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The Nexus between Human Trafficking and Terrorism/Organized Crime: Combating Human Trafficking By Creating a Cooperative Law Enforcement System

Introduction

On April 20, 2010, the Department of Justice charged fourteen Gambino Crime Family Associates with multiple criminal offenses, including sex trafficking of a minor.¹ This case was among the first in the United States targeting organized crime groups² with human trafficking offenses.³ This case highlights that human trafficking is not a discrete and insular crime, but generally cloaked by other crimes.

Human trafficking is also being incorporated into the operations of terrorist groups. Since the U.S. declared war on terror, the traditional funding sources of these groups have been disabled.⁴ As an alternative, terrorist groups have turned to organized crime activities as a source of funding.⁵ Trafficking in drugs and people are the most profitable activities of organized crime.⁶

¹ *Manhattan U.S. Attorney Charges 14 Crime Family Associates With Racketeering, Murder, Sex Trafficking, And Other Crimes*, U.S. ATTORNEY'S OFFICE (Apr. 20, 2010), <http://www.fbi.gov/newyork/press-releases/2010/nyfo042010.htm>.

² The paper will focus on the organized groups that operate across state and international borders. Local street gangs will not be addressed.

³ *Manhattan U.S. Attorney Charges 14 Crime Family Associates With Racketeering, Murder, Sex Trafficking, And Other Crimes*, U.S. ATTORNEY'S OFFICE (Apr. 20, 2010), <http://www.fbi.gov/newyork/press-releases/2010/nyfo042010.htm>.

⁴ Amanda Kloer, *Human Trafficking is Al-Qaeda's New Business Model* (Dec. 20, 2009) <http://news.change.org/stories/human-trafficking-is-al-qaeda-s-new-business-model>.

⁵ *Id.*

⁶ *Id.*

In August 1997 eight Taliban fighters kicked in the door of Shabnam's home during dinnertime.⁷ They beat Shabnam's mother and grandmother and took 9 year old Shabnam as loot for their commanding officer.⁸ Two years after Shabnam's abduction her sister heard that Shabnam had become property of Colonel Shawali, a top Taliban security officer.⁹ Shabnam's sister went to Shawali's house and demanded to see her sister. She spoke with Shabnam long enough to see the fear in her eyes.¹⁰

Shah Suleman had been trying to find his cousin for more than five years.¹¹ She was abducted in September 1996 at the age of thirteen by a group of Taliban soldiers who came to the family home and dragged away two male relatives.¹² The soldiers later returned and threatened to kill the males unless the family let them take Suleman's two female cousins, ages 25 and 13.¹³ The twenty-five year old was found by a man who says he saw a Taliban soldier beating her and paid the soldier for the woman.¹⁴ The Suleman family was so grateful that she married the

⁷ Kevin Sullivan, *Kabul's Lost Women*, WASH. POST, December 2001, at 55.
<http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A62604-2001Dec18¬Found=true>.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

man.¹⁵ The thirteen-year old is still missing.¹⁶ Suleman is now a police officer in Kabul, a job he took to help find his cousin.¹⁷

These accounts demonstrate that human trafficking has been incorporated into the activities of terrorist and criminal organizations. However, the current model employed for combating human trafficking does not incorporate terrorist and criminal organizations into combating efforts. Generally, most law enforcement organizations have separate divisions tasked with human trafficking, terrorism, and organized crime. This structure leaves a gap in combating human trafficking. Human trafficking has exploded into a sophisticated industry that generates billions of dollars each year. Eradicating modern day slavery will not be accomplished with traditional enforcement measures.

Law enforcement and prosecutors that investigate and prosecute terrorism and organized crime must be familiarized with human trafficking. Terrorists and organized crime groups utilize human trafficking to provide major funding for their operations, as such, the ability to identify instances of human trafficking in these groups will facilitate the elimination of human trafficking.

This paper will investigate human trafficking and the use of human trafficking by terrorist and organized crime groups. This Paper will argue that in order to efficiently combat human trafficking there needs to be a reorganization of law enforcement divisions. The forces that are tasked with combating human trafficking, terrorism, and organized crime should be

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

restructured to work cooperatively, as opposed to functioning separately. In Part I, this paper will provide an overview of the approach the United States has taken to combat human trafficking. This part will also provide a brief overview of how terrorist and organized groups function. In Part II, the paper will address post 9/11 funding issues for terrorists/organized crime groups. In Part III, the paper will present the ways in which terrorists/organized crime groups utilize human trafficking. In Part IV, the paper will argue that united forces between the agencies that are tasked with combating human trafficking, terrorism, and organized crime will increase detection of human trafficking cases, as well as increase efforts to eliminate human trafficking.

I. Human Trafficking: Background, Legislation, and Definition,

Currently, there are approximately 27 million people enslaved throughout the world with 2.5 million located in the United States.¹⁸ These statistics indicate that slavery is still alive and flourishing throughout the entire world.

Human trafficking is an ever increasing area of international concern. Trafficking in humans is one of the fastest growing criminal activities in the world.¹⁹ Human trafficking is the third most profitable international criminal activity after drugs and arms trafficking.²⁰

Traffickers prefer human trafficking over arms or drugs because people can be sold and resold.²¹

¹⁸ FAQ, <https://www.freetheslaves.net/SSLPage.aspx?pid=304> (last visited March 25, 2012).

¹⁹ UNHRC, *Conference Puts Focus on Human Trafficking, Fastest Growing Criminal Industry*, (Oct. 11, 2010), <http://www.unhcr.org/4cb315c96.html>.

²⁰ M. Cherif Bassiouni, *A Global Perspective on Trafficking, in Modern Bondage: Sex Traffic In The Americas* 92 INT'L HUMAN RIGHTS LAW INST. DEPAUL U.C. of LAW ED., 112 (2002).

²¹ *Human Trafficking: Why Your Company Should Act Against It*, <http://www.endhumantraffickingnow.com/documents/Athens/Background%20docs/Why%20act%20against%20human%20trafficking.pdf> (last visited May 15, 2012).

It is estimated that traffickers can earn about \$250,000 for each woman trafficked.²² The United Nations estimates human trafficking to be a \$5 billion to \$7 billion a year industry.²³ According to Interpol, profits from this trade top \$19 billion annually.²⁴ Congressional sources estimate that 50,000 persons are trafficked into the U.S. annually and two million worldwide. Statistics as to the number of persons trafficked worldwide range from 700,000 to 4 million new victims a year.²⁵

Because human trafficking is such a problem throughout the world the United Nations enacted legislation to facilitate prosecutions for these crimes. This Part examines the history of human-trafficking legislation in Britain, the United States, beginning with the involuntary servitude and slavery statutes. This Part evaluates the TVPA, the United States' first legislation targeted specifically at human trafficking.

A. Human Trafficking Background

Although a number of societies throughout history considered slavery to be morally repugnant, it has gradually evolved from a “moral” transgression into an international crime.²⁶ It

²² Center For The Study Of Democracy, Report, *Smuggling In Southeast Europe* 47-48 (2002), available at <http://www.csd.bg/publications/book10/content.htm> (link to Part 2.4 Trafficking of Human Beings).

²³ *Investigating International Trafficking In Women And Children For Commercial Sexual Exploitation*, 2 Int'l Human Rights Law Inst. DePaul U.C. of Law Ed., 113 (2001).

²⁴ Catherine Edwards, *Sex Slave Trade is Thriving*, (Aug. 13, 2001), http://findarticles.com/p/articles/mi_m1571/is_30_17/ai_77356317/.

²⁵ Compare U.S. DEP'T OF STATE, *TRAFFICKING IN PERSONS REPORT* June 2002 109 (2002), <http://www.state.gov/documents/organizations/10815.pdf> [hereinafter 2002TIP REPORT] and U.S. DEP'T OF STATE, *TRAFFICKING IN PERSONS REPORT* June 2003 7 (2003), <http://www.state.gov/documents/organizations/47255.pdf> [hereinafter 2005 TIP REPORT].

²⁶ David Yacoubian et al., *AN EXAMINATION OF LAW ENFORCEMENT RESPONSES TO HUMAN TRAFFICKING IN THE UNITED STATES: A COMPLIANCE OF ASSESSMENT OF U.S. UNDER CUSTOMARY AND INTERNATIONAL LAW*, (Feb. 2009)

was not until the 19th century, that the first international slavery-related conventions attempted to abolish the slave trade.²⁷ Approximately 80 international instruments address slavery, slavery related practices and forced labor.²⁸

In May 1787, the British anti-slavery movement was set on course by the Society for the Abolition of the Slave Trade.²⁹ The Slave Trade Act was passed by the British Parliament on March 25, 1807.³⁰ After the Act was passed slaves were still held, though not sold. On February 8, 1815, The 1815 Declaration Relative to the Universal Abolition of the Slave Trades, the first international instrument to address slavery, was signed.³¹ Signatories included Austria, France, Great Britain, Portugal, Prussia, Russia, Spain, and Sweden.³² The Declaration recognized the penal nature of enslavement and established a duty to prohibit, prevent, prosecute, and punish slavery-related offenses.³³ In the 1820's the campaign against slavery itself began and on August 28, 1833, the Slavery Abolition Act was passed.³⁴ Britain had not only outlawed the slave trade, but also abolished slavery throughout her colonial possessions.³⁵ The Berlin

²⁷ *Id.*

²⁸ See *United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-region, International Conventions and Protocols*, available at http://www.no-trafficking.org/content/Laws_Agreement/conventions.htm, (last visited May 15, 2012).

²⁹ Dr. John Oldfield, *British Anti-Slavery*, http://www.bbc.co.uk/history/british/empire_seapower/antislavery_01.shtml, (last visited May 15,2012).

³⁰ *Id.*

³¹ David Weissbrodt & Michael Dottridge, *Abolishing Slavery and It's Contemporary Forms*, (2002), <http://www.ohchr.org/Documents/Publications/slaveryen.pdf>. (last visited May 15, 2012).

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

Conference of 1885 signed by thirteen European powers, included a resolution to “help in suppressing slavery.”³⁶ In the latter part of the nineteenth century, the Brussels Act of 1890 contained measures to control and prevent slave trade.³⁷ The Act stated that a “strict supervision shall be organized by the local authorities at the ports and in the countries adjacent to the coast, with the view of preventing the sale and shipment of slaves.”³⁸ Although slavery ended in Great Britain, slavery remained a strong institution in the Southern Colonies of Great Britain and West Indian Colonies of the British Empire.³⁹

In the eleven states constituting the American South slavery was a social and powerful economic institution. The 1860 presidential victory of Abraham Lincoln marked a turning point for the abolition of slavery in America. Lincoln issued the Emancipation Proclamation, which freed slaves in the Confederate States. The United States ratified the Thirteenth Amendment in 1865.⁴⁰ The amendment states that, “neither slavery nor involuntary servitude shall exist within the United States.”⁴¹ The Thirteenth Amendment officially made all slavery illegal in the United States.⁴²

³⁶ Dr. David Saul, *Slavery and the Scramble for America*, http://www.bbc.co.uk/history/british/abolition/scramble_for_africa_article_01.shtml (last visited May 15, 2012).

³⁷ David Weissbrodt & Michael Dottridge, *Abolishing Slavery and Its Contemporary Forms*, (2002), <http://www.ohchr.org/Documents/Publications/slaveryen.pdf>. (last visited May 15, 2012).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ U.S. DEPARTMENT OF STATE, *TRAFFICKING IN PERSONS REPORT*. (Washington D.C.: Office of Monitor and Combat Trafficking in Persons, 2005), <http://www.state.gov/documents/organization/142979.pdf>, (last visited March 17, 2012).

⁴² David Weissbrodt & Michael Dottridge, *Abolishing Slavery and Its Contemporary Forms*, (2002), <http://www.ohchr.org/Documents/Publications/slaveryen.pdf>. (last visited May 15, 2012).

On September 30, 1921, The 1921 International Convention for the Suppression of the Traffic in Women and Children was signed.⁴³ The signatories included Albania, Australia, Austria, Belgium, Brazil, the British Empire, Canada, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Estonia, Germany, Greece, Hungary, India, Italy, Japan, Latvia, Lithuanian, the Netherlands, New Zealand, Norway, Persia, Poland, Portugal, Romania, Siam, South Africa, Sweden, and Switzerland.⁴⁴ In September 1926, the International Slavery Convention (hereinafter the “1926 Convention”) was signed at Geneva under the auspices of the League of Nations “to find a means of giving practical effect throughout the world to such intentions.” It defined a slave as a “person over whom any or all of the powers attaching to the right of ownership are exercised,” and undertook “to bring about, progressively and as soon as possible, the complete abolition of slavery in all its forms.” It further defined slave trade as “all acts involved in the capture, acquisition, or disposal of a person with intent to reduce him to slavery.”⁴⁵

On September 7, 1956, the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (hereinafter “1956 Supplemental Convention”) was signed.⁴⁶ The 1956 Supplemental Convention was designed to augment the 1926 Convention by acting to ban debt bondage, serfdom, servile marriage, and child servitude.⁴⁷

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

In November 2000, the United Nations adopted the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (“Trafficking Protocol”).⁴⁸

A. Human Trafficking Defined

Human trafficking is known as slavery because traffickers use violence, threats, and other forms of coercion to force their victims to work against their will.⁴⁹ This includes controlling their freedom of movement, where and when they will work and for what pay, if any, they will receive.⁵⁰ Human trafficking is not a new phenomenon. What is new is the “global sophistication, complexity and control of how women, children, and [men] are trafficked from/to/in all parts of the globe.”⁵¹

Human trafficking is difficult to define, but there is general agreement that human trafficking has become a form of modern slavery.⁵² Defining human trafficking is difficult because it takes many forms and there is disagreement as to certain elements of the definition. The United Nations responded to the problem of modern-day slavery, human trafficking, by

⁴⁸ *Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children*, (2000), http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf, (last visited (May 15, 2012)).

⁴⁹ POLARIS PROJECT, <http://www.polarisproject.org/human-trafficking/human-trafficking-faqs>, (last visited May 15, 2012).

⁵⁰ *Id.*

⁵¹ Janice G. Raymond, *The Ongoing Tragedy of International Slavery and Human Trafficking: An Overview*, (October 29, 2003), <http://www.gpo.gov/fdsys/pkg/CHRG-108hhrg93282/pdf/CHRG-108hhrg93282.pdf>. (last visited March 17, 2012).

⁵² *See Victims of Trafficking and Violence Protection Act of 2000*, Pub. L. No. 106-386 § 102(b) 91) (noting Congressional findings).

producing the U.N. Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (“Trafficking Protocol”).⁵³

The Trafficking Protocol provides the first definition of human trafficking.⁵⁴ According to the Trafficking Protocol, the definition of “trafficking in persons” has three elements: (1) An action, consisting of “recruitment, transportation, transfer, harboring or receipt of persons;” (2) By means of “the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, or the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve consent of a person having control over another person;” (3) For the purpose of exploitation.”⁵⁵

Another concern in defining human trafficking is distinguishing human trafficking from human smuggling. The goal of human trafficking is exploitation.⁵⁶ Human smuggling is the facilitation, transportation, attempted transportation or illegal entry of a person(s) across an international border, in violation of one or more countries laws, either clandestinely or through deception, such as the use of fraudulent documents.⁵⁷ Generally, human smuggling occurs with the consent of person(s) being smuggled.⁵⁸

⁵³ Protocol to Prevent, Suppress, and Punish Trafficking In Persons, Especially Women and Children, Supplementing The United Nations Convention Against Transnational Organized Crime. G.A. Res. 55/25, Annex II, U.N. Doc A/Res/55/25/Annex II (Nov. 15, 2000).

⁵⁴ David Weissbrot & Michael Dottridge, *Abolishing Slavery and It’s Contemporary Forms*, (2002), <http://www.ohchr.org/Documents/Publications/slaveryen.pdf>. (last visited May 15, 2012).

⁵⁵ *Id.*

⁵⁶ HUMAN SMUGGLING AND TRAFFICKING CENTER, U.S. STATE DEPT., FACT SHEET: *DISTINCTIONS BETWEEN HUMAN SMUGGLING AND HUMAN TRAFFICKING* 1 (2006).

⁵⁷ *Id.*

⁵⁸ *Id.*

B. The U.S. Approach to Combating Human Trafficking

The United States has declared that human trafficking is a fundamental human rights violation⁵⁹ and has designed legislation purposely geared toward its eradication. In October 2000, Congress passed the Trafficking Victims Protection Act of 2000 ("TVPA").⁶⁰ Prior to the enactment of the TVPA, there was no comprehensive federal law to protect the victims of human trafficking or prosecute their traffickers. The TVPA is a comprehensive statute that addresses the recurring and significant problem of trafficking of persons for the purpose of committing commercial sex acts, or to subject them to involuntary servitude, peonage, debt bondage, or slavery. Since 2000, to ensure that the TVPA is current, Congress has renewed the TVPA every two years.⁶¹ In 2005, the government set aside \$50 million to support efforts to combat human trafficking.⁶²

The TVPA takes a three-pronged approach to the problem of human trafficking – prevention, protection, and prosecution.⁶³ The TVPA breaks down the activities Congress believes are important in carrying out its objectives among three primary federal agencies: the

⁵⁹ The White House. *Presidential Proclamation- National Slavery and Human Trafficking Prevention Month*, January 4, 2010. <http://www.whitehouse.gov/the-press-office/presidential-proclamation-national>. (last visited May 15, 2012).

⁶⁰ Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464, (codified as amended at U.S.C. § 7101-12 (2006)).

⁶¹ *Id.*

⁶² Assessment of U.S. Government Efforts to Combat Trafficking in Persons. September 2006. http://www.justice.gov/archive/ag/annualreports/tr2006/assessment_of_efforts_to_combat_tip.pdf (last visited May 15, 2012).

⁶³ *Id.*

Department of Justice (hereinafter “DOJ”), the Department of Homeland Security, and the Department of State.⁶⁴ The DOJ is the primary prosecutorial agency.

Within the U.S. federal and state human trafficking legislation is relatively new. Thirty state and U.S. territory laws addressing the crime of human trafficking have been enacted.⁶⁵ Since the passage of the TVPA, the DOJ claims to have increased prosecutions of human trafficking by over 300 percent.⁶⁶ Between January 2008 and June 2010 federally funded task forces opened 2,515 suspected incidents of human trafficking for investigation.⁶⁷ This number is still low considering that it is estimated that 50,000 people are trafficked into the United States each year.⁶⁸ Additionally, a close reading of the DOJ Report on activities to combat human trafficking shows that many of the prosecutions are for “trafficking related offenses” and not trafficking itself, despite the fact that the TVPA created the specific offense of trafficking.⁶⁹

II. Organized Crime and Human Trafficking

Season two of the HBO show "The Wire" enacts the Baltimore Port Police's discovery of the bodies of thirteen Russian young women inside a shipping container.⁷⁰ Subsequent episodes reveal that the women were smuggled into the United States by a criminal organization that

⁶⁴ *Id.*

⁶⁵ Heather J. Clawson, Nicole Dutch, Susan Lopez, Suzanna Tiapula. *Prosecuting Human Trafficking Cases: Lessons Learned and Promising Practices*, <https://www.ncjrs.gov/pdffiles1/nij/grants/223972.pdf>. (last visited May 15, 2012).

⁶⁶ CIVIL RIGHTS DIV., U.S. DEP'T OF JUSTICE, *REPORT ON ACTIVITIES TO COMBAT HUMAN TRAFFICKING: FISCAL YEARS 2001-2005* (2006), available at http://www.usdoj.gov/crt/crim/trafficking_report_2006.pdf [hereinafter DOJ REPORT].

⁶⁷ *Id.*

⁶⁸ 2002 TIP REPORT, *supra* note 22, at 2.

⁶⁹ 21 Geo. Immigr. L.J. 337 citing DOJ Report, *supra* note 65.

⁷⁰ *The Wire: Ebb Tide* (HBO television broadcast June 2, 2003).

intended to force the women to work as prostitutes in brothels owned by the organization.⁷¹

"The Wire" story arc has become an increasingly common reality in the United States. Human trafficking is an international problem occurring in U.S. cities where criminal organizations like those portrayed in the show are forcing people to work as sex slaves or bonded laborers.⁷²

Transnational organized crime groups are adding humans to their product lists.⁷³ Satellites reveal that trafficked persons are moved along the same routes as those used to move arms and drugs.⁷⁴

Between 1991 and 2004, Josue Flores Carreto, Gerardo Flores Carreto, and Daniel Perez Alonso were members of a criminal organization that compelled young Mexican women into prostitution through force, fraud, and coercion.⁷⁵ The men recruited young, uneducated women from impoverished backgrounds in Mexico, smuggled them to the United States, and forced them to engage in prostitution in the New York City metropolitan area.⁷⁶ The men physically and sexually assaulted their victims, used threats of physical harm and restraint to force the women to commit acts of prostitution, and beat the women for hiding money, disobeying their

⁷¹ The Wire: Backwash (HBO television broadcast July 13, 2003); The Wire: Duck and Cover (HBO television broadcast July 27, 2003).

⁷² U.S. DEPT OF STATE, TRAFFICKING IN PERSONS REPORT 7-8 (2009) [hereinafter TIP REPORT 2009], available at <http://www.state.gov/documents/organization/123357.pdf>.

⁷³ Edith M. Lederer, *Human Trafficking Victims: 2.4 Million People Trafficked Across the Globe for Labor, Sex*. (April 3, 2012), http://www.huffingtonpost.com/2012/04/03/human-trafficking-victims_n_1401673.html. (last visited April 12, 2012).

⁷⁴ *Id.*

⁷⁵ The U.S. Dept. of Justice, *Human Trafficking, U.S. v. Carreto*, Carreto <http://www.justice.gov/crt/about/crm/selcases.php#humantrafficking> (last visited April 13, 2012).

⁷⁶ *Id.*

orders, and failing to earn more money.⁷⁷ The defendants and their associates confiscated all the victims' earnings.

In May 2009, Abrorkhodja Askarkhodjaev, a 31-year-old Uzbek, and 11 co-defendants were indicted by a federal grand jury in Kansas City, Missouri, for their participation in a racketeering conspiracy, spanning almost a decade and involving numerous crimes, including most notably forced labor trafficking.⁷⁸ Askarkhodjaev was the leader of a criminal enterprise that recruited hundreds of foreign workers from the Dominican Republic, the Philippines, Eastern Europe, Central Asia, and elsewhere, through false promises of good employment.⁷⁹ When the workers arrived, Askarkhodjaev and his co-defendants compelled them into service in various jobs in 14 different states.⁸⁰ The defendants forced the workers to live in greatly overcrowded apartments with exorbitant rents and coerced their labor through threats of deportation and by withholding their wages.⁸¹ This case was the first instance of forced labor trafficking being charged as part of a Racketeer Influenced and Corrupt Organizations Act.⁸²

Another example is Mara Salvatrucha 13 ("MS-13"), one of the most violent street gangs operating within U.S. borders, is heavily involved in human trafficking.⁸³ With over 10,000 members across the country, MS-13's largest concentrations are in cities with significant

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ David McLemore, *Marked Men: Authorities Target Vicious Gang in Texas, Across U.S.*, DAL. MORNING NEWS, Oct. 29, 2006, at 13.

immigrant populations where the gang preys upon these vulnerable members of society through extortion and intimidation.⁸⁴

III. Post 9/11 Funding Issues for Terrorists

The September 9, 2001 plot cost al Qaeda approximately \$400,000–500,000, of which approximately \$300,000 was deposited into U.S. bank accounts of the 19 hijackers.⁸⁵ Al Qaeda funded the hijackers in the United States by three means: (1) wire transfers from overseas to the United States, (2) the physical transport of cash or traveler's checks into the United States, and (3) facilitating access to funds held in foreign financial institutions by domestic use of debit or credit cards.⁸⁶ Once here, all of the hijackers used the U.S. banking system to store their funds and facilitate their transactions.⁸⁷ Since 9/11, the United States has frozen \$36.3 million in terrorist assets while other countries have frozen an estimated \$97 million, for a total of over \$133 million.⁸⁸

The national and international anti-terrorism enforcement environment changed significantly after the September 11, 2001 attacks. After the September 11, attacks the highest-level U.S. government officials publicly declared that the fight against al Qaeda financing was as

⁸⁴ *Id.*

⁸⁵ *Appendix A: the Financing of the 9/11 Plot*, http://govinfo.library.unt.edu/911/staff_statements/911_TerrFin_Monograph.pdf. (last visited Feb. 12, 2012).

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ FBI, <http://www.fbi.gov/news/testimony/terrorism-financing-origination-organization-and-prevention>. (last visited Feb. 12, 2012).

critical as the fight against al Qaeda itself.⁸⁹ It has been presented as one of the keys to success in the fight against terrorism: if we choke off the terrorists' money, we limit their ability to conduct mass casualty attacks.⁹⁰ Consequently the U.S. government focused, for the first time, on terrorist financing and devoted considerable energy and resources to the problem.⁹¹

Al Qaeda and Osama Bin Laden obtained money from a variety of sources. Contrary to common belief, Bin Laden did not have access to any significant amounts of personal wealth (particularly after his move from Sudan to Afghanistan) and did not personally fund al Qaeda, either through an inheritance or businesses he was said to have owned in Sudan.⁹² Rather, al Qaeda was funded, to the tune of approximately \$30 million per year, through diversions of money from Islamic charities and the use of well-placed financial facilitators.⁹³

The attacks galvanized the international community into setting up a near-universal system of laws, tied to United Nations Security Council Resolution 1373, to freeze the assets of terrorists and their supporters.⁹⁴ The United States pursued an ambitious course of highly visible asset freezes of terrorists, terrorist supporters, and terrorist-related entities.⁹⁵

Financial facilitators are still at the core of al Qaeda's revenue stream, although there is little question that the arrests and deaths of several important facilitators have decreased the

⁸⁹ *Appendix A: the Financing of the 9/11 Plot*, http://govinfo.library.unt.edu/911/staff_statements/911_TerrFin_Monograph.pdf. (last visited Feb. 12, 2012).

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

amount of money al Qaeda has raised and have made it more expensive and difficult to raise and move that money. The May 2003 terrorist attacks in Riyadh, moreover, seem to have reduced al Qaeda's available funds even more—some say drastically—for a number of reasons. First, it appears that enhanced scrutiny of donors by the Saudi government after the attacks may be having a deterrent effect. Second, Saudi law enforcement efforts have reduced al Qaeda's cadre of facilitators. Individuals such as Riyadh, an al Qaeda facilitator and "Swift Sword," are known for their ability to raise and deliver money for al Qaeda, have been captured or killed.⁹⁶ Lastly, the Saudi population may feel that the fight has come to their homeland, and that they should be more cautious in their giving as a result.⁹⁷

Al-Qaeda has largely been decentralized since 2001, and there are now semi-autonomous cells operating in Yemen, Somalia, North Africa, and Europe.⁹⁸ Osama Bin Laden was killed in May 2, 2011⁹⁹, and nine months after Bin Laden's death, not one retaliatory attack had been carried out which could be due to a shortfall in donor funds to al-Qaeda.¹⁰⁰ This lack of funds may be affecting its ability to make the necessary preparations for large operations that require substantial financing, in addition to the cost of recruiting and training operatives.¹⁰¹

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ Sarah Sorcher, *What Will Be the Impact of Bin Laden's Death?* (May 9, 2011), <http://security.nationaljournal.com/2011/05/what-will-be-the-impact-of-bin.php>.

⁹⁹ Baker, Cooper, and Mazzetti, *Bin Laden is Dead, Says Obama*, (May 1, 2011), <http://www.nytimes.com/2011/05/02/world/asia/osama-bin-laden-is-killed.html?pagewanted=all>. (last visited May 15, 2012).

¹⁰⁰ Rajeh Said, *Al-Qaeda's Funding Sources Drying Up*, (January 23, 2012), http://al-shorfa.com/cocoon/meii/xhtml/en_GB/features/meii/features/main/2012/01/23/feature-01.

¹⁰¹ *Id.*

IV. The Link Between Terrorism and Human Trafficking

Al-Qaeda and its associated groups have greatly diversified their methods of raising money to finance jihad.¹⁰² They finance themselves to varying extents through common crime, according to the conditions and opportunities in the locations in which they operate.¹⁰³ It is therefore often difficult to distinguish between terrorist groups, insurgents and organized crime groups since these categories often overlap.¹⁰⁴ Their methods and sources of financing are often similar if not the same.¹⁰⁵

Is there a link between terrorism and human trafficking? According to Christine Dolan, panelist at the recent “Terrorism Nexus” seminar hosted by the World Affairs Council of Washington D.C. the answer is, yes.¹⁰⁶ In 2000, the International Centre for Missing and Exploited Children commissioned Dolan to investigate the exploitation of children in the Balkan.¹⁰⁷ In the report Dolan concluded that, “human trafficking is not only one of the first financial steps into the transnational and transcriminal mobsters’ financial network but that it is the bedrock of these criminal syndicates. It is far more profitable than trafficking drugs or weapons.”¹⁰⁸

¹⁰² Juan Miguel del Cid Gomez, *A Financial Profile of the Terrorism of Al-Qaeda and its Affiliates* (2010), <http://www.terrorismanalysts.com/pt/index.php/pot/article/view/113/html> (last visited Feb. 23, 2012).

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ Terrorism and Trafficking Finding the Nexus. IAST Report. (Spring 2002), <http://www.iast.netreports.htm>. (last visited Feb. 23, 2012).

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

Taliban soldiers abducted many women and girls during their five-year rule of Afghanistan.¹⁰⁹ Shabnam's abduction is one of many to impossible to count, females kidnapped by the Taliban. Farhat Bokhari, a researcher for Human Rights Watch in New York, says that estimates of abductions are in the hundreds, but abductions are underreported because of "whole issue of dishonor."¹¹⁰ General Mohammed Qasim, Chief military prosecutor for the Northern Alliance in Kabul at the time, believed that many of the girls were no longer in Afghanistan.¹¹¹ Qasim said many of the girls are used as concubines by Taliban officers, while others are sold as sex slaves to wealthy Arabs through contracts arranged by Al Qaeda.¹¹² Proceeds help keep the cash strapped Taliban afloat.¹¹³

The following is a passage from an investigation into the Taliban's practice of sex slavery and human trafficking by Time Magazine.¹¹⁴

With the women stripped of their burkas, it was a simple task for the Taliban soldiers to cull the young beauties. Nafiza was one of them. Green-eyed with raven black hair that grazed her waist . . . a Taliban fighter spotted the beauty. She was his prize. With the butt of his AK-47 rifle, he slammed Nafiza into the dust and dragged her, pleading and crying to the highway. There Arabs and Pakistanis of al-Qeada joined the Taliban to sort out the women. Nafiza and other women, numbering in the hundreds, were herded into trucks and buses. They were never seen again.

¹⁰⁹ *Id.*

¹¹⁰ Afghan people do not talk about sexual abuse, because it could harm a woman's chances of marriage. *Id.*

¹¹¹ KEVIN SULLIVAN, *Kabul's Lost Women*, WASH. POST, December 2001, at 53.
<http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A62604-2001Dec18¬Found=true>.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ Tim McGirk, *Lifting The Veil On Taliban Sex Slavery*. (Feb. 10, 2002),
<http://www.time.com/time/magazine/article/0,9171,201892,00.html>.

The article goes on to describe what happens to the women and girls at the hands of the Taliban and Al-Qeda: rape, forced marriage, sex slavery in brothels, domestic slavery, and more.¹¹⁵

More evidence that terrorists are engaging in human trafficking emerged on December 16, 2009,¹¹⁶ when Harouna Toure, whom headed a criminal group that works with Al-Qaeda affiliates in North Africa, was apprehended in Ghana by Drug Enforcement Administration (“DEA”).¹¹⁷ The DEA accused Toure of transporting cocaine through North Africa for \$2,000 a kilogram, a fee that was to be partially turned over to Al-Qaeda in return for protection along the route. Toure told a DEA informant that Al-Qaeda could protect cocaine shipments and assist in potential kidnappings to raise money.¹¹⁸

Terrorism is an expensive business, and like everyone else, terrorists have recession issues.¹¹⁹ Al-Qaeda has long been suspected of engaging in the drug trade.¹²⁰ However, Al-Qaeda, and other terrorist groups, are now suspected of human trafficking to replace traditional sources, like contributions from rich donors that dried up due to United States government

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ Nathan .Vardi, *Al-Qeada’s New Business Model: Cocaine and Human Trafficking*. (Dec. 12, 2009), <http://www.forbes.com/2009/12/18/al-qaeda-cocaine-business-beltway-al-qaeda.html>.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

efforts after September 9, 2011.¹²¹ Law enforcement agencies agree that one of the best strategies to fight Al-Qaeda is to cut off their cash and starve them out. This strategy now includes fighting human trafficking.¹²²

A. How Terrorists Utilize Human Trafficking

Like guns and drugs, women and children are traded as commodities in the global black market.¹²³ Human trafficking allows terrorist and criminal organizations to finance their own operations. Human traffickers offer consumers several “products”- child soldier, domestic servant, exotic dancer, manual laborers, human organs, and more.¹²⁴ The one part of slavery that is new is the complete collapse in the price of slaves. For most of human history slaves were expensive, the average cost being around \$40,000 in today’s money.¹²⁵ That price has now fallen to an all-time historical low.¹²⁶ The average slave costs around \$90 today.¹²⁷ This dramatic change in the economic equation of slavery means that slaves have stopped being capital purchase items and are now disposable inputs in economic processes.¹²⁸

¹²¹ *Id.*

¹²² *Id.*

¹²³ Robyn Skinner & Catherine Maher, *Where Have All the Young Girls Gone?*, <http://www.yapi.org/rpchildtrafficking.pdf>. (last visited on Feb. 18, 2012).

¹²⁴ Cinar Bekir, *Human Trafficking is Used for Recruiting Terrorists*. (October 2010), <http://digitalcommons.unl.edu/humtrafconf2/24/>. (last visited March 23, 2012).

¹²⁵ FAQ, <https://www.freetheslaves.net/SSLPage.aspx?pid=304>. (last visited March 25, 2012).

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

Until the United States passed the TVPA, which increased penalties for human trafficking, the penalties for sex trafficking were much lighter than those for drug dealing.¹²⁹ Given its low investment costs, quick returns, very high profit margins, low risk of arrest, and relatively light penalties, sex trafficking has a very high profit-to-cost ratio compared to drug trafficking.¹³⁰ Consequently, sex trafficking has emerged as the crime of choice for organized criminal groups.¹³¹

Better technology has made it easier to track money online, and consequently harder to move money from legal accounts into the hands of terrorists without raising flags.¹³² However, the same technology has made it faster, easier, and cheaper than ever before for terrorists and organized crime groups to conduct illicit economic transactions while evading government detection.¹³³ Al-Qaeda has turned to organized crime activities as a means of financing their operations. Human trafficking is one of the most profitable organized crime activities.¹³⁴ In Russia, the trafficking of women and children is estimated to earn six-billion dollars per year.¹³⁵

¹²⁹ *Victims of Trafficking and Violence Protection Act of 2000*, Pub. L. No. 106-386, 114 Stat. 1466, 1466-69 (2001).

¹³⁰ Susan W. Tiefenbrun, *The Saga of Susannah: A U.S. Remedy for Sex in Women: The Victims of Trafficking and Violence Protection Act of 2000*, 2002 UTAH L.REV. 107 (2002).

¹³¹ *Id.*

¹³² Amanda Kloer, *Human Trafficking is Al-Qaeda's New Business Model*, <http://news.change.org/stories/human-trafficking-is-al-qaeda-s-new-business-model>. (last visited Feb. 7, 2012).

¹³³ Susan W. Tiefenbrun, *The Saga of Susannah: A U.S. Remedy for Sex in Women: The Victims of Trafficking and Violence Protection Act of 2000*, 2002 UTAH L.REV. 107 (2002).

¹³⁴ *Id.*

¹³⁵ W. Zalisk, *Russian Organized Crime, Trafficking in Women, and Government's Response*, <http://www.policeconsultant.com/index6.htm>. (last visited Feb. 18, 2012).

Terrorist organizations not only utilize human trafficking for financial support, they also use human trafficking groups to obtain an entry point into the U.S.¹³⁶ Individuals who are trafficked into the U.S. for the purpose of prostitution could also possibly be used for terrorist activities. The Mexico based MS-13 gang has been reported for some time to have engaged in talks with Al-Qaeda, and they have used trafficking as a funding source for some time.

Human trafficking is also used to build an army of soldiers for terrorists. According to the UN, the recruitment and use of children in armed conflict has been increasing.¹³⁷ Although the exact figure is unknown, UN sources estimate that there are several hundred children in the forces of the Transitional Federal Government (“TFG”), or its associated militias, and several thousand among the insurgent groups.¹³⁸ Youth under the age of 18 continue to be recruited, including by force and deception, for direct participation in hostilities in central and southern Somalia.¹³⁹ Extremist groups such as al-Shabaab and Hisbul Islam jointly used systematic force and deception to target vulnerable children, sometimes as young as eight years old, for membership in their militias.¹⁴⁰ These forces reportedly increased recruitment at schools and other educational facilities; al-Shabaab threatened to punish teachers and parents who refused to send their children to the training camps.¹⁴¹ The groups used children to plant roadside bombs

¹³⁶ Anderson, Sarah. *The Connection Between Human Trafficking and Terrorism*. Available at <http://notenoughgood.com/2012/01/human-trafficking-and-terrorism/>. (last visited Feb. 27, 2012).

¹³⁷ 2011 Trafficking in Person Report – Somalia. UNHRC, <http://www.unhcr.org/refworld/country,,USDOS,,SOM,,4e12ee4ac,0.html>. (last visited April 3, 2012).

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

and other explosive devices in addition to carrying out assassinations, portering, and domestic servitude.¹⁴² In Kismayo, Baidoa, and Merka, al-Shabaab obligated all boys 15 years of age and older to fight or face death; in November, al-Shabaab executed two children in Hurwaa District of Banadir region.¹⁴³ Al-Shabaab also continued to forcibly recruit young girls who were then "married" to its militia leaders and used for sexual servitude, logistical support, and intelligence gathering.¹⁴⁴

Additionally, many people are trafficked from Turkey and forced to participate in terrorists' organizations such as The Kurdish Worker Party (PKK).¹⁴⁵ People are forced to join the PKK.¹⁴⁶ The organization uses children in its militant forces.¹⁴⁷ Those who joined were enticed by the ability to bolster their family income; however these offers were not fulfilled.¹⁴⁸ Most of those who joined had an education level below high school. Those who stayed did so out of fear or retaliation.¹⁴⁹

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ Cinar Bekir. *Human Trafficking is Used for Recruiting Terrorists*. (October 2010), <http://digitalcommons.unl.edu/humtrafconf2/24/>. (last visited March 23, 2012).

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

In regions where both terrorism and human trafficking are prominent, they are linked to one another.¹⁵⁰ Human trafficking has become a significant component of the criminal economy, as a result, the nexus between trafficking groups and terrorist networks has increased.¹⁵¹ In central Asia, the Caucasus, the Balkans, and Western Europe, human trafficking activity tends to follow the same routes terrorists use to travel the region.¹⁵²

The National Bureau of Investigations in the Philippines¹⁵³ has uncovered evidence of human trafficking by terrorists.¹⁵⁴ A 34 year-old man was under suspicion of recruiting individuals for terrorist training.¹⁵⁵ The man was believed to have been involved in aggravated human trafficking with a terrorist intent.¹⁵⁶ The man had plans to take people abroad without their knowledge of the real purpose of travel which would have been to be taken to a training camp.¹⁵⁷

V. Organizational Structure of Law Enforcement

¹⁵⁰Russell Howard & Traughber, Colleen M. Traughber. *The “New Silk Road” of Terrorism and Organized Crime: The Key to Countering the Terror-Crime Nexus*, <http://www.jeffnorwitz.com/Documents/27%20The%20New%20Silk%20Road%20of%20Terrorism.pdf> (last visited May 5, 2012).

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ The National Bureau of Investigation was modeled after the Federal Bureau of Investigation in the United States. <http://www.nbi.gov.ph/history.html>. (last visited April 13, 2012).

¹⁵⁴ Sanomat, Helsingin. Police Uncover Suspected Human Trafficking Plan During Terrorism Investigation., <http://www.hs.fi/english/article/Police+uncover+suspected+human+trafficking+plan+during+terrorism+investigation/1135269833686>. (last visited April 13, 2012).

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

The current approach to combating human trafficking, terrorism, and organized crime at the federal and state level consists of separate divisions tasked with combating a particular crime. At the federal level the Federal Bureau of Investigation (hereinafter “FBI”) addresses human trafficking under the auspices of its Civil Rights Division.¹⁵⁸ Counter terrorism efforts and organized crime are each also dealt with in separate divisions. The United Nations Office on Drugs and Crime (hereinafter “UNDOC”) also have separate divisions for addressing human trafficking, terrorism, and organized crime.¹⁵⁹ Similarly, domestic prosecutors offices generally have separate task forces assigned to combating human trafficking. For example, Bergen and Essex County in New Jersey, Manhattan District Attorney, Cook County State’s Attorney, as well Texas and California prosecutors usually address human trafficking under the Special Victims Unit.

VI. Creating a Cooperative Law Enforcement System

One of the main impediments to the enforcement of existing human trafficking laws is the lack of understanding and awareness of the crime by first responders. In a study conducted by ICF International, sixty-eight percent of the state and local prosecutors surveyed did not consider human trafficking to be a problem in their jurisdictions, only five percent considered it to be a “serious” problem.¹⁶⁰ Furthermore, since 2000, only seven percent prosecuted a human trafficking case.¹⁶¹ Additionally, some of the prosecutors noted that they refer human trafficking

¹⁵⁸ FBI. *What We Investigate*, http://www.fbi.gov/about-us/investigate/what_we_investigate. (last visited May 15, 2012).

¹⁵⁹ UNDOC, *Topics*, <http://www.unodc.org/unodc/en/topics.html?ref=menuaside>. (last visited May 15, 2012).

¹⁶⁰ ICF International. *Prosecuting Human Trafficking Cases: Lessons Learned and Promising Practices*. (June 30, 2008), <https://www.ncjrs.gov/pdffiles1/nij/grants/223972.pdf>.

¹⁶¹ *Id.*

cases to the U.S. Attorney's Office.¹⁶² Some of the areas that prosecutors identified as barriers to prosecuting human trafficking included lack of a unified investigation and collaboration, as well as, training law enforcement and prosecutors to raise awareness of the problem.¹⁶³

Technical cooperation among law enforcement agencies is essential for investigating and prosecuting human traffickers. Actress Mira Sorvino, the U.N. goodwill ambassador against human trafficking, said that there is a lack of strong legislation and police training to combat trafficking.¹⁶⁴ Even in the United States "only 10 percent of police stations have any protocol to deal with trafficking."¹⁶⁵ Yuri Fedotov, the head of the U.N. Office on Drugs and Crime, called for coordinated local, regional and international responses that balance "progressive and proactive law enforcement" with actions that combat "the market forces driving human trafficking in many destination countries."¹⁶⁶

Human trafficking, currently, is treated as a social issue rather a matter of national security. Links between terrorists and criminals, which capitalize upon gaps in law enforcement and weak security structures, are increasingly becoming the norm. Any successful approach in countering terror and crime will have to address human trafficking. Both terrorist networks and organized criminal groups take advantage of the gray areas in the law. Officials need to

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ Edith M. Lederer. *Human Trafficking Victims: 2.4 Million People Trafficked Across the Globe for Labor, Sex.* (April 3, 2012), http://www.huffingtonpost.com/2012/04/03/human-trafficking-victims_n_1401673.html. (last visited April 12, 2012).

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

acknowledge the network structure of terrorists and criminal groups with human trafficking and fight the networks cooperatively.

Due to the complex nature of human trafficking, a multifaceted approach must be utilized to stop this criminal industry. One of the most important approaches is increasing information sharing and collaboration between law enforcement agencies. This is especially important as it would increase efforts to eliminate human trafficking. It is vital that law enforcement and criminal justice officials, who are tasked with combating terrorism and organized crime, be capable of identifying human trafficking. Awareness would increase the effectiveness of law enforcement by emphasizing the screening of women and children after arrest to identify human trafficking. Awareness will also facilitate more efficient use of law enforcement resources towards pursuing trafficking rather than wasting resources on pursuing the victims.

In terms of training for law enforcement and prosecutors who combat terrorism and organized crime, regarding human trafficking, a component dealing with being able to identify human trafficking needs to be addressed at the forefront. If these law enforcement organizations are not aware of signs or indications of trafficking then most of these crimes will not even be investigated. Many still do not realize that this crime exists everywhere, in every part of society. First responders have to be aware as to the indications of trafficking. There should be training on the indicators of both sex and labor trafficking; knowing what questions to ask; interviewing victims and treating them as victims, not defendants.

A future in depth anti-trafficking strategy should include a more in depth study and analysis of the operations of different trafficking organizations, a more in depth study and

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analysis of the links between transnational crime and terrorism, and the operational and financial sides of the business.