that ensures that the housing meets host country housing and safety standards or explains any variance; and

- (v) procedures to prevent subcontractors at any tier from engaging in trafficking in persons, including those trafficking-related activities described in subsection (a)(1)(A) of this section, and to monitor, detect, and terminate any subcontractors or subcontractor employees that have engaged in such activities; and
- (B) that each such contractor and subcontractor shall certify, prior to receiving an award and annually thereafter during the term of the contract or subcontract, that:
 - (i) it has the compliance plan referred to in subsection (a)(2)(A) of this section in place to prevent trafficking-related activities described in section 106(g) of the TVPA and this order; and
 - (ii) either, to the best of its knowledge and belief, neither it nor any of its subcontractors has engaged in any such activities; or, if abuses have been found, the contractor or subcontractor has taken the appropriate remedial and referral actions;
- (3) specify that the requirements in subsections (a)(2)(A) and (B) of this section shall not apply with respect to contracts or subcontracts for commercially available off-the-shelf items.
 - (b) Not later than 1 year after the date of this order, the member agencies of the President's Interagency Task Force to Monitor and Combat Trafficking in Persons (PITF), established pursuant to section 105 of the TVPA, 22 U.S.C. 7103, shall jointly establish a process for evaluating and identifying, for Federal contracts and subcontracts performed substantially within the United States, whether there are industries or sectors with a history (or where there is current evidence) of trafficking-related or forced labor activities described in section 106(g) of the TVPA, in subsection (a)(1)(A) of this section, or any other applicable law or regulation establishing restrictions on trafficking in persons, the procurement of commercial sex acts, or the use of forced labor. Where the PITF has identified such industries or sectors, it shall notify agencies of these designations, and individual agencies shall, in consultation with the Office of Federal Procurement Policy of the Office of Management and Budget, adopt and publish appropriate safeguards, guidance, and compliance assistance to prevent trafficking and forced labor in Federal contracting in these identified areas.

Sec. 3. Guidance and Training. (a) The Administrator for Federal Procurement Policy shall:

- (1) in consultation with appropriate management councils, such as the Chief Acquisition Officers Council, provide guidance to agencies on developing appropriate internal procedures and controls for awarding and administering Federal contracts to improve monitoring of and

compliance with actions to prevent trafficking in persons, consistent with section 106 of the TVPA, including the development of methods to track the number of trafficking violations reported and remedies applied; and

(2) in consultation with the Federal Acquisition Institute and appropriate management councils, such as the Chief Acquisition Officers Council:

(A) develop methods to track the number of Federal employees trained; and

(B) implement training requirements to ensure that the Federal acquisition workforce is trained on the policies and responsibilities for combating trafficking, including on:

(i) applicable laws, regulations, and policies; and

(ii) internal controls and oversight procedures implemented by the agency, including enforcement procedures available to the agency to investigate, manage, and mitigate contractor and subcontractor trafficking violations.

(b) The member agencies of PITF shall jointly facilitate the sharing of information that may be used by acquisition, program, and other offices within agencies to evaluate where the risk of trafficking in persons may be heightened based on the nature of the work to be performed, the place of performance, and any other relevant considerations.

Sec. 4. Effective Date. This order shall become effective immediately and shall apply to solicitations issued on or after the effective date for the action taken by the FAR Council under subsection 2(a) of this order.

Source: Office of the Press Secretary, the White House. <https://www.whitehouse.gov/the-press-office/2012/09/25/executive-order-strengthening-protections-against-trafficking-persons-fe>.

ANALYSIS

Following 9/11, the United States sent troops to Afghanistan and Iraq as part of a military strategy to attack terrorism. At the height of the campaign, in March 2011, the United States had approximately 100,000 troops in Afghanistan and over 300,000 in Iraq. Alongside our troops, the United States employed civilians from the United States and from many other countries. These private contractors and their employees played an essential role in U.S. overseas military operations. Some of these contractor employees were skilled workers and private security forces. Many others were low-skilled workers hired to support DoD operations and installations in Afghanistan. They were employed as janitors, launderers, cooks, fast-food workers, beauticians, construction workers, and in many other service-related jobs that are now outsourced by the U.S. military.

The workers were first called “Third Country National” (TCNs) and later Other Country Nationals (OCNs) because they were recruited from countries other than the United States (the employer) or Afghanistan (the country in which they were employed). The number of OCNs were in the hundreds of thousands over the 15 years from 2001 to 2016. Most of them came from India, Nepal, Bangladesh, Sri Lanka, or other South Asian countries, but also from Southeast Europe, Thailand, and the Philippines.

How did the trafficking occur? Prime contractors, usually large companies in the United States, subcontracted with mid-size recruiting companies, mainly companies incorporated in the Middle East. These mid-size companies are situated in countries that have few labor laws or international human rights. The subcontractors used local agents to recruit OCNs in South Asia. The recruiters often sought out workers in small towns and villages. Many of these rural laborers earn less than \$1 per day in their own countries; consequently, the economic opportunities presented by recruiters seemed attractive. Local recruiters developed the practice of charging OCNs recruiting fees, where the job seeker must pay the recruiter for obtaining him or her a job. The fees vary. In the past, fees reportedly ranged from \$2,000 to \$5,000. As late as April 2014, one report claimed the average fee totaled \$3,000. Recruiters were also being paid by the firms obtaining laborers, so essentially the recruiters were being paid twice for one job.

Independent investigators reported that new hires were often deceived as to the locations, conditions, wages, and benefits of their new jobs. In Afghanistan and Iraq, OCNs allegedly were promised salaries as high as more than \$1,000 per month. According to experts, many laborers believed they easily would recoup the initial recruitment fee once they began working. Because they considered the fee to be an investment, workers mortgaged their houses, put up family property as collateral, and borrowed funds from loan sharks at usurious rates to obtain the recruiting fee. Unfortunately, the promised terms were rarely realized. According to some reporters, at the height of the war in Afghanistan, a typical OCN salary ranged from \$150 to \$275 a month—a fraction of the promised wage. Under such circumstances, laborers could not pay off their debts. Investigative reporters also charged that in addition to the initial recruiting fee, some subcontracting firms also add other charges to OCNs for sundries and other living expenses. The charges for these items were often exorbitant, and because of this, workers fell deeper and deeper into debt. Their indebtedness was also exacerbated by high interest rates. Upon arrival, workers were dependent on their employer (the subcontractor) to fulfill the contracted terms of agreement. They had no ombudsman, no hotline to report abuses, and no capacity to make their voices heard or to file any formal complaint.

In addition, living and working conditions for laborers were reportedly deplorable. Before arriving in Afghanistan, some OCNs reported being held in the United Arab Emirates (UAE) in crowded living conditions while awaiting transportation to their jobs. Upon arrival in Afghanistan, some subcontractors allegedly held OCNs in makeshift detainment centers for weeks or even months. As is common practice in worker exploitation, in some circumstances, employers confiscated or otherwise held worker passports. Without passports or identification documents, workers were unable to return home, or freely seek other employment. In combat zones, OCN

employees reportedly work 12-hour days, seven days a week, and either did not have access to vacation time or felt pressured not to claim the vacation time they were owed. Additionally, OCNs are exposed to dangerous working conditions.

While laboring under these circumstances, it is difficult for OCNs to pay off debts, resulting in victimization through debt bondage. This form of involuntary servitude means the person is illegally indentured to their employer until the erasure of considerable and often-increasing debt. These deceptive practices force many OCNs to remain in Afghanistan in hopes of earning enough money to repay their loans and protect their families from loan sharks' retribution. OCNs do not have a source of redress, a voice in their workplace, or the ability to improve working and living conditions. Even if they did, they are a vulnerable population, bound by fears of retaliation aimed at them or their families.

On January 2, 2013, the National Defense Authorization Act (NDAA) of 2013 was signed by the president. It's Title XVII was entitled Ending Trafficking in Government Contracting. It codified much of the Executive Order, but in addition increased criminal penalties for contractors who engage in severe forms of trafficking or forced labor. It also prohibited severe forms of trafficking, the use of forced labor, and the procurement of a commercial sex act during the contract period. In addition, it prohibited contractors, subcontractors, grantees, and sub-grantees from engaging in "acts that directly support or advance trafficking in persons." Like the Executive Order, the NDAA listed the types of acts most commonly found to support or advance human trafficking. They include:

- confiscating or denying employees access to their identity documents;
- failing to provide or pay for return transportation for employees from outside the United States to the countries from which they were recruited;
- soliciting potential employees or offering employment through materially false representations about the employment terms and conditions;
- charging unreasonable recruitment or placement fees, or recruitment fees that are illegal in the country from which the employees are recruited; and
- failing to meet the housing and safety standards of the host country (when housing is provided by the contractor).

The act also requires agencies to obtain certifications regarding compliance with anti-human-trafficking procedures from all overseas contractors for work performed outside the United States valued at more than \$500,000. These include drafting and maintaining a compliance plan designed to prevent, monitor, detect, and remedy human trafficking and human trafficking-related activities. Contractors also must certify that they and all subcontractors, or any agent of any subcontractors, have not engaged in severe forms of human trafficking, the use of forced labor, or the procurement of commercial sex acts during contract performance.

Finally, like the President's Order, the act implements reporting mechanisms in cases of allegations of human trafficking by a contractor or subcontractor, or agent of either, that require contracting officials to refer reports of credible information that a contractor or subcontractor has engaged in prohibited trafficking activities to their agency inspector general. The act also outlines remedial actions that the head

of the agency must consider in cases of substantiated allegations of human trafficking, up to and including suspension and debarment of the contractor or subcontractor. It also requires the head of the agency to ensure that substantiated allegations of human trafficking are reported to a federal system that tracks performance of federal contractors.

FURTHER READING

- American Civil Liberties Union. "Victims of Complacency: The Ongoing Trafficking and Abuse of Third Country Nationals by U.S. Government Contractors." June 2012.
- Harroff-Tavel, H elene, and Alix Nasri. *Tricked and Trapped: Human Trafficking in the Middle East*, International Labour Organization in collaboration with Heartland Alliance International 2013, 52–54. http://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_211214.pdf.
- National Defense Authorization Act for Fiscal Year 2013, Title XVII. "Ending Trafficking in Government Contracting." January 2, 2013. <https://www.gpo.gov/fdsys/pkg/BILLS-112hr4310enr/pdf/BILLS-112hr4310enr.pdf>.

PREFERRED TERMINOLOGY FOR SEX TRAFFICKING AND PROSTITUTION (2013)

- **Document:** Chart of Preferred Terminology for Sex Trafficking and Prostitution
 - **When:** 2013
 - **Where:** Washington, D.C.
 - **Significance:** The language we use to describe victims of trafficking and the suspect activities involved in the crime affects our view of the problem. This article was written to address new language that was being adopted by organizations intending to normalize the sex industry, and its spread to many of the helping sectors. Author Lisa Thompson analyzes the growing body of phrases and terms and makes suggestions for preferred language that reflects the reality of human trafficking.
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DOCUMENT

The authors of a curriculum for supporting trauma survivors provide the following insight into the significance of terminology: “Words are powerful. They define the limits or boundaries around ideas, beliefs, and interactions. The way you talk about something becomes the way you think about it, just as the way you identify someone becomes the way you think about that person.” In the aftermath of the Jerry Sandusky child sexual abuse investigation at Penn State, *Salon* writer Mary Elizabeth Williams, illustrated this concept in her powerful plea to journalists to learn the difference between the terms *abuse* and *sex*. Williams wrote, “When you’re dealing with a story that involves rape or harassment or abuse or molestation or child porn or anything that falls under the rubric of criminal behavior, you should call those things rape and harassment and abuse and molestation and child pornography. You know what you shouldn’t call them? Sexy sexy sex scandals, that’s what.” As Williams rightly observed, improper use of the term “sex scandal” in media reporting serves to sensationalize violence and rape, and as her remarks alluded, it masks the reality of crime, abuse, and victimization.

Only a quick survey of the social and political landscape makes it abundantly clear that the words we use to discuss issues matter. For instance, in 2010 radio commentator Dr. Laura Schlessinger announced she was leaving talk radio after receiving a barrage of criticism for a conversation with a caller about race relations in which she articulated the N-word 11 times. More recently, Rep. Todd Akin of Missouri incensed many and jeopardized his senatorial political aspirations with his use of the phrase “legitimate rape.” While these well-known incidents are somewhat exceptional for their malapropos choice of words, in the public square there is an almost daily battle over terms. *Global warming*, *climate change*, *creation care*, *pro-choice*,

pro-life, *reproductive rights*, *redistribution*, *homophobia*, *handicap*, and *disability* are but a few of the terms that carry great political, philosophical, and even theological freight into our public discourse.

The issue of sex trafficking and its cognate prostitution do not stand outside this lexicographical melee. In their case, most of the conflict revolves around the question of whether or not selling sex is a job, or whether there is something innately exploitive about the sale of sex. If one subscribes to the view that selling sex is indeed a legitimate form of work then he or she will likely use a term such as “sex work.” If, however, one believes that the commodification of sex is dehumanizing then he or she will likely utilize phrases such as “prostituted persons.”

My purpose here is not to rehearse the debate between these two perspectives, but to provide context for the “Chart of Preferred Terminology for Sex Trafficking and Prostitution” that follows. As a proponent of the Abolitionist view that prostitution is innately harmful, the chart suggests terms that I believe describe both the harm and dehumanization of commercial sex, but which attempt to preserve the dignity of those caught up in it. I believe that the recommended terms also square completely with an orthodox Christian worldview—repudiating the sale of sex as outside of God’s design for human sexual relations while embracing the *Imago Dei* in us all.

Additionally, the chart is not exhaustive. Since first developing it in 2006, I have realized there are euphemisms and maxims in common use that also mask the harms of prostitution and/or serve to normalize them, one of which I will address here. All too often articles on the subject of prostitution contain the cringe worthy cliché about prostitution being “the world’s oldest profession.” In response to one such article, I shared the following critique with members of the Initiative against Sexual Trafficking email listserv:

. . . the phrase about prostitution being “the world’s oldest profession” is more than cliché; it is a slur against women. This tired and worn out phrase trivializes the exploitation inherent in prostitution, makes the veiled suggestion that if women have always been prostituting why worry about it, and further insinuates that women have always been “whores . . .” While millions of women and girls around the world do engage in prostitution for their livelihoods, the majority prostitute out of the will to survive and the lack of viable employment options. To call such desperate attempts at survival a “job” or a “profession” is to call eating out of a garbage dumpster a gourmet meal.

Trauma experts have explained how labeling is hurtful: “Reducing the essence of a person’s identity to a label is dehumanizing and alienating. No one word or role can encompass our true identity, but a word can easily eclipse our true identity.” Thus, it is hoped that the “Chart of Preferred Terminology” will aid the anti-trafficking and Christian social work communities by encouraging the use words and phrases that illuminate reality while respecting the individuals we serve.

An important note in closing: the “Chart of Preferred Terminology” frequently utilizes the words *women* and *children* and uses pronouns in the feminine form. Use of female-oriented words and pronouns should not be misconstrued to suggest that only females experience commercial sexual exploitation, and use of the term *children*

Table 5.1

Terms Not to Use & Why	Terms to Use & Why
<p>Sex work, sex workers, commercial sex work, commercial sex workers, adult services provider, adult sex provider, transactional sex, prostitute, child prostitute:</p> <ul style="list-style-type: none"> • These terms have been in use for the last thirty-plus years. The term originated in the early 1970's from a mix of libertarian activists and sex industry profiteers. • Carol Leigh (also known as "Scarlet the Harlot") a prostituting woman and pornographer claims to have coined the term "sex worker". • The term "sex work" and its derivatives have but one purpose—to normalize prostitution, cast it as an occupation like any other, one that any woman can choose as freely as she may choose to become a teacher, lawyer, or doctor. Sadly, the pro-prostitution movement has succeeded in getting this terminology popularized in the vernacular of popular culture, public health, social service, and even anti-trafficking sectors. This change has occurred without difficulty since the one truth in their rationale is that the term "prostitute" contributes to and exacerbates the stigma, discrimination and violence experienced by persons in the prostitution industry. • "Given conditions of extreme poverty for women, pro-sex-work advocates claim that women choose prostitution to survive, and that recognition of this choice as a form of labor is essential to the goal of securing health and safety standards for women in an industry that otherwise remains unregulated and unprotected, leaving sex workers particularly vulnerable to such 'work hazards' as violent assaults, rape, and sexually transmitted diseases." • "Applied to prostitution, then, the stigmatization of prostitutes—rather than the structure of the practice itself—becomes the basic injustice to be redressed by pro-sex-work advocates who now construe prostitutes as 'sexual minorities.'" 	<p>Prostituted persons, prostituted women (or children), women (or children) in prostitution; prostituting; sex industry survivors:</p> <ul style="list-style-type: none"> • Those who view prostitution as a form of violence and as inherently exploitative advocate for the adoption of terms such as those above. While accurately conveying the activity that is occurring (i.e. prostitution), the terms neither label the person involved with a pejorative term, nor normalize prostitution as just another form of work. They are indicative of prostitution as an experience, not a state of being. These terms help express the idea that persons in the sex industry are caught up in the exploitive system of the prostitution industry. • "... abolitionists conceptualize prostitution as an institution fundamentally based on men's sex right, that is, men's entitlement to demand sexual access to women". • "The 'sex work' model of agency obstructs the reality that it is men's demand that makes prostitution intelligible and legitimate as a means of survival for women in the first place." • The "sex work" model obscures and normalizes the physical, psychological, and spiritual harms of prostitution by treating them as "on the job" hazards. • Children used in prostitution should never be referred to as "child prostitutes." Children cannot give legitimate consent to commercial sex acts; therefore, any use of a child for commercial sex—irrespective of supposed consent—is a form of child sexual abuse. The appropriate alternative phrase is "prostituted child" which accurately conveys that prostitution is an abuse which happens to the child, and that the child is not "a prostitute."

Table 5.1 (Continued)

Terms Not to Use & Why	Terms to Use & Why
<p>Sex sector, state sex economy:</p> <p>“The State facilitates and regulates on behalf of the client and operates as a facilitator/pimp in ensuring the supply is continued under the guise of protecting the rights and health and safety of the victims. The State profits from the industry. Legal and illegal collusion of State and State officials continues. The State cannot be ‘neutral’ in this matter. If it legalizes and regulates prostitution, it promotes prostitution and protects the consumer not the victims.”</p> <p>The word “sector” can be used to mean part of or a division of a national economy. When used as “sex sector,” the sexual exploitation inherent in organized sexual exploitation is obscured and absorbed into mainstream economic interests of the state.</p> <p>Forced prostitution, voluntary prostitution, forced trafficking, voluntary trafficking, migrant sex workers:</p> <p>“Pro-sex-work” advocates press for the distinction between “free or voluntary” and “forced” prostitution.” They conflate sexual trafficking and labor trafficking on the premise that sex is a form of work (i.e. “sex work”). From this perspective, only cases of “forced prostitution” are considered sexual trafficking, and women who “choose” to engage in prostitution, it is said, should be allowed to “migrate for purposes of sex work” or to engage in “voluntary prostitution” or “voluntary trafficking.”</p> <ul style="list-style-type: none"> • These terms overlook the dehumanization of persons inherent to prostitution. • They shift the burden of proof from the traffickers to their victims. All a trafficker need do is to produce a consent form signed by the victim, and he’s off the hook. 	<p>Organized sexual exploitation, prostitution industry, commercial sex industry:</p> <p>The phrase “organized sexual exploitation” is a good substitute for referencing sex in terms of economy. It more accurately conveys what the “sex sector” is—a massive organized system for the exploitation and commercialization and profiteering from sex.</p> <p>Additionally, the phrase “prostitution industry” is useful, since it names the sex industry for what it is: prostitution in assorted formats—whether pornographic material (recorded prostitution), virtual prostitution (web-based prostitution), or indoor and outdoor prostitution venues.</p>
	<p>Prostituted Persons, Commercial sexual exploitation:</p> <p>The result of splitting prostitution into so-called forced and voluntary prostitution is the creation of two classes of prostitution: A) bad prostitution (i.e. forced) and B) good (or less bad) prostitution (i.e. voluntary). Members of Class A are viewed as deserving of aid and assistance since they are considered “innocent” and as having no culpability in their exploitation. Class B persons however, are often viewed as “sex workers”—individuals exercising sexual autonomy.</p> <p>These assessments are often made with little to no knowledge about how an individual came into prostitution, with no consideration of prostitution as a system of exploitation, or of prostitution resulting from a lack of choices as opposed to a variety of viable options.</p> <p>“The argument that women choose to be in prostitution is not an acceptable way to dismiss the harm of prostitution. We do not dismiss rape and battery by saying that women choose to walk down the street alone at night. Or, if a woman chose to get married, we do not dismiss battery that occurs within the marriage by saying she chose to be with him”.</p>

- They contribute to the false and restrictive interpretation of trafficking victims as being only those persons who have suffered such things as kidnapping, brutal beatings, being held at gunpoint, being chained to a bed or locked up in hidden rooms. However, traffickers routinely use subtler forms of coercion. Professionals in the fields of torture, domestic violence, child sexual abuse, and commercial sexual exploitation know that torturers, abusers, pimps and traffickers use these coercive methods to groom and reduce their victims “to the condition of slavery.”
- “One cannot have the right to violation. One only has the right to be free from violation”.
- In their pithy paraphrase of feminist author, Kathleen Barry, O’Connor and Healy explain that, “Consent is not a good divining rod as to the existence of oppression, and consent to violation is a fact of oppression. Oppression cannot effectively be gauged according to the degree of “consent,” since even in slavery there was some consent, if consent is defined as inability to see, or feel entitled to, any alternative. If, for example, consent was the criterion for determining whether or not slavery is a violation of human dignity and rights, slavery would not have been recognized as a violation because an important element of slavery is the acceptance of their condition by many slaves.”
- “There is a virtual dictionary of lies that conceal the harm of prostitution: voluntary prostitution, words that imply that she consented when in fact, almost always, she had no other survival options than prostitution. The redundancy of the term forced trafficking insinuates its opposite—that somewhere there are women who volunteer to be trafficked into prostitution.”

Client, customer, hobbyist, john, punter, trick, date, curb crawler:

These words are frequently used to describe the male buyers of commercial sex acts. However, use of these terms normalize their role in commercial sex—as if buying sex is as normal and legitimate an activity as buying a car or dining at a restaurant—and obfuscate their true identity as abusers and perpetrators.

The “forced-voluntary” split is false dichotomy maintained by:

- 1) those unaware of harms of prostitution and the techniques used to recruit people for prostitution;
- 2) proponents of the sex industry, from sex industry moguls, pimps and national governments, motivated by the desire for profit;
- 3) consumers of commercial sex who must rationalize their behavior;
- 4) human rights advocates and pseudo-feminists who assert that women have a right to prostitute and that women gain power and agency in doing so; and
- 5) Persons who are more concerned about the culpability of each woman in prostitution than with the systems of inequality and injustice that thrust the majority of women into this lowest caste of society.

The veneer of choice embedded in term “voluntary prostitution” enables society to blame the women, label them as whores, and look the other way.

Prostitutor, purchaser, purchaser of commercial sex acts, commercial sex buyer, perpetrator:

These terms do not mask or normalize the nature of the male role in the purchase of commercial sex acts.

should be understood to encompass *both* boys and girls. Tragically boys and men are also ensnared and exploited in the various manifestations of the commercial sex trade; this is a terrible fact that all advocates would do well to acknowledge and address. Even so, the use of feminine terms has been maintained because as Bullough and Bullough explain:

The most obvious generalization that can be made is that in all societies and periods that have been examined, institutionalized prostitution has been aimed at a male clientele and the overwhelming majority of prostitutes have been women. Though male prostitutes have existed in many societies, they have primarily served other males whose sexual preference was males or who turned to fellow males in special circumstances where there was a lack of contact with women. Only occasionally has the male prostitute who serviced a female clientele been mentioned in literature; to document the existence of such individuals on any scale has been impossible.

Therefore, given that the institution of prostitution overwhelmingly exists for men and that females make up the majority of those sold for sex, the use of words connoting the female gender has been maintained so as to not obscure the patriarchal foundation on which the sex trade rests.

Source: The “Chart of Preferred Terminology for Sex Trafficking and Prostitution” originally appeared in the curriculum *Hands that Heal: International Curriculum to Train Caregivers of Trafficking Survivors* published by the Faith Alliance against Slavery and Trafficking (FAAST) in 2007. A revised version of the chart, including an introductory preface, was published in 2012 in the journal of the North American Association of Christians in Social Work (NACSW), *Social Work & Christianity*. The version of the chart printed here has been modified from its 2012 presentation in *Social Work & Christianity*; the preface was revised in 2013. Used by permission of Lisa L. Thompson and North American Association of Christians in Social Work.

ANALYSIS

After the passage of the National Security Presidential Directive-22 (see Chapter 4), which stated U.S. policy recognizing the link between prostitution and trafficking, and noting that prostitution should not be regulated as a legitimate form of work, some experts encouraged organizations to institutionalize this policy perspective. One way to do this, argued author Lisa Thompson, is to be aware of the terminology used and the implications, subliminal or overt, that words convey. By this time, the use of certain phrases had permeated parts of the anti-trafficking movement and even Christian organizations were using phrases like “sex work” without reflection about their meaning. Is sex really work? As one professor noted, “If you think sex is the same as logging, or construction, or computer programming, then you will be fine calling prostitution “sex work.” But if you think sex is related to intimacy, romance, love, relationship, marriage, procreation, children,” then you will want to categorize prostitution another way, as a form of exploitation. This article

was written for a Christian publication, but it also accurately reflects the analysis of radical feminists, who categorize prostitution as per se violence against women.

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- Smith, Lizzie. “Dehumanizing Sex Workers: What’s ‘Prostitute’ Got to Do With It?” Australian Research Centre in Sex, Health, and Society, July 30, 2013. <http://theconversation.com/dehumanising-sex-workers-whats-prostitute-got-to-do-with-it-16444>.

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THE NEXT HORIZONS

THE MS-13 SEX TRAFFICKING CASES (2011–2014)

- **Documents:** Press Releases for Multiple MS-13 Sex Trafficking Cases
 - **When:** 2011–2014
 - **Where:** U.S. Attorney’s Office for the Eastern District of Virginia
 - **Significance:** In 2009, in the course of collecting and analyzing case law on human trafficking in the United States, Global Centurion, a nonprofit focused on demand reduction, noticed a pattern of street gangs involved in sex trafficking and took this information to the U.S. Department of Justice. At the time, street gangs were not being prosecuted for human trafficking, most likely because other egregious crimes such as extortion, robbery, assault, weapons offenses, and murder overshadowed the trafficking. In 2011, an enterprising combination of investigators and prosecutors in the U.S. Attorney’s Office Eastern District of Virginia brought a series of cases against MS-13 gang members and other gang members involved in trafficking young women and girls into prostitution. These high-profile cases put a spotlight on street gangs and showed how they were moving into sex trafficking as a way to fund their enterprises. These press releases represent a few among dozens of cases in the Eastern District of Virginia announcing prosecution of street gang members for sex trafficking in Northern Virginia and demonstrate the numerous ways perpetrators can be involved in and prosecuted for trafficking-related offenses: recruitment, transporting, harboring, obtaining, and selling of human beings for sex.
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BRITA’S STORY

I was 14 when I ran away from home. I was having troubles with my mom because I was getting raped by my older half-brother but she wouldn’t believe me or do anything about it. They moved me for a while to my dad’s house, but then he raped me too so I had to get out.

I started hanging with this guy who was a friend of mine whom I knew through some guys. He introduced me to this guy who was older than me who belonged to a Mexican gang. He was real nice to me at first, took care of me, and kept me safe. But he had some other girlfriends in his family and he said to me, “If you want

DOCUMENTS

MS-13 Gang Leader Convicted of Sex Trafficking of a Child

July 28, 2011

ALEXANDRIA, Va.—Jose Ciro Juarez-Santamaria, 24, an illegal alien from El Salvador, was convicted today of prostituting a 12-year-old female with clients throughout northern Virginia, Maryland, and Washington, D.C.

Neil H. MacBride, United States Attorney for the Eastern District of Virginia, and John P. Torres, Special Agent in Charge for ICE’s, Homeland Security Investigations (HSI) in Washington, D.C., made the

announcement after the verdict was accepted by United States District Judge Liam O’Grady.

Indicted on May 12, 2011, Juarez-Santamaria was convicted today of conspiracy, sex trafficking, and transportation of a minor for prostitution. He faces a mandatory minimum term of 15 years in prison and a maximum penalty of life in prison when he is sentenced on Oct. 28, 2011.

“From the moment he laid eyes on the victim, Juarez-Santamaria did not see a young 12-year-old runaway in need of help,” said U.S. Attorney MacBride. “He saw a money-making opportunity for him and his gang and began prostituting her the very next day. No child should ever have to suffer what this victim endured, and we will continue to pursue MS-13 and other criminal organizations that prey upon young girls and enslave them through sex trafficking.”

“Forcing girls into prostitution for the purpose of turning a profit is not only criminal, it is intolerable,” said SAC Torres. “ICE is committed to working with our law enforcement partners to investigate sex trafficking, as well as working with our local non-governmental, community-based, and faith-based organizations to identify, rescue and assist victims of trafficking.”

According to court records and evidence at trial, Juarez-Santamaria was an illegal alien who had joined MS-13 while in El Salvador. He was a leader of the Pinos Locos clique of MS-13 and known by the gang as “Sniper.” At a Halloween party in Oxon Hill, Md., on Oct. 31, 2009, Juarez-Santamaria met a 12-year-old runaway who asked for his help in finding a place to stay. Instead, the very next day, Juarez-Santamaria began prostituting the victim throughout the metro-D.C. area.

The victim testified at trial how Juarez-Santamaria and his fellow gang members would constantly call customers in an effort to drum up business. The victim was prostituted from October to December 2009 and was providing sex for money at times every day of the week. To keep the victim compliant, Juarez-Santamaria and others would ply her with alcohol and marijuana. The prostitution took place at various businesses, homes, apartments, and hotels in the Northern Virginia area. Juarez-Santamaria also allowed MS-13 gang members to have sex with the victim free of charge.

Evidence at trial showed that Juarez-Santamaria generally charged \$40 for fifteen minutes of sex, but would sometimes charge more depending on what the customer wanted. At times, he would take the victim to a location where customers would be lined up waiting for her.

This case was investigated by the Transnational Gang Group of U.S. Immigration and Customs Enforcement. Assistant United States Attorney Patricia T. Giles and Special Assistant United States Attorney Michael J. Frank are prosecuting the case on behalf of the United States.

to live with me, you have to do your part.” I didn’t know exactly what it was all about but he had his other girls talk to me. And so, I went with him. He set up “dates” for me and mostly they would come to his apartment. After about a month, he started hurting me when I didn’t want to do what he said to do. Once he beat me up so badly I tried to leave but he forced me to stay. He put me on drugs—cocaine, ecstasy, weed—to keep me going doing all this and there were gang members coming in and out so I was scared to death. He was finally caught by the police and put on trial and I was sent to a shelter to recover.

Source: United States Attorney’s Office, Eastern District of Virginia. <https://www.justice.gov/archive/usao/vae/news/2011/07/20110728santamarianr.html>.

Leader of MS-13 Gang Sentenced to 50 Years in Prison for Sex Trafficking Multiple Teens

June 1, 2012

ALEXANDRIA, VA—Rances Ulices Amaya, 24, also known as “Murder” and “Blue,” was sentenced today to 50 years in prison for recruiting girls as young as 14 from middle schools, high schools, and homeless shelters in Northern Virginia and forcing them to engage commercial sex acts on behalf of MS-13.

“Rances Amaya’s gang name was ‘Murder,’ and in a real sense, he killed the hopes and dreams of teenage girls whom he systematically and sadistically victimized,” said U.S. Attorney [Neil] MacBride. “He told these girls that he owned them and that he would hurt their loved ones if they didn’t comply. They were his sex slaves, and that slavery goes to the heart of the heinous crime of sex trafficking. These girls have traumatic scars that will last a lifetime, and Mr. Amaya is justly going to spend the rest of his productive life paying for his crimes.”

“Today’s sentencing demonstrates the commitment of law enforcement and the judicial system to combat juvenile prostitution and human trafficking in Northern Virginia,” said Assistant Director in Charge McJunkin. “Together with our partner agencies, we will continue to pursue individuals such as Mr. Amaya who ruthlessly exploit vulnerable young girls for sex and money.”

Amaya was convicted by a jury on February 23, 2012 of conspiracy and three counts of sex trafficking of a child. According to court records and evidence at trial, Amaya joined MS-13 when he was a teenager and later became a “shot caller” for his MS-13 clique, the Guanacos Lokotes Salvatruchas. MS-13 gave him the gang monikers “Murder” and “Blue,” and he bears multiple MS-13 tattoos on his hands and arms.

In 2009, Amaya joined forces with an MS-13 associate who was already prostituting underage girls. Amaya used the violent reputation of MS-13 to ensure that sex customers paid for the sex and did not lure the underage victims away. He also used his MS-13 contacts to find sex customers and would offer free sex with the victims and a cut of the profits for any gang member who provided customers or underage girls. Amaya and his co-conspirator sought out illegal aliens as customers because they believed illegal aliens were unlikely to call the police. Amaya would hand out his telephone number at construction sites and convenience stores frequented by day laborers from Latin America.

Victims were required to have sex with eight to 10 paying customers per day, sometimes seven days per week. Some of the customers were sex addicts and repeat customers who paid daily for the sex. At night, after the paying customers were finished, Amaya would invite his fellow MS-13 members to have sex with the girls. Sometimes, to punish victims, the gang would “run a train” on a victim, which meant that multiple gang members would have sex with the victim in rapid succession. Amaya and other gang members also raped the victims both for their enjoyment and to “groom” them for the sex trafficking scheme.

Besides raping them to keep the victims compliant, Amaya would provide them with cigarettes, alcohol, marijuana, and other drugs. The evidence showed that

Amaya prostituted five victims who were between the ages of 14 and 17 years old. The jury heard that using underage girls had two advantages: customers preferred young girls, and Amaya found them easier to manipulate and control. In addition, there was always an implicit threat of violence insofar as the victims knew that Amaya was MS-13, and he frequently carried a machete with him, MS-13's weapon of choice. Amaya also struck at least one of the victims in the face.

The sex acts took place at motels, hotels, houses, apartments, and cars in Washington, D.C. and the Northern Virginia area. In particular, Amaya frequented a few hotels in Falls Church, Virginia, and many of the customers were solicited from convenience stores in the Culmore and Chirilagua neighborhoods of Northern Virginia.

Amaya charged between \$30 and \$120 for about 20 minutes of sex with the victims. Customers were required to pay more for “unusual” sex acts. The proceeds of the prostitution were used to purchase narcotics, alcoholic beverages, and to support MS-13 in the United States and El Salvador.

Amaya is the fourth MS-13 member to be convicted of sex trafficking children in the Eastern District of Virginia.

Source: Federal Bureau of Investigation (FBI). <https://www.fbi.gov/washingtondc/press-releases/2012/leader-of-ms-13-gang-sentenced-to-50-years-in-prison-for-sex-trafficking-multiple-teens>.

MS-13 Gang Member Sentenced To 120 Months for Child Sex Trafficking

March 1, 2013

ALEXANDRIA, Va.—Jonathan Adonay Fuentes, aka “Cheesy,” and “Crazy Boy,” 21, of Clinton, Md., was sentenced to 120 months in prison, followed by five years of supervised release, for sex trafficking a juvenile female as part of a prostitution enterprise operated by the violent street gang Mara Salvatrucha Thirteen (MS-13).

Fuentes, an El Salvadoran-born U.S. citizen, pleaded guilty to sex trafficking a child on Nov. 27, 2012. “As the driver for MS-13, Fuentes transported a young girl to various hotels and apartments—helping the gang exploit her as a child prostitute,” said U.S. Attorney [Neil] MacBride. “We have a zero-tolerance policy against anyone who makes it possible to profit from the sexual slavery of children.”

According to court documents, Fuentes assisted his fellow MS-13 gang members from the fall of 2009 through the spring of 2010 run a prostitution ring that specialized in selling juvenile girls for commercial sex. Fuentes admitted in court that he transported a teen girl within Virginia and Maryland to engage in sex with clients. The large majority of appointments took place at an MS-13-controlled apartment in Maryland; however, Fuentes also prostituted the young girl at various hotels throughout Virginia, Maryland and Washington, D.C. Gang members supplied the victim with drugs and alcohol to keep her compliant.

Source: United States Attorney's Office, Eastern District of Virginia. <https://www.justice.gov/usao-edva/pr/ms-13-gang-member-sentenced-120-months-child-sex-trafficking>.

ANALYSIS

In April 2011 in Oceanside, California, 38 Crips gang members, their alleged associates, and two hotel owners were arrested for engaging in a sex-trafficking enterprise that involved the prostitution of minors and adult females. After raping their victims and threatening to kill them if they tried to escape, the gang members sold the girls online. The girls were trapped in a hotel for 12 hours a day as men who had purchased their bodies from the gang members had sex with them. Although these commercial sex acts brought in \$1,000 to \$3,000 a day, the young women and children never saw a penny of the money. Their only payment was food, avoiding beatings, and staying alive. The trafficking ring might never have been discovered if one girl hadn't rebelled. The turning point came after she witnessed another girl who was her friend being beaten. She watched in horror as the trafficker sprayed mace in her mouth and forced her to swallow it and told herself that she had to escape. She managed to convince a customer that her life and the lives of the other girls being held in the hotel were in danger. The customer agreed to contact the police, but only after he received payment in sex.

Stories like this one were turning up in the news in states across the United States, but for years, each one was seen as an isolated incident. In the late 1990s, the U.S. Department of Justice began to track criminal gang activity in the United States, and by 2005, dozens of Gang Task Forces had been established in the United States. These task forces contributed to tracking gang activity on a state-by-state basis and helped issue a National Gang Threat Assessment Report every other year.

At the same time, human trafficking emerged as one of the fastest growing crimes in the United States, and after the passage of the Trafficking Victims Protection Act in 2000, the Department of Justice looked for a more proactive law enforcement approach to human trafficking investigations. Over the course of five years, they established and funded over 40 Human Trafficking Task Forces in states across the United States. These two criminal justice responses to organized criminal activity (human trafficking task forces and gang task forces) in the United States ran parallel to each other with no interaction between the two until 2008, when, in the course of research for an international case law database, Global Centurion ran across a series of cases of street gangs involved in sex trafficking. Further investigation revealed over two hundred cases in which gang members had been involved in human trafficking (recruiting, transporting, harboring, obtaining, or selling a person for purposes of commercial sexual exploitation or involuntary servitude), especially sex trafficking.

Global Centurion (GC) analyzed the case law for patterns, including recruitment methods, methods of coercion and control, age of trafficking victims, and more. Using this newly collected data, GC examined anti-gang and anti-trafficking law and policy and drew up a set of recommendations for government officials, policy makers, community leaders, and educators. The work influenced members of Congress, as well as state and local legislators, resulting in new laws addressing the link between street gangs and sex trafficking.

It also catalyzed law enforcement responses to gang-involved and gang-controlled sex trafficking. Over the past 10 years, since the early work in 2008,

federal prosecutors across the United States have brought hundreds of cases of criminal gangs trafficking women and girls for purposes of prostitution. Recent studies now show that far from being a set of isolated incidents, street gang sex trafficking is an important revenue-generating enterprise. The 2015 National Gang Threat assessment notes that gangs engage in criminal activities that spread their ideology, widen their networks, produce illicit funds, and secure power, but to make money, which is a primary objective, gangs are increasingly turning to the high-profit, low-risk crimes of sex trafficking and prostitution.

A number of Assistant U.S. Attorneys across the United States have prosecuted gangs for trafficking, chief among them is the Eastern District of Virginia, which brought over a dozen cases in a five-year period, mainly of MS-13 gang members trafficking middle and high school students in suburban communities in Northern Virginia. The lesson of these cases is that even in the second decade of the 21st century, sex trafficking remains a lucrative business enterprise. As the two talented Virginia prosecutors noted in an article examining gang-controlled trafficking:

Gangs have a ready supply of assets—including personnel . . . narcotics and weapons, [use] of violence, and networks—that they can utilize in sex trafficking. But perhaps their most potent weapon is their ability to attract and retain victims, either through finesse, inherent threats of violence or the use of violence. Sex trafficking is an easy and efficient way for gangs to generate revenue, and now that gangs have seen the amount of capital they can accrue from trafficking, it is likely they will expand their trafficking endeavors. For this reason, investigators and prosecutors must be vigilant in their pursuit of criminal gangs and their various schemes, and political leaders must ensure that the police have the tools necessary to address gang-controlled sex trafficking.

To this can be added that community leaders, educators, parents, and others who care must also be involved in a new and deeper level of anti-trafficking work. Eradicating this kind of trafficking will take dedication of a new sort, as we will see in the next chapter.

FURTHER READING

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- Lederer, Laura. "Sold for Sex: The Link Between Street Gangs and Trafficking in Persons." Johns Hopkins University Protection Project. *Journal of Human Rights*, November 2011.

HEALTH AND HUMAN TRAFFICKING (2014)

- **Document:** Laura J. Lederer and Christopher A. Wetzel, “The Health Consequences of Sex Trafficking and Their Implications for Identifying Victims in Healthcare Facilities”
 - **When:** 2014
 - **Where:** *Annals of Health Law*, Beazley Institute for Health Law and Policy, Loyola University Chicago School of Law
 - **Significance:** The first survey on the physical and mental health consequences of domestic sex trafficking in the United States, this paper documents the injuries, illnesses, and impairments suffered by survivors. It also uncovered the fact that 87.8 percent of victims sought care from a health provider while still trapped in the trafficking situation. It led to new legislation mandating training for health providers to identify trafficking victims and respond appropriately.
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DOCUMENT

[W]hen I turned 13 I'd had enough of the abuse at home and I ran away. I didn't know where to go so I went to the center of town and stood by the town hall. A man saw me hanging around there and he said that he was looking for a “protégé.” I didn't know what it was but it sounded fine to me. He said that I could stay at his house if I didn't have a place to stay. . . . When we got to his house he pulled out a bottle of gin and had me drink and drink. The next thing I remember is waking up drunk in his bed all wet and hurt. He took me out on the street and told me what to do. . . . During that time I saw 10 to 20 men a day. I did what he said because he got violent when I sassed him. I took all kinds of drugs—even though I didn't really like most of them. . . . Over the years I had pimps and customers who hit me, punched me, kicked me, beat me, slashed me with a razor. I had forced unprotected sex and got pregnant three times and had two abortions at a [a clinic]. Afterward, I was back out on the street again. I have so many scars all over my body and so many injuries and so many illness. I have hepatitis C and stomach and back pain and lot of psychological issues. I tried to commit suicide several times.

—Kayla, survivor

Kayla's story is typical of women and girls trafficked for commercial sex in the United States. Experiences like the ones she describes were reported by trafficking survivors who answered questions about their trafficking experience in a series of focus groups. Her story represents not the worst that occurs in sex trafficking, but rather, the common experience of women and girls trafficked into commercial sex by a criminal industry that generates an estimated \$33.9 billion per year worldwide.

This paper explores the health consequences and healthcare experiences of women and girls trafficked in the United States for commercial sex. The paper is based on an original study of over one hundred domestic sex trafficking victims and survivors. It provides evidence that women and children who are trafficked into prostitution are physically, mentally, and emotionally devastated by the crime, and this devastation is lasting—with injuries, illnesses, and impairments continuing for decades. It illustrates how our healthcare system is failing trafficked women and children. It makes the case that health care providers of all kinds—in emergency wards, healthcare clinics, and private practices—are seeing trafficking victims but failing to identify them, thereby unwittingly contributing to continuing criminal activity and exacerbating both public and private physical and mental health problems for this segment of the population. It offers recommendations on ways that public policy and healthcare practice can combat sex trafficking by more readily identifying victims and catalyzing rescues. Finally, it argues that law, policy, and protocols must change in order to adequately address the health consequences of sex trafficking.

This study collected data from female sex trafficking survivors. The study used a mixed-methods approach, combining qualitative data collection from focus groups and structured interviews with quantitative analysis. An initial feasibility study using a single focus group was conducted in November of 2011. Following this initial focus group, a series of eleven similar focus groups were conducted in cities across the United States from January 2012 to December 2012. Local leaders in the anti-trafficking movement, often survivor-led service providers, were asked to assist in locating survivors in their cities who wished to participate in the study. The focus groups included 107 participants, all domestic survivors of sex trafficking, ranging in age from fourteen to sixty. During these focus groups, participants commented on and discussed a range of topics, including subjects such as any early childhood trauma, the age at which they were trafficked, how they were recruited, how long they were held in captivity, and the overarching health issues they experienced. Following the focus group sessions, survivors completed an extensive health survey.

Survivors suffered tremendously, virtually without exception. Out of 106 survivors, 105 (99.1%) reported at least one physical health problem during trafficking. The most frequently reported physical problems were neurological—91.5% of respondents reported at least one neurological symptom and 82.1% specifically reporting memory problems, insomnia, or poor concentration. Headaches or migraines (53.8%) and dizziness (34.0%) were also common symptoms.

The toll of constant commercial sexual exploitation and physical abuse on the victims led to a range of additional conditions. Physical injuries were rampant, with nearly 70% of victims reported physical injuries, most commonly to the head or face. Symptoms not conventionally associated with sexual abuse were only slightly less common: 67.9% of respondents experienced some type of cardiovascular or respiratory difficulty and 61.3% suffered from gastrointestinal symptoms while being trafficked. More than half of the survivors (54.3%) reported dental problems, with tooth loss the most common problem (42.9%).

Survivors were overwhelmingly traumatized not only physically, but also mentally. The brutal treatment they endured created ongoing psychological and mental

conditions in many of these victims and exploited existing instability in others. All but two of those who responded to the survey (104/106, 98.1%) reported at least one psychological issue during their captivity and survivors noted an average of more than a dozen (12.11). The most frequently reported problems included depression (88.7%), anxiety (76.4%), nightmares (73.6%), flashbacks (68.0%), low self-esteem (81.1%), and feelings of shame or guilt (82.1%). The picture painted by these surveys and the personal interviews that accompanied many of them is one of complete mental devastation. A substantial number of survivors suffered from other psychological disorders, including acute stress (38.7%), bipolar (30.2%), depersonalization (19.8%), multiple personality (13.2%), and borderline personality (13.2%) disorders.

Two additional and particularly chilling reporting rates confirm the extent of mental trauma that survivors suffered: 41.5% had attempted suicide (one victim reported 9 such attempts) and 54.7% suffered from post-traumatic stress disorder.

Not surprisingly, survivors also reported significant numbers of reproductive health problems while they were being trafficked. Most notably, more than two-thirds of these women (67.3%) contracted some form of sexually-transmitted disease or infection (STD/STI). Survivors reported significantly higher rates of chlamydia (39.4%) and gonorrhea (26.9%) than the next most common disease (Hepatitis C, 15.4%). Well over half of survivors (63.8%) reported at least one gynecological symptom other than STDs/STIs, with pain during sex (46.2%), urinary tract infections (43.8%), and vaginal discharge (33.3%) among the most common such symptoms. The extent of reproductive health issues that survivors reported is hardly surprising due to the extreme levels of sexual abuse these women endured. On average, the respondents reported being used for sex by approximately thirteen buyers per day, with a median response of ten. Some respondents reported typical days of as many as thirty to fifty buyers.

Reporting problems complicated the data regarding pregnancies and their results, with some respondents answering related questions inconsistently. While these reporting issues make precision impossible, the data merits concluding with confidence that pregnancy, miscarriage, and abortion were all common experiences for survivors in the study. Even without accounting for possible underreporting, forty-seven of the sixty-six women (71.2%) who gave an answer for the number of pregnancies they had during trafficking reported at least one pregnancy while being trafficked; fourteen of these (21.2% of respondents) reported five or more pregnancies. Of the sixty-four respondents who gave an answer for the number of miscarriages they experienced, thirty-five (54.7%) had at least one miscarriage and nineteen (29.7%) had more than one. Similarly, more than half (55.2%) of the sixty-seven respondents who answered reported at least one abortion, with twenty respondents (29.9%) reporting multiple abortions. Without accounting for possible underreporting, this subset of responding survivors reported a total of 114 abortions.

The prevalence of forced abortions is an especially disturbing trend in sex trafficking. Prior research noted that forced abortions were a reality for many victims of sex trafficking outside the United States and at least one study noted forced abortions in domestic trafficking. The survivors in this study similarly reported that they often did not freely choose the abortions they had while being trafficked. While only thirty-four respondents answered the question whether their abortions were of their

own volition or forced upon them, more than half (eighteen) of that group indicated that one or more of their abortions was at least partly forced upon them.

The survey asked survivors if they had experienced violence or abuse, listing twelve possible forms. These included being threatened with a weapon, shot, strangled, burned, kicked, punched, beaten, stabbed, raped, or penetrated with a foreign object. The survey also asked about other kinds of abuse such as threats, intimidation, verbal abuse and humiliation. Nearly all the survivors (92.2%) reported being the victim of at least one form of physical violence. Many survivors had suffered more than half of these experiences. Respondents reported an average of 6.25 of the 12 forms of violence. Likewise, most of these abuses were the rule rather than the exception—eight of the twelve were reported by half or more of the respondents, including behaviors as extreme as strangulation.

Many survivors were dependent on drugs or alcohol while they were trafficked either because the substances were forced on them as a control mechanism by their traffickers or because substance use was a means of coping with the immense abuse they suffered. 84.3% used alcohol, drugs, or both during their captivity and more than a quarter (27.9%) said that forced substance use was a part of their trafficking experience. More than a quarter of victims reported injected drugs and overdoses (27.2% and 26.0% respectively).

Despite their abusive situations, most survivors did receive medical treatment at some point during their trafficking. Of those who answered the questions about their contact with healthcare (N = 98), 87.8% had contact with a healthcare provider while they were being trafficked. By far the most frequently reported treatment site was a hospital/emergency room, with 63.3% being treated at such a facility. Survivors also had significant contact with clinical treatment facilities, most commonly Planned Parenthood clinics, which more than a quarter of survivors (29.6%) visited. More than half (57.1%) of respondents had received treatment at some type (urgent care, women's health, neighborhood, or Planned Parenthood).

Since pimps and traffickers generally exercise nearly complete control of their victims, these points of contact with healthcare represent rare opportunities for victim identification and intervention. In addition, because of the hearsay exception in the Federal Rules of Evidence for statements made for medical treatment (regardless of whether the declarant testifies), statements by victims to healthcare professionals should usually be admissible in a trafficking prosecution.

Interaction between medical care providers and victims is an extraordinarily delicate situation. Because some victims may come alone, the health provider has an opportunity, if trust level and other considerations allow, to ask questions about the possible victim's situation and to provide her with resources like contact information for rescue and other services.

Because traffickers often accompany victims to treatment and their presence may prevent truthful answers, victims should be interviewed in private if at all possible. Separation should be done discreetly, perhaps by requesting that the male figure assist with paperwork or remain in the waiting room while staff obtain specimens.

Asking directly whether the patient is a victim of trafficking may be meaningless and directly asking about the most traumatic aspects of trafficking is also "ill-advised." Rather a series of "sensitive probing questions" can help uncover or unpack

the underlying trafficking situation. For example, the health care sector can borrow from the law profession. Legal aid attorneys working on custody cases noted that when gathering the facts about an abusive husband or boyfriend to help a client gain custody of her child, facts patterns emerged that made it clear that the client was a victim of sex trafficking. The victim did not come through the door self-identifying as a trafficking victim, but slowly over the course of conversation, understood her victimization and was able to seek help from law enforcement to emerge from the trafficking situation. Gradually working with the victim's identifiable health problems to elicit important facts about their over-arching situation is likely to be most effective and least intrusive.

Victims of sex trafficking suffer severe physical and psychological health consequences as a result of their trafficking. Victims frequently have contact with medical professionals in a variety of health care settings, including hospital emergency wards, neighborhood clinics, women's health clinics, and Planned Parenthood clinics, as well as private practices. Violence-related injuries, serious illness or disease, pregnancy, birth control, and abortion, substance abuse, addiction and overdose, as well as serious psychological problems, are all reasons why substantial numbers of victims seek treatment.

Because they are "first responders" health care providers have unique opportunities to intervene on behalf of trafficking victims. Health care institutions must develop protocols for training, identifying, and treating sex trafficking victims. Medical personnel must increase efforts to understand the nature and scope of the problem of sex trafficking in the United States to improve their capacity to identify victims. This is especially true when they can speak privately with victims. To this end, medical staff, particularly in hospital emergency rooms and local clinics should be alert for the most common physical and psychological conditions and symptoms these victims experience, especially in the context of reproductive health. By doing so, the medical community can play a vital role in the ongoing fight to eliminate modern-day slavery.

Source: Lederer, Laura J., and Christopher A. Wetzel. "The Health Consequences of Sex Trafficking and Their Implications for Identifying Victims in Healthcare Facilities," *Annals of Health Law* 1 (23) (2014): 61–87.

ANALYSIS

From 2000 to 2010, the main focus of health problems was HIV/AIDS and other STDs. Several studies tracked the number of victims who had contracted HIV/AIDS in India, Nepal, Thailand, and other South and Southeast Asian countries. The theory was that places where there are large sex industries may be epicenters for epidemics. A further concern was that when people are being trafficked from city to city or country to country, the epidemics may move with them.

One study out of Harvard found that among 287 Nepalese girls who had been trafficked to India, 38 percent tested positive for HIV/AIDS. It also found that girls trafficked prior to 15 years of age were at increased risk for HIV, with 60.6 percent infected among the youngest age group. Other indicators of increased risk of infection

were being trafficked to a large city like Mumbai, or trafficked for a longer duration, or to multiple brothels.

The studies of health consequences of human trafficking to date have been focused mainly on victims, but reach others too. The children and family members of trafficking victims are at risk for any serious communicable diseases carried by trafficking victims. Health issues extend to buyers—and beyond them to the general public as well. In 2008 in San Francisco, police closed down 19 brothels, private residences, and businesses being used as fronts for sex trafficking, and 101 women were taken into custody as potential witnesses. Of these, over 80 percent tested positive for tuberculosis. About 25 percent of these had active cases. It is unclear how many buyers came in contact with these women and how many of them had families—wives and children—who were exposed. Although most of the studies to date have focused on health issues in sex trafficking, a few have begun to study health issues in labor trafficking victims, victims of domestic servitude and other forms of trafficking.

Often, the first line of contact—and sometimes the only contact—between a trafficking victim and the mainstream world is the health care professional. In the past five years, alert doctors, nurses, emergency service providers, and psychologists who took the time to look beneath the surface to ask questions and to ferret out the real nature of the health problem confronting the patient have uncovered a number of trafficking cases in the United States. Clearly health care providers are first responders and our tasks are threefold: first, we must develop policies and programs to address the medical and health implications of trafficking in persons; second, we must train health professionals so that they are able to identify trafficking victims and respond appropriately, and third, we must integrate intervention, including rescue and/or exit strategies for victims, into palliative care.

In 2015, the U.S. Department of Health and Human Trafficking created a Technical Working Group on Health and Human Trafficking. They were tasked with advising on the creation of a training product for health care professionals. On June 8, 2016, Bill H.R. 5405 was introduced in the U.S. House of Representatives to establish the Stop, Observe, Ask, and Respond to Health and Wellness Training pilot program to address human trafficking in the health care system. With the right training and tools, medical staff, particularly in hospital emergency rooms, will be better equipped to identify and treat survivors.

FURTHER READING

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THE JUSTICE FOR VICTIMS OF TRAFFICKING ACT (2015)

- **Document:** Discussion on House of Representatives Floor before Passage of the “Justice for Victims of Trafficking Act of 2015”
 - **When:** May 18, 2015
 - **Where:** Washington, D.C.
 - **Significance:** The Justice for Victims of Trafficking Act is one of the most comprehensive pieces of anti-trafficking legislation that focuses on the criminalization of both buying and selling of trafficked victims. One key provision expands the definition of sex trafficking to include those who purchase sex. This document reflects the discussion in the House before the vote and passage of the act.
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DOCUMENT

Mr. GOODLATTE. Mr. Speaker . . . we are here today to consider comprehensive legislation that will help address the scourge of human trafficking, generally, and child sex trafficking, specifically, that is occurring in every corner of the United States as we stand here today.

According to the Federal Bureau of Investigation, sex trafficking is the fastest growing business of organized crime and the third largest criminal enterprise in the world. One organization estimates that child sex trafficking in the United States alone is a \$9.8 billion industry.

Criminal organizations, including some of the most violent criminal street gangs like MS-13, have realized that selling children can be more profitable than selling drugs. This is because drugs are only sold once, but minor children can be and are prostituted multiple times a day, every day. It is time for Congress to send a clear message that we won't stand for this. Today marks the third time that I have stood on the House floor urging the passage of the Justice for Victims of Trafficking Act. The House passed similar legislation in May 2014 and, again, in January of this year.

S. 178, the bill we consider today and its predecessors, are comprehensive legislation that, among other things, provide additional resources to law enforcement and service providers through a victim-centered grant program, help to facilitate investigations by providing that child sex trafficking and other similar crimes are predicate offenses for State wiretap applications, address the demand side by clarifying that it is a Federal crime to solicit or patronize child prostitutes or adult victims forced into prostitution, and strengthens the existing Federal criminal laws against trafficking through a number of clarifying amendments.

I am very pleased that a number of separate trafficking vehicles that were originally passed by the House Judiciary Committee and then by the full House are

contained within S. 178, including the Stop Exploitation Through Trafficking Act of 2015, introduced by Mr. Paulsen of Minnesota; the SAVE Act of 2015, introduced by Mrs. Wagner of Missouri; and the Human Trafficking Prevention, Intervention, and Recovery Act of 2015, introduced by Mrs. Noem of South Dakota. I thank all of my colleagues for their dedication to ending this terrible crime. I also thank Judge Poe of Texas for sponsoring the two previous House versions of the Justice for Victims of Trafficking Act.

S. 178 is not perfect legislation, and I thank both House and Senate leadership, as well as the bill's sponsor, Senator Cornyn, for agreeing to fix technical issues with the bill in future legislation, but it is my belief that this legislation will do much good in the fight to end human trafficking. For that reason, I urge my colleagues to support the bill and thus send it to the President to be signed into law.

Mr. POE of Texas. I thank the chairman for bringing this legislation promptly to the House floor today. . . .

The Justice for Victims of Trafficking Act goes after the trafficker—the slave master, the slaveholder. It treats the child as a victim and not as a criminal and not as a child prostitute. It rescues the victim, and it targets the demand—the buyer, the child abuser—that buys these children for pleasure.

This legislation also allows Federal judges to impose not only prison for these criminals, but may order that fees go into a fund. That fund can be used for victims' services and even training for peace officers. Make these criminals pay the rent on the courthouse and pay for the system that they have created. . . .

Mrs. CAROLYN B. MALONEY of New York. Mr. Speaker, I rise in strong support of the Senate-passed Justice for Victims of Trafficking Act.

. . .

Business is very good for some very bad people. Every year, sex trafficking yields well over \$9 billion in illegal profits. But unlike guns and dope that can only be sold once, the human body can be sold over and over again, usually until they die. This legislation starts to put a dent in those profits by levying fines on convicted traffickers and using the money to create the domestic trafficking victims fund.

This is appropriate justice. Traffickers are forced to pay for rehabilitative services for the girls, boys, men, women, and children whom they have victimized and profited from.

But we have to capture these criminals first, and perpetrators too easily have slipped through the cracks. In fact, trafficking victims are commonly charged with prostitution, while their pimps and johns and traffickers are never held accountable for their terrible crimes.

This bill will flip that equation by giving law enforcement tools to help victims, and new powers and resources to identify, arrest, and prosecute buyers and sellers of sex with minor children, pornography, slave labor, and other forms of sex and labor trafficking. This will clarify, once and for all, that traffickers and johns and pimps are the true criminals in sex trafficking because, make no mistake, prostitution is not, and never has been, what has often been called a victimless crime.

Patronizing a trafficked individual is not a casual act of sex; it is a criminal act of rape. Stiffening penalties and levying fines on perpetrators of these terrible crimes can start to decrease demand and put the people who buy and sell children behind

bars, protecting other children from being hurt and destroyed—put them behind bars, where they belong.

This bill also enables victims and survivors to get the help that they deserve. Most trafficked individuals have multiple encounters with law enforcement while enslaved, but police are not sufficiently equipped to identify them. To that end, the bill also provides support for law enforcement to better identify and serve trafficking victims. These are victims who need help, not culprits to lock up while their traffickers and pimps go free.

We cannot afford to miss opportunities to recognize a trafficked victim when he or she walks into the police station or hospital or local clinic. And there must be protocols, such as those called for in this bill, in place to ensure their safety and not to treat them as the criminals. . . .

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of S. 178, the Justice for Victims of Trafficking Act of 2015, a comprehensive bill authored by Senator Cornyn, with input from many. . . .

When enacted into law, S. 178 will provide powerful new tools in the struggle to abolish modern-day slavery, including a domestic trafficking victims fund designed to provide assistance to victims of human trafficking and grants to States and localities funded by a \$5,000 penalty assessed on convicted offenders.

The bill seeks to protect runaways from the horror of trafficking, strengthen the child welfare agency response, aid victims of child pornography, and criminalize advertisement for the commercial exploitation of children.

Each year . . . there are approximately 100,000 American children, mostly runaways, trafficked in the U.S. The average age of initial enslavement is 13 years old.

These children, when found, are often charged for prostitution, fined or put in juvenile detention, when there are—or should be—other options available. These children, mostly young girls, need to be protected and cared for and treated with compassion and respect—not prosecuted. The pending bill moves us toward this goal.

Indeed, Title VI authorizes DOJ to give preferential treatment in awarding public safety and community oriented police grants to an applicant from a state that treats a minor engaged in commercial sex as a victim.

. . .

Title VII of S. 178 was inspired by a groundbreaking study conducted by Laura Lederer and funded by several foundations, including the Charlotte Lozier Institute, that found approximately 88 percent of domestic trafficking victims “had contact with a health care provider while being trafficked with the most common contact being a hospital/ER (63.3%).”

Situation awareness coupled with best practices will without a doubt help victims escape to freedom and protection.

So, in response, Title VII requires HRSA to award a competitive grant to an eligible entity to design and implement a pilot program utilizing evidence-based best practices to train health care professionals to recognize trafficking victims and respond effectively.

Ms. JACKSON LEE. I want to emphasize something that I think should pierce our hearts, which is that children should be protected. There are several elements that I think are important to make mention of regarding these children being protected.

One, I would like to acknowledge the responsibilities of the Attorney General to create a system to monitor the issuance and enforcement of mandatory restitution. Remember, these children have been victimized over the years and really have been thrown to foster care or other agencies where moneys were not available. These restitution orders will compensate victims not only of human trafficking but also related immigration and child pornography cases. The establishment of a domestic victims' fund will also improve the conditions for our children.

We worked on a cybersecurity bill, an important part of this bill that establishes a national cyber crimes center to manage and provide data essential for this effort. It authorizes the U.S. Marshals Service to provide assistance to State, local, and other Federal law enforcement agencies. It has placed the U.S. Marshals in a very effective manner.

Let me note the fact that there are mandatory minimums. In a very small way in this bill, we will be looking at sentencing reformation and reform in the following months.

Might I also say that this bill encourages and forces training for our law enforcement, something that we view as very important as we are going forward, to investigate human trafficking as well as training for those essential to our criminal justice system. . . .

We look to reunite families, to strengthen families, to provide for these children, and, as my colleague has just said, not to criminalize the children but, tragically, first to restore the victims' lives. . . .

It is our duty to rescue these children, shelter them, and help them recover from the trauma that has been inflicted upon them. It is also our duty to prevent these crimes before they happen and to provide law enforcement with the tools they need to combat human traffickers. . . .

Although not perfect, S. 178 is a comprehensive bill that includes a variety of measures intended to strike at the problem of child sex trafficking through prevention, law enforcement, and rehabilitation services for victims.

This bill addresses the demand for this business by adding criminal prohibitions for those who solicit and advertise human trafficking. Law enforcement officials across the U.S. have identified online sex ads as the number one platform for the buying and selling of sex with children and young women.

The legislation provides the tools to rebuild the lives of those exploited by this business. It specifically addresses the needs of thousands of homeless children, many who have fled physically and sexually abusive homes, only to be victimized again by sex traffickers.

The bill promotes rehabilitation by encouraging the development of specialized court programs for victims of child human trafficking. These court programs will provide: outpatient treatment, life skills training, housing placement, vocational training, education, family support services, and job placement. . . .

The bill goes further by encouraging through grant programs to the States that establish safe harbors for children who have been victims of sex trafficking. These safe harbors play a critical role in preventing youth, forced into the sex trade, from being re-victimized and stigmatized a second time by the criminal justice system. . . .

The bill also allows victims of sex trafficking with related criminal charges to be eligible for acceptance in Job Corps program, an important process for reintegration into society.

Victims of sex trafficking deserve and need restitution for rehabilitation. This bill requires the Attorney General to create a system to monitor the issuance and enforcement of mandatory restitution orders. These restitution orders will compensate victims not only of human trafficking, but also related immigration and child pornography cases.

The establishment of a Domestic Trafficking Victims Fund will also improve services to children who have been rescued, in the form of long-term rehabilitative services, relief that is long overdue.

The requirement to monitor enforcement of restitution orders will in turn provide a strong basis for determining the next steps necessary to ensure that victims are justly compensated for the traumas inflicted on them by their traffickers.

The necessary reporting must also identify current gaps in research and data. This information will be helpful in formulating effective strategies in deterring children from becoming victims of trafficking. It requires the Government Accountability Office to report on both federal and state enforcement efforts to combat human trafficking and the commercial sexual exploitation of children.

The bill provides significant support for law enforcement officers to identify and rescue the victims of human trafficking. The bill establishes a National Cyber Crimes Center to manage and provide data essential for this effort. It authorizes the U.S. Marshals Service to provide assistance to state, local, and other federal law enforcement agencies in locating and recovering missing children when requested to do so by those agencies. . . .

The legislation requires better coordination between law enforcement and a variety of other entities, including: child advocacy centers, social service agencies, state governmental health service agencies, housing agencies, and legal services agencies. . . .

Several provisions in this bill encourage and foster training for law enforcement to investigate human trafficking as well as for training for those essential to our criminal justice system, such as physical and mental health care providers, federal prosecutors, and judges.

Mr. Speaker, it is for these innocent children that I strongly encourage support for this legislation.

Source: Congressional Record, Volume 161, Number 76, May 18, 2015, pp. H3266–H3284. <https://www.govinfo.gov/content/pkg/CREC-2015-05-18/html/CREC-2015-05-18-pt1-PgH3266.htm>.

ANALYSIS

By 2015, legislators are introducing anti-trafficking bills in every session of Congress. The Justice for Victims of Trafficking Act (JVTA) incorporated the language of 10 bills that had passed the House in the early weeks of the 114th Congress.

Victim assistance is still a major focus of much legislation, and the JVTa is no exception. Victim assistance is expensive; some estimate that a bed and services in a trafficking shelter (or home) costs \$80,000 a year per victim. The JVTa created a Domestic Trafficking Victims Fund, mandating fines of \$5,000 per arrest for traffickers and buyers, which is to be used to fund victim rehabilitation services. The problem with this Fund is that law enforcement will need to be making trafficking arrests—including arresting purchasers of sex—to make this Fund work.

The JVTa also ensures children involved in trafficking are treated as victims, not criminals. Looking back at Norma Hotaling's advocacy in Chapter 3, it took over a decade before legislators codified her suggestion that children should always be seen and treated as victims. Predators who victimize children through buying or selling them for sex or pornography or advertising children for sale now face enhanced punishments.

The JVTa has provisions to assist in finding missing and exploited children and runaway children and research on how trafficking affects children. The law also requires better coordination between government agencies in order to avoid duplication of efforts and poor utilization of resources.

The JVTa amends the Trafficking Victims Protection Act of 2000, utilizing knowledge gained each year in the fight to end human trafficking to improve our anti-trafficking legislation. As we learn where there are gaps in research, training, services and law, legislators are working to close those gaps with the end goal of eradicating human trafficking.

FURTHER READING

Justice for Victims of Trafficking Act of 2015, Public Law 114–22, May 29, 2015. <https://www.congress.gov/bill/114th-congress/senate-bill/178>.

PREVENTING HUMAN TRAFFICKING IN GLOBAL SUPPLY CHAINS (2015)

- **Document:** Trafficking in Persons Report 2015, U.S. Department of State
 - **When:** 2015
 - **Where:** International
 - **Significance:** As our understanding of human trafficking increased, activists identified additional complexities, including an acknowledgment that human trafficking had infiltrated international supply chains. This created a call for greater oversight, especially in U.S. supply chains. The 2015 Trafficking in Persons Report summarized the ways in which trafficking might be a part of a private business supply chain and outlined the role of government and private sector in monitoring supply chains to prevent trafficking.
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DOCUMENT

Efforts to combat human trafficking around the world have advanced steadily over the past 15 years, since the adoption of the Palermo Protocol and the passage of the TVPA in 2000. Scores of countries have expanded implementation of the “3P” paradigm enshrined in these instruments, as governments investigate and *prosecute* trafficking cases, provide *protection* and services to victims, and put improved measures in place to *prevent* the crime from happening in the first place. Progress over this period of time has been nothing short of profound.

Yet, while the fight against human trafficking intensifies, millions of people continue to toil in compelled service, exploited for the enrichment of others in virtually every country in the world.

As the International Labour Organization (ILO) estimated in 2014, forced labor in the private economy reaps some \$150 billion in illicit profits each year; most instances of what the *Trafficking in Persons Report* refers to as human trafficking are covered by ILO’s definition of forced labor. These billions flood the formal marketplace, corrupt the global economy, and taint purchases made by unwitting consumers. Long and complex supply chains that cross multiple borders and rely on an array of subcontractors impede traceability and make it challenging to verify that the goods and services bought and sold every day are untouched by modern-day slaves.

This means consumers of goods and services may be connected to human trafficking more closely than they imagine—connected, however indirectly, to the man in the Amazon compelled to mine for gold and to the woman forced into prostitution in that same mining camp; linked to the construction worker in the Gulf who is unable to leave an exploitative situation and to the woman in Indonesia who accepts a job as a caregiver and is instead made to work in a brothel; tied to the child in West

African cocoa fields who is compelled to work instead of going to school; and to the Native American teenager who runs away from home and ends up a victim of sex trafficking near the oil fields in North America.

Governments, the private sector, and individuals can all make a difference when it comes to addressing human trafficking in supply chains. Each has the unique ability to leverage economic power to influence existing markets, and create new ones, where workers can enjoy decent work and human dignity, and are free from coercion and the exploitation associated with human trafficking.

The Risk of Human Trafficking in Supply Chains

Human trafficking has no boundaries and respects no laws. It exists in formal and informal labor markets of both lawful and illicit industries, affecting skilled and unskilled workers from a spectrum of educational backgrounds. Victims include adults and children, foreign nationals and citizens, those who travel far—whether through legal or illegal channels—only to be subjected to exploitation, and those who have been exploited without ever leaving their hometowns.

The fluid nature of the crime means traffickers can target vulnerable workers anywhere to fill labor shortages everywhere along a supply chain. In the electronics sector, for example, human trafficking may exist in the extractive stages (mining for raw material), in the component manufacturing stage (where separate pieces are produced or combined), and in the production stage (where a good is assembled and packaged in a factory).

Risks are present in the service sector, as well as in the production of goods. The sheets in a hotel may be made with cotton harvested by forced labor, the housekeeper cleaning the room may be exploited in labor trafficking, and the room itself may be used as a temporary brothel by sex traffickers. The international community must both understand the supply chains of the products used to provide a service (hotel sheets, airplane parts, medical equipment) and also examine the risks to those workers who provide them (house cleaners, caregivers, dishwashers).

Although human trafficking is found in many trades, the risk is more pronounced in industries that rely upon low-skilled or unskilled labor. This includes jobs that are dirty, dangerous, and difficult—those that are typically low-paying and undervalued by society and are often filled by socially marginalized groups including migrants, people with disabilities, or minorities.

Risks may also be higher in industries of a seasonal nature or where the turnaround time for production is extremely short. In these industries, the demand for labor increases drastically at the time of harvest or when a new product—be it a smartphone or a roadway—must be manufactured within a strict timeframe. For example, East and South Asian migrant workers in the garment sector are vulnerable to forced labor and labor exploitation, including long working hours and forced overtime, especially during periods of high consumer demand.

The urgency to hire employees can also result in a dependence on labor recruiters and their agents, which in turn creates layers of separation between the employer and the worker. This disconnect means that employers can be unaware of bad practices related to hiring within their operations, leaving workers exposed to exploitation.

Finally, in industries where fierce competition leads to constant downward pressure on prices, some employers respond by taking cost-cutting measures to survive commercially, from reducing wages or ignoring safety protocols, to holding workers in compelled service through debt bondage or the retention of identity documents.

Labor Recruitment in Global Markets

Practices that lead to human trafficking often occur in the recruitment process before employment begins, whether through misrepresentation of contract terms, the imposition of recruitment fees, the confiscation of identity documents, or a combination of these. The involvement of intermediaries (for example, labor brokers, middlemen, employment agencies, or recruiters) creates additional layers in the supply chain and positions these individuals to either assist or exploit.

Labor brokers function as a bridge between worker and employer and can provide helpful guidance and assistance in matching workers with jobs and arranging visas and documentation, medical checkups, pre-departure orientation, training, and travel. In many cases, labor brokers are both legitimate and important to connect readily available laborers to employers in need of a workforce. A worker's dependence on intermediaries, however, can also increase their risk of being subjected to trafficking. Recruiters sometimes promise individuals a high-paying job, good benefits, and reasonable working conditions to induce them into taking employment. Thereafter, when the nature or location of the job is not as promised, workers may find themselves in situations they cannot leave, either because they are held against their will or because they are indebted to their recruiters.

It is possible to identify areas of increased vulnerability in supply chains, including fraudulent practices in the recruitment process. Indicators of such recruitment typically include deception about job terms, living conditions, location, legal status, and wages, or more forceful methods such as document confiscation, debt bondage, isolation, or violence. Fraudulent recruitment practices can lead to exploitation at the place of employment, as an unsuspecting worker may endure excessive hours, poor living conditions, and wage theft. When workers are put or held in such situations through the use of force, fraud, or coercion, it constitutes human trafficking.

Debt

Debt manipulation is one of the main methods by which workers can be exploited. Workers often borrow large sums of money to cover the costs of recruitment or "job placement" fees that can run anywhere from several hundred to tens of thousands of dollars. Workers may borrow money from family and friends, or mortgage their homes or ancestral lands believing they can easily repay their debts upon employment. These costs, which may also be combined with excessive or arbitrary interest rates, mean workers spend a period of time—sometimes years—working for very little or no wages to repay what they owe. For example, one report tells of a

Nepalese man who took a loan at a 36 percent interest rate and leveraged his family land to pay a recruitment agent \$1,500 for a job abroad. After 14 months of a three-year contract, the man still was not able to save any money.

At other times, employers withhold pay until the work is complete, meaning workers must forfeit the entirety of their wages if they leave prior to the end of the contract. Workers may endure abusive conditions for fear of losing their job and wages and defaulting on their debts. In many cases, unpaid debts result in threats to family members or loss of family property, adding further pressure for workers to stay in servitude.

Some employers require their employees to buy food and supplies from “company stores” where high prices, coupled with low wages, continue to drive workers further into debt. In Mexico, laborers sometimes live and work on farms enclosed by fences with barbed wire, where they must buy necessities, including food, from the company store at inflated prices. They are only paid at the end of the months-long season, and many workers report that at the end of the harvest they return home owing money.

Contract Fraud or Switching

When a labor recruiter changes the terms and conditions of employment after a worker has invested in the recruitment process—or transfers the worker to another labor recruiter who feels neither legally nor ethically bound to the original contract—an individual’s vulnerability to forced labor increases dramatically. Contract fraud occurs when a worker enters into an agreement with a labor broker, either orally or in writing, and finds upon arrival that the conditions of employment have materially changed.

Not all workers sign contracts, and many of those who do are either illiterate or sign them in a language they are unable to read. Even when workers can read the contract and willingly sign it, they may be forced to sign a different and less protective contract once they arrive on location—the penalty for not doing so being the loss of the job and being stranded without the means to get home. When contract switching occurs, workers may find that the job they end up with differs substantially from the job offered. It may include longer hours, offer lower wages, and even be in a different industry or country. In some cases, the proposed job never existed at all.

Document Confiscation and Abuse of the Legal Process

Many migrant workers have their identity or travel documents confiscated by a labor broker, sponsor, or employer. Identity documents, in addition to being a necessity for freedom of movement, are particularly important for accessing assistance, healthcare, and other important services. Document confiscation is a key practice used by traffickers as the employer gains significant control over the movement of the worker, and may prevent a worker from leaving an abusive situation, reporting abuse, or seeking employment elsewhere.

Traffickers may also use the threat of the legal process to hold workers in compelled service. Visa sponsorship systems, like the *kafala* system in effect in many countries in the Middle East, tie the issuance of employment visas to one employer or sponsor. If a worker intends to continue working, he is tied to that sponsor and has few options for challenging abusive practices. The fear of arrest or deportation is often enough to prevent a worker from leaving an exploitative situation or reporting abuse to authorities.

The Connection to Sex Trafficking

When large populations of workers migrate for employment, especially to isolated locations, such as mining, logging, and agricultural camps, the incidence of sex trafficking in those areas may increase. Traffickers often advertise jobs for activities that are directly related to the primary industry, such as food service, mineral-sorting, or retail work in camp stores. Some individuals who take these jobs may instead find themselves the victims of sex trafficking. In the Democratic Republic of the Congo, for example, women who accepted jobs as waitresses in a bar near a mining camp in South Kivu province became trapped in debt bondage due to recruitment fees and medical expenses and were forced into prostitution to repay their debts.

Women may be forced into prostitution in the very regions and camps mentioned above where workers are in compelled service. Chinese companies operating in the Angolan construction sector recruit male Chinese workers, some of whom endure forced labor; these same operations also fraudulently recruit Chinese women who are later forced into prostitution.

The Role of Government

Government action is crucial in prosecuting trafficking cases, protecting victims, and preventing trafficking. By strengthening efforts in these areas, and by continuing to build partnerships with civil society and the private sector, governments are making serious strides in fighting modern slavery.

Governments can also play an important leadership role in combating human trafficking in supply chains. At home, governments can model and encourage multi-stakeholder dialogue and partnerships to bring together businesses and anti-trafficking experts to generate ideas and solutions and promote voluntary responsible business conduct initiatives. Governments should set clear expectations for businesses on human rights issues and adopt policies that promote greater transparency and better reporting on anti-trafficking efforts in supply chains. For example, in March, the United Kingdom enacted the Modern Slavery Act of 2015, which requires—among other things—commercial organizations with annual sales above a certain threshold to prepare annual statements outlining the steps they have taken to prevent human trafficking from occurring in their supply chain or in any part of their business.

Of course, governments have the responsibility to enforce labor laws, treat all workers fairly, including lawfully present and irregular migrants, and root out

corruption—all factors that can help prevent trafficking. International cooperation to strengthen labor migration policies and manage the increasing flows of migrant labor is critical to reducing the number of people who fall prey to human traffickers. Better regulation of private labor recruiters can also help protect workers.

Further, governments can provide a model for the private sector by better monitoring their own supply chains, which look much like those of the private sector. Tiers of subcontractors, lack of transparency, and the sheer magnitude of expenditure all make it extremely difficult for governments to ensure that taxpayer money is not supporting the illicit business of human trafficking. Nevertheless, the massive spending by governments to procure goods and services each year gives them enormous influence and leverage in the marketplace to minimize the risks of human trafficking.

Governments can, and often do, prohibit government employees and contractors from engaging directly in trafficking in persons. In addition, some governments have policies in place that require contractors and subcontractors to ensure that employees have not participated in those activities that can lead to trafficking: charging recruitment fees, engaging in contract switching, and confiscating or retaining identification documents. These prohibitions must be backed up with effective enforcement.

The Private Sector: An Opportunity to Lead

Beyond the efforts of governments, companies can also take action to reduce the likelihood of trafficking in their supply chains and respect the rights of those who work to make their businesses successful.

There are many measures businesses can take to mitigate the risks of human trafficking throughout their operations. For starters, business leaders can create anti-trafficking policies that address the common risks in their operations and supply chains, ensure workers have the right to fair compensation and redress, train staff to understand the indicators of human trafficking, and put remediation plans in place before any allegations arise to allow for appropriate corrective action. Businesses should also work with government officials, NGOs, and recruiters in the countries where they source to gain a better understanding of workers' vulnerabilities and commit to making improvements.

A company can demonstrate its commitment to responsibly source goods and services by creating a clear and comprehensive anti-trafficking policy, which includes an enforcement mechanism that is applied throughout the company's supply chain. High-level executives should approve and promote such a policy and build it into company operations so supplier consideration goes beyond price and reliability, to include an assessment of labor practices. Among other things, an effective policy:

- prohibits human trafficking and those activities that facilitate it—including charging workers recruitment fees, contract fraud, and document retention;
- responds to industry- or region-specific risks;
- requires freedom of movement for workers;

- pays all employees at least the minimum wage in all countries of operation, preferably a living wage;
- includes a grievance mechanism and whistleblower protections; and
- applies to direct employees, as well as subcontractors, labor recruiters, and other business partners.

Such a policy sends a clear message to employees, business partners, investors, and consumers that human trafficking will not be tolerated. Coupled with effective risk assessments, monitoring, and serious remediation efforts, it can promote good labor practices throughout the supply chain.

Understanding how supply chains operate, where key suppliers are located, and what working conditions exist in those locations and sectors is vital to help a company gain control. By fully mapping its supply chain, down to the level of raw materials, a company can gain a better understanding of gaps in transparency. Companies can then create a plan to target those areas where high levels of spending overlap with industries or locations with high risks for human trafficking.

Once a risk assessment is completed, companies must begin to address problem areas, implement corrective measures, and monitor and enforce anti-trafficking policies. Monitoring often takes the form of social auditing, which—when done properly—can help to detect violations of company policies, including worker abuse. Yet, human trafficking is frequently difficult for auditors to detect. Companies that are serious about addressing forced labor in their supply chains should make sure that auditors are properly trained and equipped to look for known indicators of human trafficking, including the fraudulent recruitment practices discussed in this *Report*. Audits should be thorough, comprehensive, and periodic.

Finally, constant pressure on cutting costs can have a destabilizing effect on the proactive measures a company may take to prevent human trafficking. By incorporating anti-trafficking measures throughout an operation, including in company budget, training, policies, and protocols, business can make efforts to ensure that the dignity of workers throughout the supply chain is not sacrificed for higher profits.

Looking Forward

Governments, businesses, and individuals have a real opportunity to effect change by influencing the purchases they make and by demanding accountability and transparency in supply chains, promoting and enforcing policies that prohibit trafficking and the practices that facilitate it, and punishing those who perpetuate this practice.

By leveraging the strengths of different actors, the global market can become a place where innovation and growth thrive alongside a workforce free of human trafficking; supply chains create an environment of mutual benefit for both workers and business owners; and consumers celebrate the knowledge that their purchases are contributing to a system that elevates and respects human rights.

Source: Office to Monitor and Combat Trafficking in Persons. “Preventing Human Trafficking in Global Supply Chains: Trafficking in Persons Report 2015.” July 2015 (13–34). <http://www.state.gov/j/tip/rls/tiprpt/2015/>.

ANALYSIS

For many years in the United States, legislators, advocates, and practitioners seemed to focus more on the problem of sex trafficking. Some believed it was because it was easier to raise general awareness about sex trafficking. The nature of crime—including that it often happened to young children—and the fact that it involved physical and sexual assault made it easy for journalists to describe the problem. As the article above shows, labor trafficking cases are often more complicated. They can involve large legitimate corporations at the top of the supply chain that have a problem somewhere in the supply chain of goods and services that they produce. The question of how to hold corporations responsible for the role they may play is a tricky one. Few want more laws and more regulations on corporations, and understanding the symbiotic relationships between businesses, their laborers, and perhaps most important the end consumer who buys the goods or services is required. With the exception of a few states—California is the leading one—who have passed laws requiring corporations headquartered in their state to self-police—the state of the art is NGOs urging and encouraging private companies to adopt codes of conduct and promote policies that prevent human trafficking in the supply chain.

In 2005, Congress passed a law that required the U.S. Department of Labor to produce a “List of Goods Produced with Child Labor or Forced Labor.” As of 2016, the List comprises 139 goods from 75 countries. It runs from foods like rice, sugar, chocolate, fruits, and vegetables, to clothes including shirts and shoes, to luxury items such as diamonds and gold, to household items from carpets to soap. It is extensive in both type of good and geographic setting. Thus, it is difficult to imagine an overarching global framework for monitoring and auditing. In fact, the NGOs addressing this have gone in a different direction—categorizing labor intensive industries (e.g., extractive industries like mining) together and examining the supply chain flow from corporation to consumer. The Department of Labor does not mention actual names of corporations producing these goods and states on its website that its Bureau of International Labor Affairs (ILAB) maintains the list primarily to raise public awareness about forced labor and child labor around the world and to promote efforts to combat them; it is not intended to be punitive, but rather to serve as a catalyst for more strategic and focused coordination and collaboration among those working to address the issue of trafficking in the supply chains for goods and services.

FURTHER READING

California Transparency in Supply Chains Act, signed into law October 2010, went into effect January 2012. http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0651-0700/sb_657_bill_20100930_chaptered.pdf.

- 2016 List of Goods Produced with Child Labor or Forced Labor, U.S. Department of Labor, Bureau of International Labor Affairs (ILAB). <https://www.dol.gov/ilab/reports/child-labor/list-of-goods/>; Full Report, https://www.dol.gov/sites/default/files/documents/ilab/reports/child-labor/findings/TVPRA_Report2016.pdf.
- Verite. "Strengthening Protections Against Trafficking in Federal and Corporate Supply Chains: Research on Risk in 43 Commodities Worldwide." 2017. <https://www.verite.org/wp-content/uploads/2017/04/EO-and-Commodity-Reports-Combined-FINAL-2017.pdf>.

THE BACKPAGE.COM CONTROVERSY (2015)

- **Document:** Amicus Brief for Suit against Backpage, Massachusetts Attorney General
 - **When:** February 20, 2015
 - **Where:** United States District Court, District of Massachusetts
 - **Significance:** These Jane Does and their parents were some of the first victims to sue Backpage for allowing traffickers to advertise them for commercial sex.
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DOCUMENT

JANE DOE NO. 1, a minor child, by her parent and next friend MARY ROE, JANE DOE NO. 2, and JANE DOE NO. 3, a minor child, by her parents and next friends SAM LOE AND SARA LOE, Plaintiffs

v.

BACKPAGE.COM, LLC, CAMARILLO HOLDINGS, LLC (f/k/a VILLAGE VOICE MEDIA HOLDINGS, LLD), and NEW TIMES MEDIA, LLC, Defendants

Introduction

The Attorney General for the Commonwealth of Massachusetts respectfully submits this *amicus curiae* brief in support of the plaintiffs' opposition to the motion to dismiss filed by defendants Backpage.com, LLC et al. ("Backpage").

As the Commonwealth's chief law enforcement officer, the Attorney General has a statutory and common law duty to protect the public interest and enforce state law for the benefit of the residents of the Commonwealth, including those who are most vulnerable to abuse and victimization. Accordingly, the Attorney General has a particular interest in ensuring that state laws, remain viable tools for redressing conduct by individuals and entities—including websites—that facilitate human trafficking in the Commonwealth.

The plaintiffs' experiences being trafficked for sex as minors in Massachusetts are both heartbreaking and much too familiar. Modern sex trafficking operations

TRAFFICKING IN PERSONS AND NEW TECHNOLOGIES

In California in 2009, at a conference on human trafficking, 17-year-old Trea described her trafficker's business model. Contrary to common trafficking techniques, she was not sold out of some back-alley brothel. Nor was she moved around on street circuit in a bad part of town. Instead, her trafficker advertised her on a well-known Internet site in which buyers and sellers of commercial sex are able to come together to make private business deals. The trafficker posted a description of Trea and his cell phone. Buyers called to make discrete arrangements. Trea was then delivered to a home, a hotel, or a car at an agreed upon time and place for an agreed upon price.

This case had all the elements of trafficking—Trea was recruited when she was 14 and forced into prostitution by a violent and abusive boyfriend. What was different about the case was the trafficker's use of new technologies to facilitate the trafficking. Thousands of cases now document the use of new technologies, such as cell phones, text messaging, GPS, and other new technologies to facilitate business; chat rooms to exchange information on sex tourism sites around the world; social media and social networking including Google, Facebook, Instagram, and Snapchat to target, stalk, buy, and sell victims. Now NGOs are "reverse engineering" to combat trafficking. They are using new technologies for prevention campaigns, to identify new victims, to obtain protection and services. New technologies can also be used to identify traffickers and buyers, to facilitate arrest, prosecution, and conviction.

frequently target at-risk young people, advertise them online, and then transport them within and between states to be sold for sex. In fact, online advertising is now a critical component of sex trafficking, and Backpage dominates the market. But, the plaintiffs credibly allege that Backpage does far more than publish third-party advertisements selling minors for sex. According to the plaintiffs' allegations, Backpage has perfected a business model predicated on facilitating pimps and traffickers in illegal sex trafficking, including by deceiving the public and law enforcement in order to protect its profits and prevent more intense scrutiny. If these allegations are true, subjecting Backpage to liability under the Massachusetts Anti-Trafficking Law and Chapter 93A is entirely consistent with the purpose and scope of the Communications Decency Act, 47 U.S.C. § 230 ("CDA")—a law that was enacted in large part to protect children. Because the plaintiffs have sufficiently stated claims against Backpage, the motion to dismiss should be denied.

I. The Plaintiffs' Complaint Tells a Familiar and Increasingly Common Story about Child Sex Trafficking

The plaintiffs' allegations are consistent with our experience and understanding of the problem of human trafficking generally, and sex trafficking in particular.

A. The Problem of Human Trafficking

Human trafficking is a form of criminal enterprise in which women and girls in particular, but also men and boys, are exploited for labor and commercial sex. It is a widespread and urgent problem in Massachusetts and throughout the country. The widespread nature of human trafficking is driven by high profits and low risk. Like narcotics and arms trafficking, human trafficking is a market-driven criminal industry. Unlike drugs or weapons, however, human beings are a reusable resource. The same girl can be sold for sex, for example, hundreds or thousands of times by the same trafficker, and the demand is substantial. Jane Doe Nos. 1 and 2 were sold for sex between 5 and 15 times per day, and as many as 1,000 times overall. It is therefore no surprise that human trafficking brings in billions of dollars per year in profits for traffickers.

B. Victims of Sex Trafficking

According to the Department of Justice, over 80% of suspected human trafficking incidents in the United States involve sex trafficking, and children are at particular risk. Jane Doe Nos. 1, 2, and 3 each were first trafficked when they were only 15 years old. These children are brought into the sex industry—often referred to as "the life"—and are then forced, through a variety of physical, psychological, and emotional forms of abuse, to stay there. Jane Doe No. 1 was trafficked for a year and a half, while Jane Doe No. 2 was trafficked over the course of two years. Many victims remain in the life for much longer.

Not all victims of human trafficking are young girls, but some data suggest that almost 95 percent of sex trafficking victims are female. The data also suggest that

more than half are Latina or African-American—far exceeding their representation in the general population. In addition, there is evidence that LGBTQ youth are especially susceptible to sex trafficking.

Irrespective of gender, race, or sexual orientation, however, most victims of sex trafficking share certain characteristics that leave them particularly vulnerable to traffickers, including poverty, limited education, lack of work opportunities, lack of family support, history of physical or sexual abuse, substance abuse, and mental health problems. Reports suggest that anywhere from 70 to 90 percent of commercially sexually exploited youth have a history of sexual abuse, and that a majority are or were formerly involved with child welfare services. The National Center for Missing & Exploited Children (NCMEC) also estimates that one in six endangered runaways become sex trafficking victims. Jane Doe No.1 was trafficked after twice running away from home. Jane Doe No. 2 was trafficked after she left the residential program where she was living.

C. Perpetrators of Sex Trafficking

The plaintiffs' experiences in this case are fairly typical examples of many sex trafficking operations. Jane Doe No. 1's trafficker required her to place daily advertisements on Backpage. At his direction, she posted the advertisements using a pre-paid mobile phone and included the phone number for customers to call. She was required to post the advertisements in multiple cities at the same time. Her trafficker then moved her from city to city every one or two days, so that she was sold for sex in a number of different locations across both Massachusetts and Rhode Island.

Jane Doe. No 2 was part of a trafficking operation including at least two other girls. She was advertised on Backpage by either a pimp or an older female who worked closely with him (sometimes referred to as his "bottom"). The advertisements were placed with either stolen or pre-paid credit cards, and Jane Doe No. 2 was given a pre-paid mobile phone to answer customer calls. Jane Doe No. 2 and the other girls were trafficked in several cities in the Boston area. Their pimp kept the girls in one place for no more than a week at a time.

Jane Doe No. 3 was trafficked by a man and woman who picked her up at a friend's home. They took her to an apartment in Boston and then posted advertisements on Backpage using an anonymous pre-paid debit card. After receiving responses to the advertisements, Jane Doe No. 3's traffickers drove her to a hotel in Foxborough, where she was raped in exchange for payments that went to her traffickers.

D. The Role of the Internet

The Internet has had a profound effect on the sex trade and intensified the problem of human trafficking. In 2014, the Urban Institute issued the most comprehensive study of its kind, analyzing a number of different aspects of the economics of the sex trade in eight major cities. Overall, the study concluded that as a result of the Internet, the sex market has expanded, "sex workers" are able to solicit a broader clientele and are displaced from the streets, "johns" are able to organize

dates more covertly, and law enforcement detection has been reduced. The results of the study are consistent with the plaintiffs' experiences. Jane Doe No. 1 estimates that she was advertised on Backpage as many as 300 times, often simultaneously in multiple cities. Jane Doe No. 2's traffickers posted advertisements of her an average of six times per day. Jane Doe No. 3's traffickers also posted repeated advertisements of her each day, and all of these ads were "linked" on the website. Each of the hundreds of online advertisements for Jane Doe Nos. 1, 2 and 3 also led to anonymous communications with "johns" and the girls being sold for sex repeatedly and in multiple locations.

In Massachusetts, seventy-five percent of the cases that the Attorney General has prosecuted under our state human trafficking law, plus a number of additional investigations, involve advertising on Backpage. While the Internet has been a useful investigative and evidentiary tool in these particular cases, it has also contributed to a proliferation of prostitution and sex trafficking.

Websites like Backpage allow customers to shop for sex covertly from the privacy of their own homes or hotel rooms, and to further hide behind coded communications and anonymous transactions. In the experience of law enforcement—and Jane Doe Nos. 1, 2 and 3—these websites also allow sex traffickers to exploit a greater number of victims and to advertise their services more frequently and across geographic boundaries. Thus, overall, there are now many more trafficking cases that go undetected and/or unprosecuted.

Human Trafficking Is a Priority of State Attorneys General, Who Have Long Been Skeptical of Backpage's Claims Regarding Its Efforts to Curb Child Sex Trafficking On Its Website

Given the scope of the sex trade and the profound harms it causes our residents, attorneys general across the country recognize that human trafficking has emerged as one of the most serious civil rights threats within the United States. All fifty states and the District of Columbia have passed human trafficking laws.

It is well known that Backpage gets its name from the New York-based Village Voice newspaper, whose "back pages" were once known for classified advertisements for commercial sex. It is no accident, therefore, that Backpage makes its money by selling ad space to individuals peddling sex. Nevertheless, Backpage continues to make public and private pronouncements concerning its efforts to curb prostitution and the sexual exploitation of children, including in letters and testimony to NAAG and state attorneys general. Backpage maintains that it enforces strict policies prohibiting illegal activity and aggressively monitors its website for illegal content. It also reportedly filters or screens terms that suggest the subjects of advertisements are minors, and reports suspected child sex trafficking to NCMEC.

The reality is that despite its assurances, Backpage has grown its share of the online market for commercial sex in recent years—a market that is premised almost entirely on illegal activity. It now hosts an estimated 80 percent of online commercial sex advertising. Backpage also reportedly generates more than \$30 million per year in revenue from advertising in the "adult entertainment" section of its website—the primary source of its revenue. Furthermore, some studies suggest that

as many as ten percent of the advertisements on the website feature children who are being sold for sex. Backpage itself has acknowledged that it identifies more than four hundred advertisements per month that likely involve minors.

[T]he vast majority of state and federal prosecutions for sex trafficking involve advertisements posted on Backpage. While Backpage is responsive (to varying degrees) to requests for information and assistance by law enforcement in connection with specific investigations, the affirmative monitoring and reporting efforts it touts rarely yield results. As the plaintiffs correctly allege, Backpage’s “monitoring program” rarely produces helpful information leading to the identification and/or rescue of exploited children, or to the prosecution of their traffickers. The reality is that the number of investigations and prosecutions for which Backpage provides useful assistance is far outweighed by the number of illegal transactions that Backpage facilitates on a daily basis.

In sum, Backpage’s recent growth and dominant position in the market belie its supposed efforts to curb prostitution and child exploitation.

The Plaintiffs Credibly Allege that Backpage Knowingly and Actively Facilitates Sex Trafficking

While other websites allow, and perhaps even enable, some amount of unlawful activity as a consequence of hosting forums for lawful speech or commerce, the plaintiffs allege that Backpage’s very business model is premised on facilitating and profiting from criminal sex trafficking conduct. The plaintiffs allege that Backpage both knowingly and purposefully aids sex traffickers in breaking the law and evading law enforcement. The plaintiffs’ allegations place Backpage’s business conduct squarely within the ambit of both the Massachusetts Anti-Trafficking Law and Chapter 93A.

If Proven, the Plaintiffs’ Allegations Would Establish That Backpage Does Much More Than Simply Publish Third-Party Advertisements

The plaintiffs allege that Backpage developed its business specifically to profit from the online advertisement of illegal commercial sex. It hosts a separate “adult entertainment” section where, unlike the rest of the site, users are required to pay substantial fees to post advertisements. Within that section, it hosts “escorts” subsections that no reasonable person could understand as offering anything other than illegal prostitution. Backpage “coaches” users through the posting process, allowing them unlimited attempts at entering an appropriate age and an acceptable “description.” Acceptable description terms include numerous words and phrases that clearly convey that the advertisement is for some form of prostitution, and in some cases, that the subject of the advertisement is a minor—but exclude words and phrases most likely to be flagged by law enforcement. Backpage also allows users to pay and post anonymously, and to obscure their contact information (e.g., phone numbers) so as to make the information difficult to search. Backpage even creates (for an extra charge) special “Sponsored Ads” that actually highlight advertisements clearly

offering sex for sale, including advertisements that violate Backpage’s own supposedly “strict” policies regarding content.

At the same time, the plaintiffs allege, Backpage has taken various affirmative steps to maximize the security of the website for traffickers and to hinder law enforcement, including stripping metadata from uploaded photos and removing advertisements posted by victim support organizations and the police. The plaintiffs also allege that Backpage touts ineffective “monitoring” and “automatic filtering” programs—while at the same time refusing to utilize available technology to identify instances of child sex trafficking—as part of a deliberate effort to shield pimps and traffickers and mislead law enforcement.

In short, the plaintiffs allege that Backpage does much more than simply publish third-party advertisements that happen to include advertisements for commercial sex. Rather, they allege that Backpage has implemented and honed a business model designed to profit from aiding pimps and traffickers in illegal activity, including the sexual exploitation of children. In other words, Backpage knowingly and actively engaged in conduct that materially assisted the men who trafficked Jane Doe Numbers 1, 2, and 3.

Backpage’s Alleged Facilitation of Sex Trafficking Violates the Massachusetts Anti-Trafficking Law and Chapter 93A

Massachusetts Anti-Trafficking Law

The Massachusetts Anti-Trafficking Law includes civil enforcement provisions intended to allow victims of human trafficking to vindicate their own rights and to recover damages directly from their traffickers for the physical, psychological, and financial harms inflicted on them. The statute also recognizes that many different kinds of business operations—both legitimate and otherwise—facilitate human trafficking. Accordingly, the statute makes it unlawful to benefit financially from sex trafficking and provides that “[a]ny business entity that knowingly aids . . . in trafficking of persons for sexual servitude shall be civilly liable.” Mass.

Gen. Laws c. 265, § 50(a)(ii), (d).

The plaintiffs have alleged that Backpage runs a very lucrative business premised on facilitating pimps and traffickers in the sale of women and children for sex. Backpage knows that its website and related services (e.g., its messaging services and affiliate program) are a critical component of the methods employed by many traffickers, and that minors are trafficked through its website. In fact, assuming the truth of the plaintiffs’ allegations, Backpage intentionally promotes sex trafficking by protecting (or even expanding) the market for illegal commercial sex and by helping traffickers both to develop effective advertisements and to evade detection and prosecution. These actions fall within the plain meaning of the terms “knowingly” and “aid,” and constitute precisely the type of conduct that the Massachusetts Anti-Trafficking Law was intended to prohibit.

2. Chapter 93A

Chapter 93A contains a broad prohibition against “unfair or deceptive acts or practices in the conduct of any trade or commerce.” Mass. Gen. Laws c. 93A, § 2.

The plain language of the statute is disjunctive, prohibiting unfair *or* deceptive business conduct. While particular acts or practices may be (and often are) both unfair *and* deceptive, proof of deception is not required to sustain a claim under the statute. Accordingly, the plaintiffs here can—and do—state a claim against Backpage under Chapter 93A based solely on its grossly unfair business conduct.

The Supreme Judicial Court of Massachusetts has established three bases for finding unfairness: (1) when an act or practice is within at least the penumbra of some common law, statutory, or other established concept of unfairness; (2) when it is immoral, unethical, oppressive, or unscrupulous; or (3) when it causes substantial injury to consumers.

Backpage’s allegedly calculated facilitation of illegal sex trafficking arguably falls within all three categories of unfairness. Moreover, the plaintiffs have met their burden at this stage of pleading a plausible causal connection between Backpage’s facilitation of sex trafficking and the undisputed harm they suffered. Backpage allegedly fostered a market for the illegal sale of children for sex, helped to increase the number of “sales” of each girl, and protected the traffickers from identification and prosecution. It is enough that the plaintiffs were injured as an indirect result of Backpage’s business conduct, even though they did not themselves purchase ad space or engage in any financial transaction with Backpage.

Finally, while the plaintiffs do allege that Backpage has intentionally deceived the public and law enforcement in order to protect its profits and prevent more intense scrutiny, these allegations do not “sound in fraud” such that they must be pled with particularity. Backpage’s allegedly deceptive scheme is better viewed as a component of its unfair business practices, rather than an independent basis for liability under Chapter 93A. However, to the extent that the plaintiffs are seeking to hold Backpage liable for separately deceptive acts and practices, it still would not be fair to characterize their allegations as sounding in fraud and thus triggering the heightened pleading standard imposed by Fed. R. Civ. P. 9(b).

Source: Brief of Amicus Curiae Commonwealth Of Massachusetts; *Jane Doe 1 v. Backpage.com*, Civil Action No. 14-13870-RGS, Leave to File Granted February 20, 2015. <http://www.mass.gov/ago/docs/press/2015/backpage-amicus.pdf>.

ANALYSIS

In 2005, anti-trafficking activists began hearing from survivors that traffickers were moving online, placing ads to sell sex as they would for any other commodity. As stories circulated of females as young as 13 and 14 years old being sold online, activists set to work collecting information that could be used by law enforcement investigators and prosecutors. By 2008, the list of online sites that traffickers used to advertise commercial sex had grown and included Craigslist, Redbook, oodle.com, Backpage, and many others. Although there were dozens of such sites, anti-trafficking activists and law enforcement targeted Craigslist, launched in 1995, because it was the biggest and most popular online classified community ad company, spanning the whole of the United States. In November 2008, 43 state attorneys

general banded together to force an agreement with Craigslist: the online company would require anyone who posted erotic services ads had to provide a working telephone number and pay with a valid credit card, and Craigslist had to cooperate with law enforcement officials in any investigation if it were subpoenaed. After dozens of reports in states across the United States that Craigslist was not abiding by the decision, some state attorneys general sent the company letters ordering them to remove illegal content from Craigslist, including ads for commercial sex. Their argument was that owners and managers of Craigslist had “knowingly allowed the site to be used for illegal and unlawful activity after warnings from law enforcement officials and after warning from law enforcement officials and after an agreement with 40 state attorneys general.” In 2009, Craigslist traffic topped 20 billion “page views” across 570 local sites in 50 countries, making it one of the 30 most popular destinations on the World Wide Web, according to the Web traffic data company Alexa Internet Inc.

Attorneys general from at least four states—South Carolina, Missouri, Connecticut, and Illinois—met with lawyers for Craigslist to urge the site to shut down its erotic services ads.

“Anybody who goes on the erotic services section of Craigslist is going to find a set of ads that’s so blatant,” said one state attorney general, who called the ads “not only illegal but dangerous.” Craigslist claimed that they were a vendor and that their services were covered by the Section 230 of the Communications Decency Act, a provision protecting vendors from culpability in the content of ads placed by third party. After two years of suits, attorney general letters and related battles, Craigslist announced in 2010 that they were closing down its sex-related section. They predicted that advertisers would simply go to other online sites, and indeed, studies documenting this kind of advertising show a considerable increase in these ads in MyRedbook, Complete.com, oodle.com, and especially Backpage, which by 2011 had nearly 80 percent of the online business in prostitution ads. After Craigslist and other similar sites closed their adult services sections, law enforcement officials turned to Backpage, owned by Village Voice, and a battle more fierce than the one against Craigslist ensued. Over the next six years, NGOs circulated petitions and state attorneys general launched lawsuits like this one from the Massachusetts attorney general, culminating in a set of hearings in a Senate panel in which Backpage was accused of concealing criminal activity by removing words from ads that would have revealed the ads as sex trafficking of children. The report cites internal documents showing that 70–80 percent of the ads are edited to conceal the true nature of the underlying transaction. This is important because Backpage had been arguing in lawsuits brought by states that they were merely publishing content that others brought to them. If they were changing the content that left them open to charges of trafficking.

After defending themselves in the Massachusetts case, where 21 other states signed an amicus brief urging the Supreme Court to take up the case, and a Cook County Illinois case in which Sheriff Thomas Dart waged a public campaign against Backpage in 2015, posting a letter to credit card companies asking they stop accepting financial transactions from the site, and California Attorney General’s case suing Backpage

CEOs for pimping, on January 9, 2017, Backpage announced that it was shutting down its adult services ads following relentless pressure from the government.

On the same day, January 9, 2017, the Supreme Court declined to hear this appeal from three sex trafficking victims who accused advertising website Backpage.com of helping to promote the exploitation of children. The justices left in place a lower court ruling that said federal law shields Backpage from liability because the site is just hosting content created by people who use it. Backpage CEOs said government censorship had won out over free speech, but some state prosecutors have called it a “shell game,” noting that just as many ads can be found on Backpage now but they are in the “Dating” section or other sections of the online classified site.

FURTHER READING

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- Kuzma, Abigail. “A Letter to Congress: The Communications Decency Act Promotes Human Trafficking.” *Children’s Legal Rights Journal* 34 (2013): 27–30.
- Letter from Samuel Fifer, Esq. on Behalf of Backpage.com to NAAG. September 23, 2011. http://www.atg.wa.gov/uploadedFiles/Another/News/BACKPAGE_com%20RESPONSE%20TO%20NAAG.PDF.
- Monthly Revenue from Online Prostitution Ads Crosses \$5 Million* (April 2013). <http://aimgroup.com/2013/04/22/monthly-revenue-from-online-prostitution-ads-crosses-5-million/>.
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- Urban Institute. *Estimating the Size and Structure of the Underground Commercial Sex Economy in Eight Major US Cities*, at 234 (March 2014). <http://www.urban.org/uploadedpdf/413047-underground-commercialsex-economy.pdf>.
- Written Testimony by Samuel Fifer, Esq. on Behalf of Backpage.com, Massachusetts Attorney General’s Hearing on Sexual Exploitation Online. October 29, 2010. <http://www.mass.gov/ago/docs/community/testimony/backpage-ma-ag.pdf>.

SEX TRAFFICKING IN BOYS (2015)

- **Document:** Jerome Elam, “Call Me Collin: The Diary of a Sex Trafficked Boy”
 - **When:** July 14, 2015
 - **Where:** Communities Digital News
 - **Significance:** Jerome Elam’s story of being trafficked as a young boy, from the time he was 5 and for many years after, horrified the general public, law enforcement officials, and anti-trafficking activists across the country and catalyzed attention to the serious but heretofore neglected problem of boy trafficking.
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DOCUMENT

WASHINGTON, July 13, 2015—It was June of 1971 as the light of an afternoon sun filtered through dingy yellow curtains and shadows danced across the light blue walls of the second story room. Dressed in faded blue jeans and a tattered white t-shirt, my eight-year old body lay slumped on the dark wooden floor as my long brown hair fell forward covering my face. I watched as the blood from my now broken nose flowed across the scarred wooden surface like a river of despair following the well-worn grooves as it washed away the last ounce of my hope.

Around me stood the members of the pedophile ring who had trafficked me since the age of five. The isolated two-story building located on fifty acres served as both a headquarters for the ring and a house of horrors for the many children who disappeared within its expansive underground network. It had been three years since the day my life had become a waking nightmare where I languished as a prisoner bound by the invisible chains of fear and shame. “You had better learn your new fucking name, asshole!” the leader of the pedophile ring “Duke” yelled as I groaned in pain. I slowly raised my head only to see his cowboy boot as it rapidly traveled towards my body.

A loud crack echoed through the room as one of my ribs shattered. “Someone take this asshole to the emergency room!” Duke yelled as my head began spinning and consciousness slowly slipped from my grasp. “You had better remember your name, Collin, or you’ll end up in a pine box!” I heard Duke say as the blackness swallowed my mind and my eyes fluttered and then closed. “Collin” was one of the many names I was forced to use to conceal my true identity while I was trafficked sexually as a child. It was the name I had failed to use during Duke’s test before being sent to a client’s house. The beating was a lesson to help me remember my “work name” and to never forget just how powerless I was as the “property” of the “group” as the pedophile ring referred to themselves.

Pregnant at seventeen, my mother married my biological father only to divorce three years later as the love they once shared transformed into an intense and

long-lasting hatred of each other. My father had returned from a three-year tour in the army serving overseas during the 1960's filled with anger. As time progressed, his rage became uncontrollable and my mother and I became its unwilling targets. At three years old, the divorce of my parents would send me down a path dark and filled with bottomless depravity where I would endure a hell that only few have survived.

Following my parents' divorce, my mother and I were set adrift on a sea of dysfunction as our lives became a ship whose sails rose and fell according to my mother's addiction to chaos. At the age of five, my mother met a man named Neale who began to molest me sexually and then use me for child pornography. I was an easy target for him, a child desperate for affection who longed for someone to come into my life and make me feel like I mattered if only for a minute.

Neale inserted himself into our lives as he donned the façade of someone who would bring my fantasy of a stable loving family to fruition. In the end, it was all part of his devious plan to steal my innocence and trap me in a web of psychological blackmail that defied my very attempt at escape. I became a lost child cocooned by hopelessness as threats of violence against my mother guaranteed my silence. In order to avoid the reality of what was happening to me she turned to alcohol, as the bottom of a bottle became a mirror to reflect her distorted version of reality.

One day Neale introduced me to the pedophile ring he belonged to. My initiation into the "group" as they called themselves consisted of being beaten and raped by all ten members. The first time I was trafficked sexually, I was handcuffed to a truck stop bathroom sink and raped and sodomized for the next six hours by a revolving door of perverted customers consumed by the depths of depravity.

The people who paid to ravage my innocence were pillars of society, doctors, lawyers and elected officials both male and female. In hotel rooms, campers and private residences, I became a slave to the twisted sexual desires of anyone who was willing to pay upwards of \$500.00 to use and exploit me as their darkest fantasies became realized. There were many times I was choked unconscious and bound, gagged and raped as clients both filmed and took pictures of themselves using my fragile body to fulfill their evil desires.

I was trafficked in plain sight as I attended school and appeared to have a "normal life." I would be pulled out of school to be trafficked, and weekends and holidays were a never-ending nightmare when my innocence was sold ten to twelve times a day. The use of false identities complete with paperwork including birth certificates was standard practice. During "work hours," I was given a name and it was the only one that I was allowed to answer to. It was the only name we provided to clients and anyone we came in contact with including emergency room doctors and especially law enforcement.

My age and appearance were also altered so that no one could track or identify me and after each encounter that created a paper trail my work identity would be shredded and never used again. This process continued for the seven years as I was being trafficked. Routinely forced to take cocaine, Quaaludes and alcohol, there were times I almost lost any sense of who I really was. When I was working, I would be given expensive clothes to wear and groomed to the point of perfection. When

that time ended I was back to wearing clothes full of holes and subject to beatings, starvation and torture at the whim of the “group.”

Historically, women have been identified as the overwhelming majority of victims of human trafficking but recent studies have shown male victims of trafficking have been severely overlooked. In a 2008 study by the John Jay College of Criminal Justice, of those who were sexually exploited in New York, fifty percent of victims were found to be boys from the United States, being trafficked domestically. Until now anti-trafficking organizations have been focused on female victims but that tide is now starting to turn. A 2013 study by the organization ECPAT discovered males are more likely to be arrested for shoplifting or other petty crimes even though they are being trafficked sexually.

The anti-trafficking organization Shared Hope International has stated that “Statistics underestimate the number of familial traffickers; potentially as many as 30% of domestically trafficked minors are exploited by family members. This is particularly true when there is non-monetary exchange as part of the transaction, such as a mother allowing a person to have sex with her daughter for drugs.”

Also included in the John Jay study was the fact that forty percent of male victims were forced to service female clients. The lens through which we currently view human trafficking has to change and we need to acknowledge that this scourge defies gender, race, and socioeconomic status. Instead of viewing victims of trafficking as either a male or female problem, we have to now examine the expanse of its scope and treat it as a human problem.

Later that day in the emergency room, the fluorescent lights flickered overhead as I lay on the well-worn beige table covered in plastic. I held a wad of paper towels to my nose as blood slowly dripped on my chin and slid down my face and the Quaaludes the group had given me earlier found their full effect. I struggled to listen as Deacon, another member of the group who had been tasked with taking me to the E.R. spoke with the doctor. “He’s an accident prone kid with an active imagination. He must have thought he could fly the way he jumped out of that tree! He must have hit every branch on his way down!” Deacon said as he and the doctor laughed.

The doctor turned and entered the room as he smiled that smile of someone who thought that children should be “seen and not heard.” I knew I had to try or I would never escape the nightmare I was trapped in. “Well hello there young man! I hear you fell out of a tree and had a little accident!” he said smiling. “Let’s have a look at that nose!” the doctor said as he felt the bone that had been twisted and turned by the impact of Duke’s fist. “It’s broken all right! This is going to hurt but we have to reset your nose.” He said as he grabbed my nose jerking it back in place. I was so high on Quaaludes that I didn’t even wince.

Next he began inspecting my ribs only to discover one of them was cracked. As he began applying a compression wrap around my ribs I noticed Deacon had gone outside to smoke. “They’re hurting me and making me have sex for money.” I whispered into the doctor’s ear. “What did you say?” he said as he stopped to look at me with shock on his face. “They force me to have sex with people for money. They’re the one who broke my nose and my ribs!” I said mustering all the strength I could as I fought the effect of the Quaaludes. “Don’t worry son I’ll take care of this!” the doctor said.

I thought the doctor would finally be the one to save my life. I had tried so many times before to tell people that I was being raped and beaten as I was sold for sex but no one had ever listened. As I arrived back at Duke's office all of my hopes would be dashed as I saw Deacon take Duke aside and tell him exactly what I had said to the doctor. As Duke approached me I could see the rage on his face and as if in slow motion I saw his right hand with large gold rings on every finger collide with my already cracked rib. Later that day in the same hospital and the same doctor I was treated for three badly broken ribs and I never spoke a word.

It would take four more years for me to escape the grip of those who sold me to the depths of perversion for profit. I would pay the ultimate price for my freedom, but through my sacrifice I would discover a fire that rages within my soul to this day. At the age of twelve, I stood in my mother's rose garden, a bottle of sleeping pills in one hand and a bottle of vodka in the other. As the agents of my demise tumbled down my throat chased by the warmth of the vodka, I felt a sense of peace wash over me. I felt a peace I had never felt before. I had finally escaped the nightmare and I was no longer afraid.

Suddenly, I awoke in the emergency room to a group of wide-eyed doctors who had witnessed me depart this world for a total of three minutes. God, it seems, had other plans for me as I was placed under the supervision of the county and finally free of my nightmare. I sincerely believe it is through God's intervention that I am here today as a survivor of human trafficking and not a casualty. I stand here today not only as a survivor but as a living testament that there is always hope and a light inside all of us that no one can extinguish.

The U.S. Department of Justice estimates close to 300,000 children are at risk of being prostituted in the United States. The average age of a sex trafficked child in the United States is 13–14 years old (National Center for Missing and Exploited Children). The National Center for Missing and Exploited Children estimates a pimp can make \$150,000–\$200,000 per child a year and the average pimp has 4 to 6 girls. FBI Report on Crime 2011 reported: "The average life expectancy of a trafficked child is 7 years."

We are facing a crisis in this country as sex traffickers are increasingly targeting our children. They have even infiltrated schools sending children who act as recruiters to lure unsuspecting victims into being trafficked. Gang raped and imprisoned by threats of violence, they are forced into a life of their innocence being sold to the highest bidder even as they attend school and appear to have a normal life.

To learn more about how you can save the next child from becoming a victim of sex trafficking visit the Shared Hope International website <http://sharedhope.org> or the ECPAT USA website <http://www.ecpatusa.org/home>. To learn more about trafficked boys and how you can help stop the tide of an invisible tragedy visit the Restore One website <http://www.restoreonelife.org>. Together we can be the change the world needs so that not one more child has to endure a lifetime of pain and suffering and ensure the future of the most precious gift we have on this earth, our children.

Source: Elam, Jerome. "Call Me Collin: The Diary of a Sex Trafficked Boy." *Communities Digital News*, July 14, 2015. Accessed July 27, 2016. <http://www.commdiginews.com/life/call-me-collin-the-diary-of-a-sex-trafficked-boy-44976/#bssSAtWdUIQJ3c8O.99>.

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A wise legislator once said, we need the studies and statistics to get traction on your problem, but it is also important to put a human face on it. Perhaps part of the reason it has taken so long to recognize the egregious problem of male trafficking is that we have until recently had neither studies, nor the male trafficking victim who was willing to tell in detail the story of his trafficking. Although audiences were asking “What about boys?,” for years experts had mainly second or third hand anecdotal information with which to respond. As one advocate said, “We’re conditioned as a community to identify female [sex] trafficking victims more readily because that has been the focus of the anti-trafficking movement.”

Several recent studies made it possible to turn the corner on male sex trafficking. The first was a John Jay Criminal Justice study on commercial sexual exploitation of children in New York City. The authors of the study were surprised to find that boys comprised about 50 percent of the victims. Most were U.S. born and raised, that is, they are domestic minor *male* sex trafficking victims.

The second was a study in the United States done by ECPAT USA. It found that boys and young men are rarely identified as being involved in prostitution and even more rarely arrested for offenses. In other words, almost all the law enforcement arrests for prostitution target females. In addition, the ECPAT study found that very rarely are boys and young men rescued or recovered as human trafficking victims.

Other prejudices also get in the way of societal recognition and acceptance of boys as sex trafficking victims, and they may also be part of the reason we have so few male victims willing to speak out as survivors. The first is that boys are supposed to be strong, and exploitation connotes weakness or a vulnerability. But experts say that boys who are trafficked have similar problems to girls who are trafficked: 70 percent have had some kind of sexual abuse in their childhoods. They come from abusive homes and broken families with alcohol and drug disorders. Physical and/or mental abuse also are common precursors in male victims of trafficking, just as they are in females.

Another misconception is that a boy who is trafficked is gay. Steve Pricopio, who runs a program for male victims of trafficking, sexual exploitation, and sexual abuse, notes that it is not an issue of sexual orientation, but rather a series of circumstances beyond the person’s control which creates the vulnerability that leads to sexual exploitation. While LGBTQ comprised about one-third of the victims in the John Jay College study, the other two-thirds were non-gay, “gay for pay” and heterosexuals.

We need to know much more about the modus operandi of sex trafficking of men and boys. How are they recruited? Where do they live? Do they have traffickers and if so, what is the modus operandi of the trafficker? What role does the Internet play in male/boy trafficking? Do male victims have the same kinds of physical and mental health issues that females have? Finally, how will we find the answers to these questions, given the reluctance of boys and men to talk about victimization? A critical role is played by survivors like Elam, who are willing to talk about what happened to them, and who can encourage others to speak out. This is one of the most serious taboos hindering progress in male sex trafficking, and all the more important for

researchers, policy makers, and advocates to be proactive in helping more voices be heard and in creating programs specifically designed for boys and men to get comprehensive sets of services.

FURTHER READING

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AMNESTY INTERNATIONAL'S CALL FOR HUMAN RIGHTS OF SEX WORKERS (2016)

- **Document:** Amnesty International Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers, Pol 30/4062
- **When:** Draft released in 2015; full policy approved May 26, 2016
- **Where:** Amnesty International London, England
- **Significance:** Nearly two decades after the passage of the Trafficking Victims Protection Act, the controversy over prostitution continued: is prostitution per se sex trafficking, is it linked to sex trafficking, or is it an activity separate from sex trafficking? How should it be addressed in law (criminalize, decriminalize, or legalize and regulate)? Feminists, faith-based organizations, and human rights groups debated in conferences, dueling articles, and peer-reviewed journals. Then, in 2016, Amnesty International, a world-renowned human rights organization, published this call to recognize the human rights of sex workers.

GINA'S STORY

I grew up in Salt Lake City and was sexually abused by my grandfather as early as I can remember. My dad and mom were drug addicts and my dad beat my mom. In 7th grade when I was 13, I met my first trafficker, he was 25 years old. The first thing he did was get me involved in a felony crime. He robbed a jewelry store and I drove the getaway car. He got caught. While he was in prison, his sister started trafficking me and sold me to a dope dealer. I was with this guy for two years and turned tricks for him for drugs. After I ran away from him, I hooked up with a guy who was 35 years old and seemed to be normal at first. He was a property manager for the sheriff's department in Salt Lake City. He was really violent and had a really bad temper. He beat me a lot. Then he started to sell me to his friends, and after that, on the street. As I think back on it, I realize that all my life, sex was always taken from me. I was always sold, and I was always beaten. Finally, one time, the police were able to step in. My pimp got a year in jail. During that time, I lived a pretty peaceful life. Then he got out. I was terrified of him so I went over to my cousin Jessie's house to hide. He was this young, strong, good guy and he was in the military. He saw my

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This policy has been developed in recognition of the high rates of human rights abuses experienced globally by individuals who engage in sex work; a term that Amnesty International uses only in regard to consensual exchanges between adults. It identifies the most prominent barriers to the realization of sex workers' human rights and underlines states' obligations to address them.

Multiple and intersecting forms of discrimination and structural inequalities have an impact on the lives of many sex workers and can play a role in a person's decision to engage or remain in sex work, as well as their experiences while in sex work. People who face multiple forms of discrimination and structural inequalities, such as women and those who face discrimination on the basis of their sexual orientation, gender identity, race, caste, ethnicity, Indigenous identity, migrant or other status, are often over-represented in sex work.

In addition to the marginalization that sex workers can experience on the basis of their gender and/or other aspects of their identity or status, they also frequently

encounter censure, judgement and blame for being seen to transgress social or sexual norms and/or gender stereotypes on the basis of their participation in sex work. The stigmatized and criminalized nature of sex work routinely forces sex workers to operate at the margins of society in clandestine and dangerous environments with little recourse to safety or state protection. As a result, sex workers face an increased risk of violence and abuse, and such crimes against them often go unreported, under-investigated and/or unpunished, offering perpetrators impunity.

This policy sets out states' obligations to respect, protect and fulfil the human rights of sex workers. It also details the actions by states that Amnesty International believes will best address the barriers that sex workers routinely face in realizing their rights. This policy is grounded in the principles of harm reduction, gender equality, recognition of the personal agency of sex workers, and general international human rights principles.

In particular, the policy sets forth that states must:

- Address underlying harmful gender and other stereotypes, discrimination and structural inequalities that drive marginalization and exclusion and lead to individuals from marginalized groups selling sex in disproportionate numbers, and to discrimination against sex workers;
- Comply with their obligations with respect to all people's economic, social and cultural rights, in particular guaranteeing access for all to education and employment options and social security to prevent any person from having to rely on selling sex as a means of survival due to poverty or discrimination;
- Combat gender and other forms of direct and indirect discrimination and ensure that the human rights of all individuals, including women and girls, and those at risk of discrimination and abuse because of their sexual orientation or gender identity and expression, race, caste, ethnicity, Indigenous identity, migrant status or other characteristics of their identity, are equally respected, protected and fulfilled;
- Repeal existing laws and refrain from introducing new laws that criminalize or penalize directly or in practice the consensual exchange of sexual services between adults for remuneration;
- Refrain from the discriminatory enforcement against sex workers of other laws, such as those on vagrancy, loitering, and immigration requirements;
- Ensure the meaningful participation of sex workers in the development of law and policies that directly affect their lives and safety;
- Refocus laws away from catch-all offences that criminalize most or all aspects of sex work and towards laws and policies that protect sex workers' health and safety and that oppose all acts of exploitation and trafficking in commercial sex (including of children);

pimp coming and he told me to go stay in the house. He went outside and I could hear him saying, "Get out of here. She's not going back on the street. She's not going with you." The next thing I knew they were fighting. We heard a sound at the door and when we opened the door there was my cousin Jessie who had tried to rescue me. My pimp had stabbed him in the heart. Jessie died that night, and this guy was arrested and finally went away to prison for 9 years. That's how I ultimately got out. I was 22 years old when that happened.

- Ensure that there are effective frameworks and services that allow people to leave sex work if and when they choose; and
- Ensure that sex workers have equal access to justice, health care and other public services, and to equal protection under the law.

States should implement the above positive obligations through the following three levels of interventions:

1. Applying criminal laws to prevent forced labour, human trafficking, abuse and violence in the context of commercial sex and the involvement of children in commercial sex acts;
2. Ensuring that legal protections pertaining to health, employment and discrimination are accessible to sex workers and are effective in protecting them from abuse and exploitation; and
3. Putting in place specific economic, social and cultural law and policy measures in order to address the intersectional discrimination, harmful gender stereotypes and denial of economic, social and cultural rights that may lead to entry into sex work, stigmatize sex workers and prevent exit for those who wish to stop selling sex.

Amnesty International calls for the decriminalization of all aspects of adult consensual sex work due to the foreseeable barriers that criminalization creates to the realization of the human rights of sex workers. As described further in this policy, Amnesty International considers that to protect the rights of sex workers, it is necessary not only to repeal laws which criminalize the sale of sex, but also to repeal those which make the buying of sex from consenting adults or the organization of sex work (such as prohibitions on renting premises for sex work) a criminal offence. Such laws force sex workers to operate covertly in ways that compromise their safety, prohibit actions that sex workers take to maximize their safety, and serve to deny sex workers support or protection from government officials. They therefore undermine a range of sex workers' human rights, including their rights to security of person, housing and health.

This policy does not argue that there is a human right to buy sex or a human right to financially benefit from the sale of sex by another person. Rather, it calls for sex workers to be protected from individuals who seek to exploit and harm them and it recognizes that the criminalization of adult consensual sex work interferes with the realization of the human rights of sex workers.

Amnesty International does not take a position on the exact form that regulation of sex work should take, or whether it is necessary for states to develop regulations specifically designed for sex work, which are separate from the general laws that broadly regulate other businesses or employment practices in a jurisdiction.

Related Amnesty International Positions

Forced labour and human trafficking (within any country or across borders, including for the purpose of sexual activity) constitute serious human rights abuses and must be criminalized. Under international law, states have a range of obligations to

prevent, suppress and punish trafficking in persons, especially women and children, and to protect the human rights of victims of trafficking.

Children involved in commercial sex acts are victims of sexual exploitation, recognized by the International Labour Organization as one of the worst forms of child labour and a grave human rights abuse. They are entitled to remedies and reparation, including provision of all necessary support. States have obligations to address underlying factors that increase the vulnerability of children to sexual exploitation (including but not limited to lack of social support, discrimination, homelessness, poverty, harmful gender stereotypes and structural inequality). Under international law, states must ensure that offering, delivering or accepting a child for the purpose of sexual exploitation is treated as a criminal offence, and must take all appropriate measures to prevent the exploitation and abuse of children. States have additional responsibilities to protect the rights of children, including by ensuring that children are not prosecuted or otherwise penalized for involvement in commercial sex but are supported as victims of crime. Along these lines, criminal justice systems should not be used as the primary entry point to provide services to children who are engaging in commercial sex.

People who engage in sex work are entitled to respect for the full-range of their human rights on the basis of equality and non-discrimination. This policy should therefore be considered in conjunction with Amnesty International's existing and future relevant human rights policies and positions.

Law and Policy Development by Governments

The rights of all sex workers to participate without discrimination in decisions affecting their lives must be respected. In establishing laws and policies relevant to sex work, whether they relate to entry, participation or exit, governments should ensure the meaningful participation and consultation of sex workers, including, in particular current sex workers. Participation must involve sex workers from marginalized groups and those facing discrimination on the basis of, for example, sexual orientation, gender identity, race, caste, ethnicity and Indigenous identity. To be effective, such consultation must allow participation of sex workers in a way that permits anonymous engagement and other measures required to protect them from criminalization, retaliation, or harm. The consultation process should also ensure effective access to information and resources to allow meaningful engagement.

Decisions at all levels of government including at the national, regional, local and community levels, must ensure the protection of the human rights of sex workers, including by refraining from criminalizing or penalizing sex work.

Criminalization and Other Penalties

The primary and secondary evidence gathered by Amnesty International demonstrates that criminalization and penalization of sex work have a foreseeably negative impact on a range of human rights. These include: the rights to life, liberty, autonomy and security of person; the right to equality and non-discrimination; the right

to be free from torture or cruel, inhuman or degrading treatment or punishment; the right to privacy; the right to the highest attainable standard of health; the right to information and education; the right to freedom of opinion and expression; the right to adequate housing; the right to just and favourable conditions of work; the right to family life and to found a family; and the right to remedy for human rights abuses.

Evidence indicates that criminalization interferes with and undermines sex workers' right to health services and information, in particular the prevention, testing and treatment of sexually transmitted infections (STIs) and HIV. Criminalization of sex work has specifically been shown to directly undermine global HIV prevention efforts. For example, police in many countries frequently confiscate and cite the use of condoms as evidence of sex work offences, creating a disincentive to their use and further jeopardizing the right to the highest attainable standard of health.

Criminalizing consensual adult sexual activities has been recognized as violating states' obligation to respect the right to sexual and reproductive health as it amounts to a legal barrier that impedes access to sexual and reproductive health services. States have an immediate obligation to "repeal or eliminate laws, policies and practices that criminalize, obstruct or undermine [an] individual's or particular group's access to sexual and reproductive health facilities, services, goods and information." The UN Committee on Economic Social and Cultural Rights has confirmed that states must specifically ensure that sex workers have access to the full range of sexual and reproductive health care services.

Where sex workers are required by law to operate alone and/or are prohibited from securing premises, their capacity to secure a safe working environment is greatly reduced. Laws against paying for consensual sex or organizing sex work have a detrimental impact on their ability to work and lead to the penalization of sex workers. Such laws regularly force sex workers to operate covertly and/or prohibit actions that sex workers take to manage their safety and, in doing so, violate sex workers' human rights, including their rights to security of person, housing and health. Laws against organizing sex work are often enforced against sex workers, and in some circumstances, their family members.

Criminalization of sex work also creates an environment where law enforcement officers and other officials can perpetrate violence, harassment and extortion against sex workers with impunity. Where sex workers face the threat of criminalization, penalization or loss of livelihood when or if they report crimes against themselves to police, their access to justice and equal protection under the law is significantly compromised. This, in turn, offers impunity to perpetrators of violence and abuse against sex workers.

The enforcement of laws criminalizing sex work can lead to forced evictions, arbitrary arrests, investigations, surveillance, prosecutions and severe punishment of sex workers, including flogging, stoning or death. It can also limit their ability to access housing, education and social security. Such violations can also have a particularly negative impact on sex workers living in poverty, as well as their children and families.

The criminalization of sex work also frequently works to exclude sex workers from protections available to others under labour laws, as well as health and safety laws,

and can impede or prohibit them from forming or joining trade unions to secure better working conditions and health and safety standards. This, in turn, can render sex workers at greater risk of exploitation by third parties. Criminalization of sex work also undermines the right to privacy, which includes individuals' freedom to make autonomous decisions with regard to their bodies. Criminalization and penalization measures can have a disparate impact on women in sex work, given that women make up the majority of those living in poverty worldwide, have less access to education, employment opportunities and economic resources, and often bear the primary burden of family and community caretaking.

Sex workers are at risk of multiple, intersecting forms of criminalization and penalization. Sex workers who are at risk of discrimination on the basis of their sexual orientation and/or gender identity face criminalization in some countries under laws against sex work and/or laws against sexual activity between people of the same sex, or laws enforcing norms of gender expression such as prohibitions against cross-dressing. Sex workers who are living with HIV may also face criminalization under laws on HIV transmission, exposure or non-disclosure, in addition to the criminalization they face under sex work laws. Women who are sex workers may face additional criminalization in countries where access to abortion is prohibited by law and/or where sex outside marriage is criminalized.

Physical and Sexual Violence

In many countries sex workers face high levels of violence at the hands of both state and non-state actors. This violence is often a manifestation of the stigma and discrimination directed towards sex workers and is exacerbated by their criminalized status. Violence faced by sex workers is often gender-based and or/influenced by other forms of discrimination.

Violence against sex workers is further compounded by criminal and other punitive laws and policies against sex work which inhibit sex workers' ability to seek state protection from violence and and/or compel sex workers to operate in covert ways that compromise their safety. In most countries law enforcement is not adequately focused on the protection of sex workers from violence but instead on prohibition of sex work through enforcement of criminal law. This creates an adversarial relationship between sex workers and law enforcement officials that compromises the safety of sex workers and offers impunity to perpetrators, including law enforcement officials themselves, of violence and abuse against sex workers.

Laws that criminalize the buying of sex or general organizational aspects of sex work, such as laws regarding brothel-keeping or solicitation, often force sex workers to work in ways that compromise their safety. Bans on buying sex criminalize the transaction between the sex worker and the client. While these laws are often intended to shift police focus, and therefore blame, from the sex worker to the client, in practice they can lead to sex workers having to take risks to protect their clients from detection by law enforcement, such as visiting locations determined only by their clients. Laws prohibiting organizational aspects of sex work often ban sex workers from working together, renting secure premises, or hiring security or other support staff, meaning that they face prosecution and other penalties if they try to

operate in safety. In prohibiting activities that help keep sex workers safe, criminalization denies sex workers their right to security of person.

Regulation of Sex Work

Decriminalization of sex work does not mean the total absence of any regulation of sex work. Rather it means that laws should be refocused away from catch-all offences that criminalize most or all aspects of sex work towards laws and policies that provide protection for sex workers from acts of exploitation and abuse.

Amnesty International does not take a position on the exact form that regulation of sex work should take, or whether it is necessary for such measures to be either within or apart from the general laws that broadly regulate other businesses or employment practices in a country. Rather, this should be determined in collaboration with sex workers and should comply with human rights standards.

Regulation should respect the agency of sex workers and guarantee that all individuals who undertake sex work can do so in safe conditions, are free from exploitation, and are able to continue or stop selling sex when and if they choose.

Human Trafficking

Human trafficking amounts to a grave human rights abuse and states have an obligation under international human rights and international criminal law to ensure that it is recognized as a criminal offence. Amnesty International supports the criminalization of human trafficking and calls on states to guarantee effective legal protections against it. States must investigate, prosecute and bring traffickers to justice and guarantee victims access to justice and reparation, including with all necessary levels of support. Trafficking victims should not be criminalized.

Sex work (which must be between adults and consensual in order to be considered sex work) is distinct from human trafficking. The conflation of human trafficking with sex work can result in broad and over-reaching initiatives that seek to eradicate all commercial sex as a means to end trafficking. Such approaches work in practice to violate sex workers' human rights, and in general can make sex workers and people who have been trafficked more vulnerable to violence and harm. Additionally, there is a lack of evidence to suggest that such approaches are successful in addressing trafficking (in terms of preventing, identifying and protecting victims and supporting prosecution of perpetrators).

Source: Amnesty International. Policy on State Obligations to Respect, Protect, and Fulfil the Human Rights of Sex Workers. May 26, 2016, Index No. POL 30/4062/2016. <https://www.amnesty.org/en/documents/pol30/4062/2016/en/>. Used by permission of Amnesty International.

ANALYSIS

When a venerated international human rights organization like Amnesty International, known mainly for its call for amnesty for prisoners of conscience all over

the world, publishes a call for “human rights for sex workers,” the call itself is clarification. It delineates for the first time a clear policy difference between mainstream human rights and radical feminist organizations on the issue of prostitution and sex trafficking. Fascinatingly, Amnesty’s call went far further than most other human rights organizations have gone in the past. Many have called for decriminalization of prostitution, but few have gone so far as to suggest that all criminal provisions of surrounding activities—such as pimping, pandering, procuring, and maintaining brothels (“laws that focus on the general organizational aspects of sex work”) should also be abolished. Amnesty’s focus on empowerment and respect is well intentioned, but the discussion about *how* to generate such power for the vulnerable and exploited has been the point of hot debate and, as the next reading demonstrates, will continue to be so.

FURTHER READING

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A FEMINIST RESPONSE TO AMNESTY'S CALL (2016)

- **Document:** The Framing of Gender Apartheid: Amnesty International and Prostitution
 - **When:** 2016
 - **Where:** *Huffington Post*, *The WorldPost*
 - **Significance:** One of the first responses to Amnesty International's draft resolution for full decriminalization of the sex trade, this fierce short piece makes clear the many philosophical, political, and practical problems with categorizing prostitution as a form of work. It also delineates the feminist approach—that prostitution is sex trafficking, and a form of sex slavery—and calls out Amnesty International for failing to stand up for women's human rights.
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DOCUMENT

What would happen if every country decriminalized prostitution? Not just the few that have already disastrously done so, but what if every government legitimized pimps and brothel owners and failed to hold men accountable for purchasing human beings for sex? Would the United Nations and its member states launch a #2050 Agenda for Investing in the Sex Trade as a Solution and Sustainable Development for Women and Girls, Especially the Most Indigent?

What marketing slogans would ensue? Might public agencies launch poverty alleviation campaigns? "First Nations, Indigenous, Aboriginal, African-Americans and Global South Populations: Are you Poor, Young, Inceded, Transgendered, Homeless? With our help, the Sex Trade will provide you with shelter, food, free condoms and the opportunity to contribute to your (or a foreign) country's Gross National Product. No experience or education required."

These are not teasers for Margaret Atwood's next novel, but a concept set forth by Amnesty International, one of the most prominent and respected human rights organization in the world. After a contentious debate at its International Council Meeting in Dublin this August, Amnesty's delegates passed a resolution for full decriminalization of the sex trade, including pimps, brothel owners and buyers of sex, as a means to protect prostituted individuals. Amnesty's International Board is about to review, and likely to adopt, a policy framework that would render the sex trade an acceptable and desirable employer.

Although a number of Amnesty country sections, including those of France, Israel and Sweden, opposed the decision, its stubborn march toward urging governments to embrace what effectively is legalization of prostitution seems unstoppable. With inexplicable disdain, Amnesty's leadership ignored the thousands of voices from the global grassroots women's movement, survivors of prostitution, scholars and

researchers, lesbian and gay leaders, and others, including a former US president and the heirs of Martin Luther King, Jr.

Instead, Amnesty seems swayed more by the incessant chants of a formidable pro-pimping culture and what the journalist Meghan Murphy calls “Playboy Feminism,” than abiding by the Universal Declaration of Human Rights. Amnesty welcomed convicted pimps to shape the policy and others linked to the sex trade to defend them on the media circuit.

Women have the unequivocal right to make decisions about their health, body, sexuality and reproductive life. Men, on the other hand, do not have the fundamental right to gain access to that body in the sex trade or in any other sphere, despite Amnesty’s premise to the contrary. Amnesty is refusing to admit that the prostituted suffer at the hands of buyers regardless of the legal environment, willfully ignoring “johns” own accounts of their predilection for dehumanization and research showing their propensity for sexual violence. As Native Canadian survivor Bridget Perrier states: “It is not the laws that are killing our women; it is the men.” Examples of gender equality frameworks that address prostitution are at Amnesty’s fingertips in countries like Sweden and Norway, but it prefers to dismiss them in favor of the brothels-are-businesses models, with disastrous living proof of these in New Zealand, the Netherlands and Germany.

“We need to eroticize equality. Prostitution is about buying a body, not mutual pleasure and free choice,” says Gloria Steinem, whose pleas to Amnesty were also left unanswered. “The most successful way to tackle this dangerous inequality is neither criminalization or legalization, but the ‘Third Way’: decriminalize the prostituted while offering meaningful exit strategies and hold the buyers accountable.”

The lack of understanding of the indivisibility of the human rights of women and girls is not new to Amnesty. From refusing to speak out in the nineties against harmful traditional practices, such as female genital mutilation, to dragging its feet to include reproductive rights in its mandate, Amnesty preferred siding with countless governments on characterizing such violations as mandated by culture or religion.

Think of this: over three million women and girls are sold to men on a daily basis in mega-brothels in India. Under Amnesty’s plan, that number would exponentially increase with legalized demand and cultural acceptance of prostitution as a viable livelihood for poor, low caste and invisible girls and young women. A vote to endorse the global sex trade would wipe out any progress to advance women’s rights that Amnesty might have made in the past years.

The Afrikaans term apartheid means “apart and aside” and evokes one of the most brutal regimes in modern history. By encouraging governments to enshrine the sex trade as just another potential employer, Amnesty is promoting gender apartheid, the segregation of women between those who deserve access to economic and educational opportunities and those who are condemned to prostitution. Make no mistake: as long as women are for sale, no woman will be viewed as equal in corporate boardrooms, in the halls of legislature, or in the home.

The forces supporting Amnesty’s defective vision for women and girls are mighty and the narrative is familiar. Many of us who have signed this Global Declaration are

daughters of lost tribes, who at our mothers' breasts heard whispered tales of resilience and survival in the midst of invaders, genocide and forgotten languages. The rhythms of colonization do not change; they run through women's bodies whose access is acquired by any means necessary, including violence, control and money.

The powers may have spoken but justice has not. To every Goliath there is a David; to every Dred Scott there is a movement awakening. Battles can be lost, but the rebel spirits survive in the name of our foremothers and their great-granddaughters yet to be born. It is not too late for Amnesty International. A visionary human rights organization crafts its mission on what we'd like the world to be, not accommodate the untold suffering that exists. But until Amnesty rights this wrong, its legitimacy is tarnished; its soul, lost; its candle, extinguished.

Source: Bien-Amie, Taina. "The Framing of Gender Apartheid: Amnesty International and Prostitution," published in *Huffington Post, The WorldPost*. http://www.huffingtonpost.com/taina-bienaime/the-framing-of-gender-apa_b_8273268.html. Used by permission of Taina Bien-Amie.

ANALYSIS

As the debate about prostitution and its relationship to sex trafficking continues, a clear difference between human rights organization and feminist organizations emerged. Human rights organizations consider prostitution a form of work, needing only a legal framework to protect it; feminists argue that prostitution is per se violence against women, linked inextricably to trafficking, and inherently dehumanizing and discriminatory.

Recall the antislavery documents we read in Chapter 2. In Amnesty International's call for full decriminalization of prostitution are echoes of the First Forced Labour Convention, the Universal Declaration of Human Rights, Human Rights Standards for the Treatment of Trafficked Persons, and other human rights documents and conventions developed over the last century. In the feminist response are clear echoes of Josephine Butler's early work condemning the double standards of behavior for men and women as reflected in the Contagious Diseases Act, the first International Convention on the Suppression of White Slave Traffic, the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, and Kathleen Barry's visionary work, *Female Sexual Slavery*. As Taina Bien-Amie argues, true human rights will incorporate true equality between the sexes. Until then, the debate will continue.

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EXECUTIVE ORDER ON HUMAN TRAFFICKING (2017)

- **Document:** Presidential Executive Order on Enforcing Federal Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking
 - **When:** February 9, 2017
 - **Where:** The White House
 - **Significance:** Less than a month into his presidency, President Trump issued an Executive Order directing federal agencies to enforce federal law on transnational crime and international trafficking. This document set the stage for U.S. leadership on transnational crime and connected threat networks, including drug trafficking, arms trafficking, and human trafficking.
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DOCUMENT

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Purpose. Transnational criminal organizations and subsidiary organizations, including transnational drug cartels, have spread throughout the Nation, threatening the safety of the United States and its citizens. These organizations derive revenue through widespread illegal conduct, including acts of violence and abuse that exhibit a wanton disregard for human life. They, for example, have been known to commit brutal murders, rapes, and other barbaric acts.

These groups are drivers of crime, corruption, violence, and misery. In particular, the trafficking by cartels of controlled substances has triggered a resurgence in deadly drug abuse and a corresponding rise in violent crime related to drugs. Likewise, the trafficking and smuggling of human beings by transnational criminal groups risks creating a humanitarian crisis. These crimes, along with many others, are enriching and empowering these organizations to the detriment of the American people.

A comprehensive and decisive approach is required to dismantle these organized crime syndicates and restore safety for the American people.

Sec. 2. Policy. It shall be the policy of the executive branch to:

- (a) strengthen enforcement of Federal law in order to thwart transnational criminal organizations and subsidiary organizations, including criminal gangs, cartels, racketeering organizations, and other groups engaged in illicit activities that present a threat to public safety and national security and that are related to, for example:
 - (i) the illegal smuggling and trafficking of humans, drugs or other substances, wildlife, and weapons;

- (ii) corruption, cybercrime, fraud, financial crimes, and intellectual-property theft; or
 - (iii) the illegal concealment or transfer of proceeds derived from such illicit activities.
- (b) ensure that Federal law enforcement agencies give a high priority and devote sufficient resources to efforts to identify, interdict, disrupt, and dismantle transnational criminal organizations and subsidiary organizations, including through the investigation, apprehension, and prosecution of members of such organizations, the extradition of members of such organizations to face justice in the United States and, where appropriate and to the extent permitted by law, the swift removal from the United States of foreign nationals who are members of such organizations;
 - (c) maximize the extent to which all Federal agencies share information and coordinate with Federal law enforcement agencies, as permitted by law, in order to identify, interdict, and dismantle transnational criminal organizations and subsidiary organizations;
 - (d) enhance cooperation with foreign counterparts against transnational criminal organizations and subsidiary organizations, including, where appropriate and permitted by law, through sharing of intelligence and law enforcement information and through increased security sector assistance to foreign partners by the Attorney General and the Secretary of Homeland Security;
 - (e) develop strategies, under the guidance of the Secretary of State, the Attorney General, and the Secretary of Homeland Security, to maximize coordination among agencies—such as through the Organized Crime Drug Enforcement Task Forces (OCDETF), Special Operations Division, the OCDETF Fusion Center, and the International Organized Crime Intelligence and Operations Center—to counter the crimes described in subsection (a) of this section, consistent with applicable Federal law; and
 - (f) pursue and support additional efforts to prevent the operational success of transnational criminal organizations and subsidiary organizations within and beyond the United States, to include prosecution of ancillary criminal offenses, such as immigration fraud and visa fraud, and the seizure of the implements of such organizations and forfeiture of the proceeds of their criminal activity.

Sec. 3. Implementation. In furtherance of the policy set forth in section 2 of this order, the Secretary of State, the Attorney General, the Secretary of Homeland Security, and the Director of National Intelligence, or their designees, shall co-chair and direct the existing interagency Threat Mitigation Working Group (TMWG), which shall:

- (a) work to support and improve the coordination of Federal agencies' efforts to identify, interdict, investigate, prosecute, and dismantle transnational criminal organizations and subsidiary organizations within and beyond the United States;

- (b) work to improve Federal agencies' provision, collection, reporting, and sharing of, and access to, data relevant to Federal efforts against transnational criminal organizations and subsidiary organizations;
- (c) work to increase intelligence and law enforcement information sharing with foreign partners battling transnational criminal organizations and subsidiary organizations, and to enhance international operational capabilities and cooperation;
- (d) assess Federal agencies' allocation of monetary and personnel resources for identifying, interdicting, and dismantling transnational criminal organizations and subsidiary organizations, as well as any resources that should be redirected toward these efforts;
- (e) identify Federal agencies' practices, any absence of practices, and funding needs that might hinder Federal efforts to effectively combat transnational criminal organizations and subsidiary organizations;
- (f) review relevant Federal laws to determine existing ways in which to identify, interdict, and disrupt the activity of transnational criminal organizations and subsidiary organizations, and ascertain which statutory authorities, including provisions under the Immigration and Nationality Act, could be better enforced or amended to prevent foreign members of these organizations or their associates from obtaining entry into the United States and from exploiting the United States immigration system;
- (g) in the interest of transparency and public safety, and in compliance with all applicable law, including the Privacy Act, issue reports at least once per quarter detailing convictions in the United States relating to transnational criminal organizations and their subsidiaries;
- (h) to the extent deemed useful by the Co-Chairs, and in their discretion, identify methods for Federal agencies to coordinate, as permitted by law, with State, tribal, and local governments and law enforcement agencies, foreign law enforcement partners, public-health organizations, and non-governmental organizations in order to aid in the identification, interdiction, and dismantling of transnational criminal organizations and subsidiary organizations;
- (i) to the extent deemed useful by the Co-Chairs, and in their discretion, consult with the Office of National Drug Control Policy in implementing this order; and
- (j) within 120 days of the date of this order, submit to the President a report on transnational criminal organizations and subsidiary organizations, including the extent of penetration of such organizations into the United States, and issue additional reports annually thereafter to describe the progress made in combating these criminal organizations, along with any recommended actions for dismantling them.

Source: The White House Press Secretary. "Presidential Executive Order on Enforcing Federal Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking." February 9, 2017. <https://www.whitehouse.gov/the-press-office/2017/02/09/presidential-executive-order-enforcing-federal-law-respect-transnational>.

ANALYSIS

In 2000, the United Nations passed a Transnational Organized Crime Convention and three protocols: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition. The Transnational Organized Crime Convention is considered a major step forward in the fight against transnational organized crime. It outlined the global threats posed by international organized criminal networks and created a framework for international cooperation to address the problems. All countries that signed and ratified the convention were required to draft and pass laws prohibiting international organized crime, including specific statutes and provision addressing conspiracy, money laundering, corruption, witness protection, obstruction of justice, and more. The convention also laid out a blueprint for international cooperation and assistance across borders including new extradition, agreements, mutual legal assistance, and law enforcement cooperation; and the promotion of training and technical assistance for capacity-building in new or developing countries. The Trafficking Protocol then outlined for countries an approach to addressing human trafficking that included prevention programs, strengthening all aspects of law enforcement, including investigation, arrest, prosecution, conviction, and sentencing.

Interestingly, President Trump's Executive Order (EO) is focused on transnational crime and preventing *international* trafficking. Much of the focus is on law enforcement efforts, on strengthening federal law enforcement agencies and their ability to coordinate forces to prevent trafficking from coming in to the United States. It is in keeping with his administration's focus on border security, on the connection between different kinds of international crime, and on throwing a wider net with a focus on international threat networks. It is less focused on domestic trafficking, on labor trafficking in supply chains, on education and awareness campaigns, and on victim services. Depending upon what lens this EO is viewed through, it will be considered a strong and capable response to the problem, or an approach too focused on law enforcement and border security. As this book goes to press, Congress is considering 12 new anti-trafficking bills, including the Trafficking Victims Protection Reauthorization Act of 2017. Much progress has been made, but there is much left to do.

FURTHER READING

- "Human Trafficking and Transnational Organized Crime: Assessing Trends and Combat Strategies," Hearing Before the Commission On Security and Cooperation in Europe, One Hundred Twelfth Congress, First Session, November 3, 2011. https://chrissmith.house.gov/uploadedfiles/2011.11.03_human_trafficking_and_transnational_organized_crime_-_assessing_trends_and_combat_strategies.pdf.
- United Nations Convention on Transnational Organized Crime and Protocols Thereto. <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>.

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AN AFTERWORD ON TERMINOLOGY RELATED TO MODERN SLAVERY

This book is about the problem of modern-day slavery and the development of a movement to combat it. Examining the laws, treaties, conventions, policy papers, and the materials, we have created a document history of modern slavery in the U.S. and highlighted some of the leaders who are working to stop it. Over the centuries, and especially in the last half century, new forms of slavery have emerged and new phrases and terms entered the lexicon. Depending upon which era, what group, and what focus we examine, we will find different terms utilized. While a glossary of terms might be helpful, even the term “human trafficking” has different definitions depending upon which country, region, state, or organization is defining it. Instead, we have presented the documents chronologically, and the reader can track the development of new words and phrases to describe the problem and the solutions proposed.

For example, the Thirteenth Amendment to the United States Constitution (1865) utilized the terms “slavery” and “involuntary servitude” to make clear what practices were abolished in relation to the African chattel slavery in particular. In 1905, the League of Nations ratified the International Agreement for the Suppression of the White Slave Traffic and in 1910 (The Mann Act), the U.S. Congress passed the White Slave Traffic Act, adding “traffic” to the slavery lexicon. These two documents only dealt with sexual slavery of females. The International Convention for the Suppression of the Traffic in Women and Children in 1921 included boys in the definition. In 1930, the International Labour Organization adopted the Forced Labour Convention, adding “forced labor” terminology. In 1949, the United Nations approved the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, introducing the term “traffic in persons.”

In the 1970s, the focus on the sexual slavery of women took on a renewed fervor with the women’s movement. The International Tribunal on Crimes Against Women heard testimony from more than 2,000 women from 40 countries about myriad forms of abuse against women. Kathleen Barry coined the term “female sexual slavery” as one of those terrible forms of abuse in her book of that title in 1979. For

Barry, there was no difference between “forced” or “free” prostitution or any situation where sexual power was used against females. This bold concept was challenged by feminists who had a different vision of female power, and began a 30-year polarized debate about voluntary versus “forced prostitution,” which continues to this day. In response to this argument, the term “sex work” or “sex workers” was coined to describe the belief that prostitution is a form of work entitled to the protection under the ILO’s basic tenet that work is a basic human right. It also countered feminist arguments that all women in prostitution are victims of sexual exploitation. Thus, those who use the term “sex work” or “sex worker” are indicating that they believe prostitution can be a viable work option for some people.

Fast-forward to the 1990s and the term “trafficking in persons” emerges in the first Congressional actions. In 1995, Representative Louise Slaughter introduced the first Congressional House Resolution against trafficking, “Expressing the Sense of the Congress concerning the trafficking of Burmese women and girls into Thailand for the purposes of forced prostitution.” The resolution talked about the “slavery-like” conditions experienced by Burmese women and states, “That it is the sense of the Congress that—(1) trafficking in persons violates the fundamental principle of human dignity. . . .” Senator Paul Wellstone’s 1998 Senate Resolution puts trafficking in persons in a global perspective and adds “domestic servitude” to the list of exploitation women suffer.

Senator Wellstone’s 1998 Senate Resolution requested a report from the Department of Justice and the Immigration and Naturalization Service regarding prosecutions under certain sections of the United States Code. Those sections included 18 U.S.C. 1581–1588, which are found in Chapter 77, “Peonage, Slavery, and Trafficking in Persons” and 18 U.S.C. 2421–2422, part of the Mann Act found in Chapter 117, “Transportation for Illegal Sexual Activity and Related Crimes.” The resolution report scope included in part the following, thereby tying trafficking in persons to slavery:

- § 1581—Peonage, obstructing enforcement
- § 1582—Vessels for slave trade
- § 1583—Enticement into slavery
- § 1584—Sale into involuntary servitude
- § 1585—Seizure, detention, transportation, or sale of slaves
- § 1586—Service on vessels in slave trade
- § 1587—Possession of slaves aboard vessel
- § 1588—Transportation of slaves from United States
- § 2421—Transportation generally
- § 2422—Coercion and enticement

This was the lead-in to one of the first bills against trafficking in the U.S. Congress, H.R. 1356. In March 1999, Representatives Christopher Smith and Marcie Kaptur introduced the “Freedom from Sexual Trafficking Act of 1999.” Representative Smith believed that specific legislation on “sexual trafficking” would garner greater support in Congress than a bill on all forms of trafficking. Representative Cynthia McKinney wanted to include labor issues but understood that at this point

in time, it wasn't realistic to "develop a broadly scoped bill addressing all issues of international human trafficking that could realistically pass this Congress." Note now the use of a catch-all phrase "human trafficking" that for some was used interchangeably with trafficking in persons.

In 2000, Representative Chris Smith introduced the "Victims of Trafficking and Violence Protection Act of 2000," commonly referred to as the Trafficking Victims Protection Act of 2000 (TVPA). This seminal piece of legislation cemented the ties between "trafficking in persons" as a "modern form of slavery" with the laws in the U.S. Code outlawing "peonage" and "slavery." The TVPA added these sections to Chapter 18:

- §1589—Forced labor
- §1590—Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor
- §1591—Sex trafficking of children or by force, fraud, or coercion
- §1592—Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor
- §1593—Mandatory restitution
- §1594—General provisions

The TVPA defined "sex trafficking" as the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act. Later, in the Justice for Victims of Trafficking Act (JVTA), this definition was amended to include the suspect activities of patronizing and soliciting.

The TVPA also created a new category of trafficking which it called "severe forms of trafficking in persons." Severe forms of trafficking means:

- (A) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person inducted to perform such act has not attained 18 years of age; or
- (B) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery.

The term "labor trafficking" is employed by many people, governments, agencies, and departments, but it is not the official legal term. It is not clear when and why the term "labor trafficking" became more popular than "forced labor," but "forced labor" is the term used in the TVPA and in the U.S. Code. In a similar manner, new phrases are emerging to describe specific kinds of trafficking, for instance, the JVTA refers to "domestic child human trafficking" to describe child trafficking in this country for purposes of prostitution. Throughout this book, we have used phrases and terminology from the documents themselves without attempting to choose the best terms or force or change terminology to fit our analysis.

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CHRONOLOGY

- 1688, February 18** The Religious Society of Friends (Quakers) publishes “A Minute Against Slavery” to plead for the abolishment of slavery and the slave trade.
- 1754** Quaker John Woolman publishes an abolitionist essay, “On Keeping Negroes.”
- 1758** The Quaker Philadelphia Yearly Meeting bans the buying and selling of slaves; slave owners are removed from positions of authority.
- 1774** Quakers who still own slaves are expelled from the Society of Friends.
- 1789, May 12** William Wilberforce delivers his first speech to the British House of Commons calling for the abolition of the slave trade.
- 1793, February 12** The U.S. Congress passes the Fugitive Slave Act, requiring the return of fugitive slaves to their owners.
- 1794, January 1–7** The first American Convention for Promoting the Abolition of Slavery is held in Philadelphia, PA. There were 24 Conventions held between 1794 and 1829.
- 1794, March 22** The U.S. Congress passes the Slave Trade Act prohibiting the use of any U.S. port or shipyard for the fitting out or building out of any ship meant for the introduction of slaves.
- 1800, May 10** Slave Trade Act is amended to prohibit any financial investment in a ship involved in the transatlantic slave trade.
- 1806, May 23** The Foreign Slave Trade Act of 1806 receives royal assent. The Act prohibits British subjects from transporting slaves to the territories of a foreign state.
- 1807, March 2** The U.S. Congress passes an act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States.

- 1807, March 25 British Parliament passes the Abolition of the Slave Trade Act, abolishing the slave trade in the British colonies and making it illegal to carry enslaved people in British ships.
- 1808, January 1 U.S. ban on all importation of slaves goes into effect.
- 1810 The Underground Railroad begins to be operated until 1860. It is estimated 100,000 slaves escaped using the network of loosely organized connections.
- 1818, April 20 The U.S. Congress amends the Slave Trade Act to shift the burden of proof from the prosecutor to the defendant.
- 1819, March 3 The Act of 1819 authorizes the president to send armed vessels to interdict slave traders and orders that slaves be returned to Africa, not sold in America.
- 1820, March 3 The U.S. Congress passes the Missouri Compromise, which kept the balance of slaves states and free states in place. Missouri was granted statehood as a slave state and Maine as a free state.
- 1820, May 15 Passage of the Act of 1820 in the U.S. Congress, making participation in the African slave trade an act of piracy, punishable by death.
- 1831, January 1 William Lloyd Garrison publishes the first edition of the weekly newspaper, *The Liberator*.
- 1833, December 6 The American Anti-Slavery Society is founded by William Lloyd Garrison. The society grows to 200,000 members in five years.
- 1833, December 9 The Philadelphia Female Anti-Slavery Society is established by Lucretia Mott and 21 other women.
- 1838, May 15–18 Anti-Slavery Convention of American Women is held in Philadelphia, Pennsylvania.
- 1840 The American Anti-Slavery Society splits over the public involvement of women. Those opposing women's public involvement form the American and Foreign Anti-Slavery Society.
- 1840, June 12–23 The World Anti-Slavery Convention is held in London and attracts 500 abolitionists from around the world.
- 1845 *Narrative of the Life of Frederick Douglass* is published, launching his public-speaking career.
- 1849, September 17 Harriet Tubman escapes from slavery.
- 1850, September 18 The Missouri Compromise becomes law and includes The Fugitive Slave Law of 1850 which says the U.S. government has to assist slave owners to recapture fugitive slaves.
- 1852, July 5 Frederick Douglass delivers his speech "What to the Slave Is the 4th of July?," pointing out the hypocrisy of white Americans celebrating freedom while more than 4 million people were still enslaved in the United States.

- 1853, April 20 Harriet Tubman starts working on the Underground Railroad. She is known as “Moses.”
- 1854, May 30 U.S. Congress passes the Kansas-Nebraska Act, which repeals the Missouri Compromise of 1820 that prohibited slavery north of latitude 36°30’.
- 1857, March 6 The U.S. Supreme Court decides the *Dred Scot v. Sanford* case and rules that a slave living in a free state is not entitled to his freedom when he returns to a slave state, that African Americans are not and cannot become American citizens; it rules the Missouri Compromise unconstitutional.
- 1860, November 6 Abraham Lincoln is elected president.
- 1860, December–January South Carolina secedes, followed by six more southern states.
- 1861 The Civil War begins with the Battle at Fort Sumter.
- 1861, April 12
- 1863, January 1 President Lincoln signs the Emancipation Proclamation, freeing all slaves in Confederate states.
- 1864, July 29 The first Contagious Diseases Act is passed by the British Parliament. It allows police in certain ports and army towns to arrest women suspected of being prostitutes and have the women subjected to compulsory physical exams to check for venereal diseases. If they have a disease, they could be confined to a lock hospital for up to three months.
- 1865, April 14 President Lincoln is assassinated by John Wilkes Booth.
- 1865, June 2 The Civil War ends with the terms for surrender of the Army of the Trans-Mississippi.
- 1865, December 6 The 13th Amendment to the U.S. Constitution is ratified, codifying the Emancipation Proclamation and abolishing slavery in the United States.
- 1866, June 11 The Contagious Diseases Act is modified to expand the law’s jurisdiction.
- 1868, July 20 The 14th Amendment to the U.S. Constitution is ratified, citizenship is provided to all persons “born or naturalized in the United States,” including former slaves (nullifying the *Dred Scot* decision), and all citizens are provided with “equal protection under the laws.”
- 1869, August 11 The Contagious Diseases Act is modified again to extend the jurisdiction of the law to include women suspected of prostitution outside of the military districts this Act originally encompassed.

- 1870, March 30 The 15th Amendment to the U.S. Constitution is ratified, which prohibits states from disenfranchising voters “on account of race, color, or previous condition of servitude.”
- 1886 Contagious Diseases Act is repealed.
- 1904, May 18 The International Agreement for the Suppression of the White Slave Traffic is introduced at the League of Nations. It is ratified on July 8, 1905.
- 1910, May 4 International Convention for the Suppression of White Slave Traffic is held.
- 1910, June 25 The U.S. Congress passes the White Slave Traffic Act of 1910, commonly known as The Mann Act.
- 1919, November 28 International Convention against Child Labour, Convention No. 5, enters into force on June 13, 1921.
- 1921, September 30 International Convention for the Suppression of the Traffic in Women and Children is on ratified June 15, 1922.
- 1926, September 25 United Nations Slavery Convention is signed in Geneva.
- 1930, June 28 Forced Labour Convention 1930 (No. 29) is adopted by the International Labour Organization. Enters into force, May 1, 1932.
- 1933, October 11 International Convention for the Suppression of the Traffic in Women of Full Age.
- 1949, December 2 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others is approved by UN General Assembly. Enters into force July 25, 1951.
- 1956, September 7 United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery is adopted. Enters into force April 30, 1957.
- 1973, June 6 The Convention concerning Minimum Age for Admission to Employment is adopted by the International Labour Organization. It is entered into force June 19, 1976.
- 1976, March 4–8 International Tribunal on Crimes against Women held in Brussels. More than 2,000 women from 40 countries participate.
- 1979, December 18 The Convention on the Elimination of All Forms of Discrimination against Women is adopted by the United Nations General Assembly. It enters into force as an international treaty on September 3, 1981.
- 1991, October 3 Moscow Document of the Organization for Security and Cooperation in Europe has a provision agreed to by all participating states to “seek to eliminate all forms of violence against women, and all forms of traffic in women and exploitation of prostitution of women including by ensuring adequate legal prohibitions against such acts and other appropriate measures.”

- 1995, February 1 The first Resolution is introduced in Congress on Trafficking is H. Con. Res. 21: Expressing the Sense of the Congress concerning the trafficking of Burmese women and girls into Thailand for the purposes of forced prostitution.
- 1995, September 4–15 The Fourth World Congress on Women is called on all governments to take actions to protect women and girls from trafficking.
- 1995, December 22 The UN General Assembly adopts Resolution 50/167, Traffic in women and girls.
- 1996, August 28 First World Congress against Commercial Sexual Exploitation of Children, Stockholm, Sweden, is held.
- 1996, December 12 The UN General Assembly adopts Resolution 51/66, Traffic in women and girls, calling on governments to criminalize trafficking in women and girls.
- 1997, December 12 The UN General Assembly adopts Resolution 55/98, Traffic in women and girls.
- 1998, March 10 The first Senate Resolution on the global problem of human trafficking is introduced. S.Con.Res. 82—“Expressing the sense of Congress concerning the worldwide trafficking of persons, that has a disproportionate impact on women and girls, and is condemned by the international community as a violation of fundamental human rights.”
- 1999, March 25 First bill addressing trafficking in persons is introduced in U.S. Congress, H.R. 1356 “The Freedom From Sexual Trafficking Act of 1999.”
- 1999, June 17 Worst Forms of Child Labour Convention (No. 182), Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour is adopted by the International Labour Organization. Enters into force November 19, 2000.
- 1999, September 14 The first hearings in U.S. House of Representatives are held: Trafficking of Women and Children in the International Sex Trade, before the Subcommittee on International Operations and Human Rights Commission on International Relations.
- 2000, February 22 Hearings before the subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations United States Senate, wherein two Senators talk about their personal encounters with trafficking.
- 2000, April 4 The International Trafficking in Women and Children hearings in the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations in the U.S. Senate are one of the first to address human trafficking and feature survivor statements.

- 2000, October 28 “The Victims of Trafficking and Violence Protection Act of 2000” is signed into law, representing the first piece of major legislation introduced to combat human trafficking and modern slavery. It is referred to as the Trafficking Victims Protection Act (TVPA) of 2000.
- 2001, December 17–20 Second World Congress against Commercial Sexual Exploitation of Children, Yokohama, Japan.
- 2002, September 12 The first U.S. human trafficking prosecution takes place, *U.S. v. Cadena*, wherein members of a Mexican crime family are found guilty of trafficking.
- 2003, February 23 President George W. Bush signs the Trafficking in Persons National Security Presidential Direct—NSPD 22, helping to ensure coordination between federal agencies.
- 2008, November 25–28 Third World Congress against Commercial Sexual Exploitation of Children, Rio De Janeiro, Brazil.
- 2009 United Nations Office of Drugs and Crime Global Report on Trafficking in Persons: A Crime That Shames Us All. This is the first report on human trafficking by an international agency that attempts to assess the scope of human trafficking and what countries are doing to combat it.
- 2012, September 25 “Executive Order—Strengthening Protections Against Trafficking in Persons in Federal Contracts” issued by President Obama directing U.S. government agencies to address the problem of labor and sex trafficking resulting from large government contracts.
- 2013, January 2 H.R.4310—National Defense Authorization Act for Fiscal Year 2013 becomes law. This bill codifies measures to end trafficking in government contracting.
- 2015, May 29 “Justice for Victims of trafficking Act of 2015” is passed by 114th Congress. It is one of the most comprehensive pieces of anti-trafficking legislation that focuses on the criminalization of both buying and selling of trafficked victims.
- 2015, July 7 Amnesty International releases a draft paper “Draft policy on Sex Work,” calling for the decriminalization of sex work.
- 2017, February 9 President Trump issues the Presidential Executive Order on Enforcing Federal Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking.

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LAURA J. LEDERER received her BA *magna cum laude* in comparative religions from the University of Michigan. After 10 years in philanthropy as director of community concerns at a private foundation, she continued her education at the University of San Francisco Law School and DePaul College of Law and received her juris doctorate in June 1994. She was the recipient of the University of San Francisco Alumni Women's Association scholarship in 1991. In 1992, she was Mansfield Fellow of Law at DePaul College of Law. She has received numerous awards including the Gustavus Meyers Center for Study of Human Rights Annual Award for Outstanding Work on Human Rights, the Trafficking in America Pioneering and Leadership Award, and the University of Michigan's College of Literature, Science, and the Arts Humanitarian Service Award, the College's "greatest living alumni honor" "given to recognize noble character and citizenship and to celebrate service to humanity."

Lederer founded and directed the Protection Project at Harvard University's John F. Kennedy School of Government in 1997 and moved it to Johns Hopkins University School of Advanced International Studies (SAIS) in the year 2000. For six years from 2002 to 2008, she served as Senior Advisor on Trafficking in Persons to Under Secretary of State for Democracy and Global Affairs. She was Senior Director of Global Projects on Trafficking in Persons in the Office to Monitor and Combat Trafficking in Persons at the U.S. Department of State. From 2002 to 2009, she also held the Executive Directorship of the Senior Policy Operating Group on Trafficking in Persons, a policy group that staffed the president's cabinet-level Inter-agency Task Force on Trafficking in Persons.

Currently she is president of Global Centurion, an NGO fighting human trafficking by focusing on demand. Lederer was an expert consultant for *The Day My God Died*, a feature-length documentary that casts a spotlight on the devastating impact child sex trafficking has upon the lives of children trafficked from Nepal to India. She also served as an advisor for the *New York Times* article that served as the basis for *Trade*, a feature-length drama based on real cases of international sex trafficking,

and starring Kevin Kline. She has advised on training manuals for the U.S. Department of Defense and assisted in TIP training of foreign national militaries for U.S. Department of Defense Southern Command. In addition, she serves as a subject matter expert for the U.S. Department of Defense for their Combating Trafficking in Persons Office, and for the U.S. Department of Health and Human Services for their new program on Health and Human Trafficking.