

5-1-2013

Slavery in 2tst Century America: Hidden in Plain View

Heather Hausleben

Follow this and additional works at: https://scholarship.shu.edu/student_scholarship

Recommended Citation

Hausleben, Heather, "Slavery in 2tst Century America: Hidden in Plain View" (2013). *Law School Student Scholarship*. 349.
https://scholarship.shu.edu/student_scholarship/349

Slavery in 21st Century America: Hidden in Plain View

When researching human trafficking, you are flooded with the gripping and disturbing stories of trafficking victims, generally occurring in foreign countries and involved in sex work. There is very little publicity of the horrors that these victims suffer in the United States or by the hands of U.S. citizens traveling abroad. There is also little focus on the exploitation in the labor industry and the probability that, at some point along the production line, many consumer goods that upstanding U.S. citizens encounter on a daily basis have involved slave labor. Unfortunately, there are many other ill-fated, lesser known destinies for these victims, including but not limited to, organ harvesting, child soldiers, and sex tourism. An estimated 45,000 to 50,000 women and children (and also a small number of men) are trafficked to the United States from all over the world, primarily being transported to Florida, New York and California, but reports have indicated the presence of trafficking victims in twenty states. Numerous methods of recruiting victims exist, commonly including the promise of employment and a better life overseas, either lying about the nature of the work or the conditions.

This paper will focus on the laws in the United States which are tailored to the two most common forms of trafficking, sex and labor trafficking. The United States' laws principally target sex trafficking and, although laws are on the books, the labor industry has been left relatively unaffected by major plans to enforce anti-trafficking provisions. Even the laws that have been enforced are relatively new and the implementation of them is severely flawed, addressing only a small fraction of a large problem which is so well-hidden that it cannot even be accurately quantified. Those involved in the fight against human trafficking have made great strides in recent years but the first step to addressing the needs of this international epidemic is greater public awareness. Public awareness will help to allocate much needed resources to the fight and raise suspicions about the voluntariness of workers, especially in particularly vulnerable industries.

To be fair, human trafficking is an international crime and cannot be solved by one country in isolation.

The United States, however, is one of the world's superpowers and thus must become a role-model in establishing a success framework for prosecution and subsequent assistance to the victims. Additionally, we must aid developing countries in the fight to end the victimization of its people. Trafficking involves both destination countries, where the victims end up, (the United States being a large one) and origin countries where the victims are taken from or exploited in the production of goods that will subsequently be exported. Therefore to end the influx of victims and slave produced goods, the United States must not only deal with the problem at home but must extend its reach to reduce the flood of victims being taken from and exploited in other countries.

To begin to eliminate this global issue, it is important to understand the mechanisms that allow human trafficking to flourish and the complex business patterns that make it a highly profitable industry. Often, traffickers utilize region-specific recruiting and business practices. Human trafficking, though present all across the world, is by no means a uniform problem. In order to tackle the problem, the United States must consider the cultural and economic reasons for each victim's exploitation and respond accordingly. The United States government cannot eradicate this problem independently; cooperation with NGOs, non-profit organizations and local governments has been increasingly successful and must not only continue but grow in order to help victims who each have a unique situation. Human trafficking is not only a legal problem but also a social issue, and without aid to the people who are victimized around the world, trafficking will never be fully addressed.

Trafficking is closely linked with many of the horrors that vulnerable populations in developing countries experience, such as poverty, economic inequality, civil war, and corruption within the government. While I would optimistically assume, all Americans accept that these problems must be addressed, most Americans view them as distant problems that do not permeate our lives in this privileged country. However,

trafficking victims are present in great numbers in our country, often as domestics in homes, agricultural workers in the Midwest, and prostitutes in the brothels and on the streets. Many people would breathe a sigh of relief, thinking that, while these are unspeakable horrors that exist somewhere, they personally do not contribute to or directly experience this exploitation. However, any person who has gone to the corner store with unbelievably low prices on consumer goods has most likely taken home a product made with slave labor. Large companies often, knowingly or unknowingly, import raw materials and completed products that have been manufactured using the exploited work of trafficking victims in foreign countries. Human trafficking is thus not a distant problem experienced only in foreign, third-world countries but rather, it is an ever-present reality in many aspects of our daily lives, whether it be disguised behind a fake work contract, our ever-idealistic hope that all work in our country is voluntary, or a fancy label on a product.

In Section I of this paper, I will analyze the development of the United States' law in this area, outlining the historical laws and focusing on the modern approach and the successes and shortcomings in the details of the current state of the law and some potential avenues for improvements. In Section II, I will discuss the reasons that human trafficking has flourished in the 21st century. As I will show, there is a large array of potential causes, many of which are part of larger, world-wide epidemics of slavery that cannot be remedied in one fell swoop and will take time to eliminate. In order to enact the necessary changes, the causes of human trafficking and the circumstances that allow it to flourish must be identified and addressed by law enforcement personnel, legislators, and the numerous nonprofit groups that deal with trafficking. In Section III, I will propose some solutions to aid the efforts of the United States in meeting the challenges that human trafficking presents. Our current legislation fails to account sufficiently for the very reasons that the practice exists, instead focusing on the prosecution of those responsible for the last link in the lengthy trafficking network rather than a victim-centered approach that involves assistance with no string attached and prevention campaigns to reduce

the currently limitless supply of victims. Often, prosecution does not even reach the people recruiting victims and smuggling them into the country, only targeting those found actively exploiting and controlling the victims in the United States. Human trafficking will never be eradicated by mere criminal sanctions for the exploitation involved. Instead, the law must target the circumstances that allow trafficking to be profitable and hidden, including laws regulating the production of consumer goods, monitoring the transportation of the victims into the country and exposing all of the people involved in trafficking rather than just those who ultimately control the victim.

Section I: Analyzing the development of the Law

Predecessor Laws

Historically, the Thirteenth Amendment abolished slavery and, in the eyes of most Americans, freed all enslaved persons. However, it did not prevent the systems of debt bondage that are most prevalent in human trafficking. As in many areas, the law has struggled to progress with the increasing numbers of ways of exploiting other human beings. In 1872, the Slaughterhouse cases ended peonage, a debt-based slavery in the south that was supported by the local police, involving Mexican workers. Two years later, a statute was enacted to prevent padrones in Italy from taking young boys to American cities and forcing them to work as beggars, bootblacks or street musicians for no pay. In 1905, *Clyatt v. United States* overturned the peonage system that continued to enslave African Americans in the south. The Mann Act, also known as the White Slave Trade Act, enacted in 1910, was the first law designed to combat sex trafficking in women. Later interpretations of the Mann Act however transformed it to focus on morals rather than crime, expanding its prohibitions to the transportation of women for purposes of polygamy or adultery. The 1948 Anti-Peonage Act consolidated the Mann Act and the 1874 Padrone statute. As late as 1988, the language of the Anti-Peonage

Act, focusing on “involuntary labor performed by particularly vulnerable persons, was interpreted narrowly to only include physical force or credible threat, excluding physiological intimidation, fraud or similar means”.

It was not until 2000 that the first comprehensive federal law on human trafficking, the United States Trafficking Victims Protection Act of 2000 (TVPA), was passed, expressly encompassing all modern-day slavery tactics such as fraud, coercion, confiscation of passports and identification documents, and debt bondage. One of the most notable features of the legislation was the creation of a T-visa. The T-visa is available for victims of severe trafficking who were either no older than 14 years or had been induced to work in sex-work or slave-like labor by force, fraud, coercion or deception; had provided cooperation to law enforcement; and possessed a reasonable fear or extreme hardship if deported from the country. The Senate bill for the TVPA had no limit on the number of T-visas that could be granted during the year. The House bill and the version that passed, however, contains a limit of 5,000 T-visas per year, with the possibility for Congress to expand the limit if shown that legitimate requests were denied because of the limit. The annual cap of 5,000 originated in a fear of abuse of the visa by those who had agreed to work in the United States to pay for their smuggling debts and therefore were not victims in the eyes of the legislators.

The TVPA also made several important changes to federal criminal laws, including increasing the penalty for those convicted of involuntary servitude from ten to twenty years, allowing a maximum penalty of life in prison in cases of kidnapping, death or sexual abuse, creating a private right of action for victims, requiring restitution to be paid to the victims, and altering the definition of ‘coercion’ to include threats to family members living abroad.

The Modern Approach to Laws on Trafficking

Three years later, the Paul and Sheila Wellstone Trafficking Victims Protection Reauthorization Act

(TVPRA) was passed. The TVPRA addressed the growing needs, because of the increased publicity, of the field and attempted to rectify some of the problems with the earlier law. The new law expanded its reach to include lesser-known forms of exploitation such as sex tourism, requiring certain airlines with notorious routes for sex tourism to disseminate literature to passengers about the prevalence and illegality of the practice; and establishing a maximum penalty of thirty years for Americans convicted of sex tourism. TVPRA's two most notable changes were the creation of the Office to Monitor and Combat Trafficking and the expansion of criteria for the T-visa. The Office to Monitor and Combat Trafficking compiles the Trafficking in Persons (TIP) Report, yearly tier rankings for other countries gauging their efforts to respond to the human trafficking epidemic and establishing minimum standards. Countries which fall into the lowest tier, tier three, are at risk of losing United States non-humanitarian, non-trade related foreign assistance. The United States also offers suggestions and support to help willing countries improve their trafficking protocols. Importantly, TVPRA changed the way that the government responded to victims, allowing the Department of Health and Human Services to provide victims with welfare services and expanding the T-visa to allow family members to also be granted a visa to come and remain lawfully in the country. The law also gave the President the power to agree to foreign assistance schemes for border controls and for border interdiction agencies to seek the help of former victims in identifying new victims as they are being smuggled.

Controversies Surrounding the Law and the Link between Prostitution and Trafficking

Despite the remarkable progress that the TVPRA made, three major controversies circled the enactment of the law. First, opposition believed that the training of victims to aid and subsequently train border officials to identify new victims was "unnecessary and would potentially undermine the ability of federal law enforcement to conduct border interdiction." Opponents also believed that the monitoring of borders was not the best use of funding because of the difficulty in detecting victims. With proper training, however, law

enforcement can become skilled in identifying the indicators of potential victims and border control can have as much success in the prevention of trafficking as in the arena of drug smuggling.

Second, there was objection to the creation of a private right of action in federal court for victims, claiming that the same result could have been accomplished by a small change in the Racketeer Influenced and Corrupt Organizations Act (RICO Act), which provided enhanced penalties and a civil cause of action for the crimes of ongoing criminal organizations. In response to this criticism, the law was amended to stay any potential civil action until the pending criminal charges were resolved.

Third, and the most controversial, is provision 7, which requires organizations who receive federal funding to represent that they do not “promote, support or advocate the legalization or practice of prostitution”. The rationale for the provision stems from a Presidential directive on national security from February 25, 2003, stating that the denouncement of prostitution is “especially crucial in fighting trafficking in women and children because over the past decade there have been attempts to de-link trafficking from prostitution, and even to legitimize prostitution as a form of work for women.” The Department of State has found that where prostitution has been legalized, there is a greater demand for trafficking victims. The response to the legalization of prostitution in many countries is indisputably an increase in the prostitution industry. A study documenting the approaches to prostitution in the state of Victoria, Australia and the Netherlands where prostitution has been legalized, as compared to Ireland, where prostitution is regulated, and Sweden, where the sex clients rather than the prostitutes are considered criminals, demonstrates the extreme growth in the industry caused by legalization. The study finds Victoria to have an estimated 10,000 sex workers and the Netherlands to have an estimated 25,000 while Ireland and Sweden have only 600 and 1,500 respectively. While these figures may be slightly skewed by the availability of information, the vast differences definitively prove a link between the legalization of prostitution and the demand for sex services, although the size of the connection is

still debatable.

Opponents of the provision believe that the pledge will “increase stigma and make it harder to work effectively with the vulnerable populations they are trying to reach.” Of course, this stigma cannot be denied, especially when viewed as compounding the existing reluctance of victims to approach law enforcement for fear of criminal prosecution as well as their shame for the work that they are forced to do. The extent of the effects, however, has not been measured, making a purely statistic approach to the benefits and consequences of the provision impossible.

Another approach to achieve a similar result can be found in the UN protocol (and the approach taken by Sweden, as mentioned above). The protocol, rather than condemning prostitution in itself, targets the coercion or deceit used to force a person to do any kind of work. The method utilized by the UN would limit concerns of alienating victims by demonstrating that the organization does not wish to ostracize them for their actions, but instead demonizes the criminals who forced this life upon their victims. Many traffickers reinforce their control over victims by convincing them that law enforcement would view them as criminals and prosecute them for the acts of prostitution that they committed, rather than assisting them in seeking freedom. Therefore, in order to provide victims with the help needed and to encourage them to seek the shelter of law enforcement, it is crucial to treat them as victims rather than criminals.

Effectiveness of the TVPRA

The presence of a comprehensive law is just one step in eradicating the human trafficking epidemic. Unfortunately, despite efforts by legislators and the prevalence of trafficking activities in the United States, the law has not led to a large number of prosecutions. Between 2000 and 2004, 73.6 percent of the leads for potential violations were declined from prosecution. However, of the remaining cases, 87 percent resulted in guilty convictions. In 2005, 96.6 percent of the leads were declined. These astonishingly high numbers are not,

however, solely dependent on a lack of interest by the prosecutors, although some prosecutors have been accused of minimal interest because of the unlikelihood of a prosecution having a deterrent effect on the larger community. There are a number of issues that prevent most of the leads from going to trial including a lack of evidence of criminal intent, weak or insufficient admissible evidence, and problems with witnesses, such as the inability to identify the trafficker or fear of retaliation. An analysis by the Transactional Records Access Clearinghouse (TRAC), a non-profit group affiliated with Syracuse University, that monitors law enforcement programs by the federal government, showed that, in 2004 for the 13 defendants who were convicted, 12 received a prison sentence, with an average length of 69 months. The high conviction rate for the cases that do proceed to trial indicates the potential for success and for an overwhelming amount of evidence in the proper circumstances. Though the law's requirements of proof for conviction are a heavy burden, they are not an impossible hurdle and often can be overcome with a combination of testimony regarding the inhumane situations the victims are discovered in and the victim's testimony. Therefore, a key strategy for the successful prosecution of a larger number of cases is the protection and comfort of the victim, allowing him or her to testify openly without fear.

Effectiveness of Victim's Assistance

The Department of Justice reported that, in 2004, of the 520 applications for a T-visa, 136 were granted and 92 additional applications were still pending. These numbers show a decline from the prior year where, of the 601 applications filed, 297 were granted and 274 were still pending by the end of the year. Although there are an allotted 5,000 T-visas available each year for victims and their families, only a small fraction have even been requested. These small numbers most likely result from the demands placed on victims in order to receive

the visa; if the victim does not cooperate with law enforcement, he or she is not eligible for the visa.

Many victims are fearful not only for their own safety, but for the safety of their families overseas, because most traffickers are familiar with the communities that their victims originate from. Still, other victims cooperate but are reluctant to stay in the United States. Evidencing the reluctance of some victims, following the 2005 Operation Gilded Cage which broke up an Asian prostitution trafficking network, all of the women who were held as material witnesses subsequently left the country. Additionally, the Department of Health and Human Services' Office of Refugee Resettlement gives certificates for food stamps, Medicaid, housing, education, and legal assistance to victims, but adult victims must cooperate with law enforcement to be eligible for these benefits. Since 2004, only 611 certificates have been granted to both adults and children. This small number demonstrates that the demanding eligibility criteria of cooperation with law enforcement is deterring victims from seeking support that they desperately need, rather than aiding in prosecution, as the policy is intended to promote.

While, as I previously noted, the testimony of victims is vital to successful prosecution in many cases, potentially life-saving assistance should never be limited only to those who cooperate. Many trafficking victims face grave danger upon returning home where they may be found by their traffickers. Even more victims are susceptible to re-enslavement if they do not receive support and a means to establish a new life. Denying aid to these victims will not encourage more testimony, as evidenced from the limited number of victims who now cooperate. Instead, the refusal to supply assistance to those who do not work with law enforcement only subjects these victims to death or re-enslavement, further perpetuating the supply of victims. Therefore, in the larger scheme of things, this restriction enacted by the government is actually contributing to the problem.

In addition to the many federally funded agencies that provide aid to the victims, an important aspect of

any crime involving victims is public awareness. The Department of Health and Human Services' program called "Look Beneath the Surface" spent five million dollars between 2003 and 2005 for public service announcements. While this number may seem laudable and high to the average individual, campaigns for other public epidemics have received millions more for a single year. To put the numbers into perspective, this year alone, over 8.4 million dollars was allotted for evaluations of teenage pregnancy prevention approaches. Additionally, the Human Smuggling and Trafficking Center created in December of 2000 by the TVPA was prevented from becoming operational until July 2004, because of the events of 9/11. Even as of March of 2005, staffing at the center was only half of what it was proposed to be. While no one would suggest that the human trafficking epidemic should take priority over national security, no program should be entirely cast aside. Human trafficking suffers from these funding setbacks because of the hidden nature of the activities. Until the American public demands action and fully realizes the extent of human trafficking in our country and lives, the government cannot justify diverting much needed funding from other projects that are in the public eye.

The U.S. Government Accountability Office (GAO) stated, in July of 2006, that the United States has developed "neither a coordinate strategy for combating trafficking abroad nor ways to gauge results." It also criticized the individual country reports prepared by the TIP office as incomplete and inconsistent. The International Organization for Migration (IOM) released documents showing that there is a wide gap between those helped and total number of trafficked persons which is ever-increasing. "Read alongside the broad aspiration in the DOJ's 2005 assessment, the IOM study indicates that trafficking is a complex phenomenon undergoing continuous change and is not easily addressed by slogans and statements of moral resolve."

State Efforts to Combat Trafficking

Generally, efforts to prosecute human trafficking are made on the federal level, based on the inherently mobile nature of the crime; but many states have also responded to the epidemic, with thirty-three adopting the

Department of Justice's model state anti-trafficking criminal statute as of 2008. The model provisions are designed to supplement existing federal and state anti-trafficking statutes. There have been few convictions under the statutes, however, based on a number of factors creating evidentiary issues. Local police suffer from the same difficulties in locating and identifying victims that federal law enforcement has faced. Local law enforcement agencies, however, are often in a better position to monitor for suspicious activity and therefore often work in cooperation with federal law enforcement on trafficking cases. The model statute also contains a high standard, requiring the prosecution to prove "force, fraud or coercion".

New York has responded with the strictest state regulations, enacting a statute in 2007 with severe penalties and mandatory emergency healthcare and housing for victims. New York was also progressive in creating the country's first law recognizing prostituted minors as victims, assisting them with counseling and rehabilitation, rather than as criminals who are charged and prosecuted. Law enforcement has opposed the decriminalization of child prostitutes, suggesting that they will return to their exploiters if they are not charged with crimes. Other groups have supported the decriminalization provision, believing that children previously were persuaded to testify under the threat of extended jail time. In short, much controversy exists surrounding the treatment of child prostitutes and New York remains the only state to treat them as victims, rather than criminals. It has been suggested that the reluctance to decriminalize their actions stems from animus of foster care and the welfare system, where a disproportional number of the children unfortunately originate from. The fact that controversy on the issue even exists seems ironic. These minors are victims and their treatment as such should never be questioned. The arena of prostitution, especially concerning minors, is often riddled with debate, but nowhere else are victims branded as criminals who face jail time. Despite the inherently uncomfortable nature of prostitution, these victims deserve the same compassion and help as victims of any other crime.

Section II: Reasons for the emergence of the human trafficking epidemic

Human trafficking bears striking resemblance to the slavery of prior generations, that we as Americans so proudly proclaim as prohibited and eradicated over a hundred years ago. However as unbelievable as it may seem, modern-day slavery is a crueller practice than that of the early days of our country. Slavery also has transformed into new, hidden forms, in response to the illegalization of the practice all over the world. Most victims now are subject to debt bondage, where they are forced to pay back debt for smuggling expenses (even when kidnapped) and inflated living expenses incurred while working, or contract slavery, used to conceal slavery in the form of a facially legitimate contract, although chattel slavery, where the victim is sold into a permanent slave position, still exists. Today, a slave costs the purchaser as little as one hundred dollars, as opposed to the equivalent of \$40,000 in 1850. Because of this low cost, victims today are treated even more harshly and are viewed as disposable. Slaves face endless violence to break their will and force compliance, only to be discarded when injured, ill or, in the case of sex workers, infected with HIV/AIDS, as is the inevitable fate of most of the women. The low cost of trafficking victims can be traced to a number of factors, including the population explosion that flooded the world's labor markets, economic and social changes such as globalization and poverty, and police corruption. In his well-known book, Kevin Bales described this phenomena as creating a sector of "disposable people". To begin to address the problem of human trafficking, laws and policies must target the seemingly endless supply of victims.

One of the leading causes of the increased supply of vulnerable, potential victims is the recent population explosion around the globe. Because "slavery will never be stopped if freed slaves can easily be replaced with new slaves," the supply and low cost of victims is of paramount concern. The population explosion has led to rapid unemployment and the creation of millions of vulnerable people desperate for work

and therefore more apt to believe promises of employment in foreign countries, producing a willingness to illegally enter a country to seek this employment. A dramatic increase in population often intensifies the gender divide, especially in poverty-stricken communities. Gender inequality and discrimination perpetuates the supply of victims. For example, in Northern Thailand, where the religion of Buddhism teaches of the debt that a child owes for simply being born and raised, young girls are sold by their own families to fulfill their expected contribution to the family. Many women also experience economic disadvantages more severely because of their lesser status in many traditional societies and lack of access to resources such as land and income.

Globalization has contributed to the creation of vulnerability in specific populations, while providing opportunity and expansion for those in developed countries, has proved ruinous to poor populations in developing countries. The increased mobility of people and goods has led to reduced border controls and more access to transportation, allowing victims to discretely and easily be taken from one side of the world to another. As the attraction of foreign investment leads to alienation of portions of the population, disparities in national economies and unequal development within countries have further subjected these populations to exploitation in major cities and wealthier countries.

The internet has even played a large part in human trafficking in recent years, allowing recruitment and advertising on a worldwide scale without the advertiser leaving the house or incurring large expense. Previously, newspapers were used but reached a more limited audience. In some places, such as Israel after a 2004 court ruling, law enforcement has created reluctance for the newspapers to accept advertisements for sexual services. Advertisements for dating, escort, marriage or employment agencies, and chat-rooms are the two most frequently used means of recruitment on the internet. The use of the internet is especially common in recruiting and advertising mail-order brides and sex tourism. While the internet is inherently vast and difficult to regulate, increased monitoring on the internet and public awareness of the true origin of the people providing

the services advertised will make strides to address the use of the internet to facilitate this crime.

Government corruption is another leading cause for the growth of human trafficking. In order to hold a victim under their control, the individual must be immune from the protections of the law, either through isolation or police acquiescence. “In Western Europe, Canada and the United States, slavery happens in spite of the efforts of the police, but in many countries slavery flourishes because of the work of the police.” Often, the inaction of law enforcement is not based on the corruption or lack of conscience of an individual officer but rather is fueled by encouragement from those in higher positions, bribes that are necessary for the officer to feed his own family, or the influential power positions that many traffickers hold in the community. “The few local police have a choice: cooperate with the thugs and make a profit, or attempt to enforce the law and die.”

Though almost every country in the world prohibits trafficking, in many countries, the laws are intentionally unenforced and simply serve as to appease foreign governments such as the United States. In India, for example, though the sentence for the offense includes up to three years in prison, no convicted defendant has ever received a prison sentence, instead usually paying a fine equivalent to less than two dollars. Additionally, a lack of government resources is not always the obstacle to legal abolition. Mauritania, one of the poorest countries in the world and a notorious origin country, publicly abolished slavery on three occasions. However, the government vowed to compensate slaveholders when their slaves were freed, a provision contained in the law abolishing slavery, and therefore the slaves remain in the custody of their slaveholders until payment which the country is unable to provide, is received.

The HIV/AIDS epidemic is both a contributing factor and a result of human trafficking. The deaths or severe illness of parents infected with the disease have left children without a caretaker and therefore vulnerable to traffickers. Some orphanages in former Soviet countries even willingly provide traffickers with eighteen year old girls after their graduation from school to meet the demand in Western Europe for more educated girls.

World-wide fear of the disease has also led many sex clients to seek the services of younger girls who provide the false security that they are uninfected. Because of the disposable nature of these victims, especially prevalent in sex work, a girl, once she tests positive, is simply discarded and thrown out onto the street with nowhere to go, and replaced with a new 'clean' girl. HIV/AIDS infection is an inevitable occurrence considering the number of clients that victims are visited by daily and the client's often refusal to use a condom.

Like HIV/AIDS, poverty also serves a dual function in contributing to and being caused by human trafficking. "New research suggests that one of the reasons economic development is taking so long is precisely because we have not taken on slavery." Economic and social statistician Robert Smith conducted research that demonstrated that the amount of slavery was more influential on differences in human development between countries than level of democracy, national debt, civil conflict or corruption. Poverty usually occurs because people lack access to even the simplest life necessities, such as land to grow crops, available clean water, access to credit at a fair rate, or the freedom to run their own lives and earn their own living. Similarly, combating poverty will help to end slavery by reducing the vulnerable population who face such desperate situations that make them susceptible to the coercion and fraud of traffickers. Trafficking, however, should never be considered solely an affliction of poverty, as victims both originate from and end up in wealthy countries. Japan has historically supported the trafficking industry by granting "entertainer" visas that have allowed these victims into the country legally. In March of 2005, Japan agreed to more closely monitor the grant of entertainer visas but the numbers have not declined.

Wars also have contributed to the creation of a large vulnerable population, particularly at the end of the Cold War. Statelessness prevents people from registering a birth, educating their children, seeking the protection of the law, or travelling legally. A lack of access to even the meager resources available from the government increases the risk of poverty. The inability to travel legally provides traffickers with potential

victims eager to seek the services of smugglers, desperate to attempt to seek a world in wealthier countries with more employment opportunities.

One often neglected contributing factor is the demand for the services of slave labor. Many scholars believe that the availability of the service (research often focusing on sex work rather than labor trafficking) generates an increased demand. This rationale lies behind Sweden's ban on prostitution and focus on criminal prosecution of sex clients, rather than the victims, on which the United States has patterned many facets of its policy. In 2002, President George W. Bush directed the U.S. government to adopt an "abolitionist approach" to combating human trafficking, stating that "Prostitution and related activities, which are inherently harmful and dehumanizing, contribute to the phenomenon of trafficking in persons...." Most approaches to the eradicating of sex trafficking have focused on education and prevention in origin countries to limit the supply, almost entirely neglecting the demand side of the equation. However, in 2006, the military banned personnel from using the services of suspected trafficking victims while abroad, noting that many victims were taken specifically to service the military. Demand is created by the customers who purchase sex acts, the criminals profiting from the industry, and indirectly the culture that normalizes prostitution and depict it as a victimless crime. To begin to address the overlooked demand side of the problem, the focus must shift from the providers of sex work to the customers and the media must avoid normalizing or even glamorizing the practice.

The Business of Human Trafficking

While the preceding section shows the undeniable link between human trafficking and social problems, these problems simply lay the foundation for vulnerabilities that traffickers can exploit. Trafficking is actually motivated by the large-scale business opportunities that it presents. Today, there is no attempt to justify slavery by racial or religious differences, or by a misplaced idea that enslavement is an improvement for their victims' lives, as was historically the case with slavery in this country. Outside of enormous profits, the criminals

involved in trafficking need no other justification and instead view the victimization of innocent people as a cost of business. In order to tackle the epidemic, “putting pressure on its profits is a key strategy.” Trafficking is the second most profitable form of transnational crime, according to the UN Office of Drugs and Crime. Trafficking generates 32 billion dollars a year in profits. The practice generates long-term profits with very little money outlay as a result of the low initial cost to purchase the slave and the meager living conditions that are provided for victims. The profitability far exceeds that of other similar practices. In contrast to trafficking, slavery in the 1800s required a large investment. Smuggling, without the subsequent exploitation, only offers short term profits and therefore is not as profitable. Because of the large profits available, there has been a sharp rise in the number of illicit trade and organized crime groups that involve themselves in trafficking. Particularly, those that previously engaged in drug smuggling have now turned to human trafficking to provide larger profits with minimal risks. Trafficking is a sophisticated business, molded to account for regional differences and to provide the greatest profits with the fewest risks. For my purposes, the details of these differences exceed the scope of this paper. However, it is important to realize that the response on an international level must be adequately tailored to account for these differences in order to investigate the crime, undermine the ability to create profits, and ultimately end the practice. Even within the United States, information about the specifics of the business operations of the region where the suspected traffickers originate from must be used to tailor investigations and prosecutions.

The business of trafficking is not limited to the enormous profits that the criminals involved receive but extends to companies who may, knowingly or unknowingly, utilize products created by slave labor. Though there are countless laws on the books, discussed in detail later in this paper, that prohibit the use of these goods, and even allow seizure by the government of any finished product or anything involved in the production, companies have been left virtually unaffected by trafficking investigations. Difficulties in investigation may be

cited as one of many reasons but doubtlessly one of the most important reasons is the success of the companies and their contributions to the economic climate of our country.

Often, labor trafficking, outside of agricultural and domestic work, occurs overseas but is involved at some point in the production chain, with the creation of consumer goods sold in the United States. Because of the degrees of separation often found between large companies and the slave labor producing raw materials overseas, without a thorough investigation, companies can remain intentionally ignorant of the practices, therefore avoiding the moral dilemma and masking the problem as a distant one. “Businesses and governments today aren’t interested in stopping the slave trade because it doesn’t threaten profits,” but rather are interested in computer piracy and the importing of counterfeit goods because these issues are on the agendas of large companies which have significant profits and contribute to the economic well-being of the country. Until the public and the government take a hard look at the origin of many of our consumer goods, large companies, and therefore indirectly American consumers who statistically purchase a disproportionate number of items made overseas, will continue to financially support human trafficking, by providing demand for the labor of these victims.

Section III: Solutions

Often, human trafficking is viewed as a result of other social and economic issues. However, “human rights organizations must treat slavery as a separate and distinct type of human rights abuse” to fully address the [trafficking] epidemic. Though for the most part the existing laws are sufficient, if enforced properly, to address the problem, the law should explicitly state that the consent of the victim (generally consent to be smuggled or to engage in work, though not necessarily the specific type of work the victim is forced to perform) is irrelevant and instead should focus on the illegal exploitation.

Visibility problems are not limited to the public sector. Human trafficking is also a difficult area for law enforcement because of the hidden nature of the activities and the intense fear of the victims. For this reason, enhanced law enforcement training is one of the first steps to eradicating the problem, and must include training in the indicators and typical locations, particularly for trafficking outside of the commercial sex industry. Some international organizations have created training manuals or modules. These organizations include the United Nations Development Program in cooperation with the International Centre for Migration Policy Development as well as the Organization for Security and Co-operation in Europe which spans 56 countries from North America to Central Asia. In 2007, 42 anti-trafficking task forces were operating within the United States, with the Federal Bureau of Investigations' beginning of the Human Trafficking Initiative in 2005.

While prostitution is criminalized and an obvious indicator of potential forced labor, other frequent areas of exploitation, especially domestic labor in the home (often the homes of the wealthy and powerful) are rarely investigated. Moreover, law enforcement must be trained to identify patterns of typical trafficking situations, such as recently naturalized citizens who maintain ties to the origin community to return and convince neighbors of the availability of the "American dream," or the abuse of temporary work visas for live-in migrant domestic workers for international visitors.

While law enforcement involvement is a crucial step, as a result of the dependence on abusers both physically and psychologically, the victims must work to free themselves. "Liberation has to be followed by a chance to build a new life in safety, knowledge, and dignity, or it is a cruel mockery." Exploitation is a traumatic event and the self-sufficiency of victims cannot and will not occur overnight, making rehabilitation a key aspect to preventing re-enslavement and thus reducing the supply of potential victims. Each victim must be assisted in an individual manner in order to help him or her adjust to a new, radically different situation. Without this help, victims are still subject to exploitation and re-enslavement because of the same, if not

worsened, vulnerability which subjected them to the lifestyle previously. After liberation for the community to prevent re-enslavement, victims need immediate access to paid work and/or training in marketable skills; a chance to build up monetary savings; access to basic services like education, healthcare, housing; and a sustainable environment with natural resources to allow for a productive life in the future.

Law enforcement, prosecution, and aid to victims are all attempts to help only current victims of exploitation and alone will never end human trafficking. To fully address the problem, prevention must be a focal point, but is no easy task. Prevention must occur at all levels and in all countries around the world in order to be successful. Until the supply of victims dries up, there is no way to fully eradicate the exploitation. “One of the best defenses against slavery is education,” exposing the lies that vulnerable populations fall victim to based on ignorance, desperation or pure idealism and teaching these populations the true fate that lies behind an alliance with these criminals. Additionally, informing legitimate private individuals and organization of their potential and even unknowing involvement in serving the trafficking industry will help to minimize the availability of necessary services to the industry and prevent the ease of transferring or harboring money through banks, renting out properties to be used as the site of the exploitation, arranging for transportation for victims both abroad and locally, as well as an array of other activities disguised as legitimate transactions.

As the scope of this paper is limited to actions of the United States, I will not detail the many approaches that are being taken, and must be improved upon, in foreign countries. It is important to note the undeniably international scope of the problem and the many unique avenues that must be taken to address the individual susceptibility of local populations. Though the United States is limited in its ability to redress international problems, as a world superpower, it has a great influence on the policies of the United Nation, and other international organizations, such as the World Bank and World Trade Organization. Concern by the United States will make strides to place human trafficking as a top priority on the agendas of these

organizations that have an international reach. No action can be taken, however, without concern from the voters, and until the public treats trafficking as a high priority human rights violation, the government can only treat it as a side issue, concurrent with many other expansive woes. As a large destination country for victims, the United States has the power to help propel human trafficking campaigns that are only in their infancy into full enforcement.

Unfortunately, as noted earlier, though almost all countries ban the practice, due to corruption, the laws are passed more for the appearance to concerned countries and organizations than to help victims or truly prosecute guilty parties. “Laws against slavery are just tattered window dressing, barely concealing systematic support for bondage and exploitation.” Enforcement can be encouraged through incentives and sanctions of international organizations such as the World Bank or the World Trade Organization. The Trafficking in Persons (TIP) Reports provide a solid basis for international efforts by the United States. The tier system of the TIP, however, has not been untouched by political ambitions, as reportedly, “friendly” countries always outrank those who are not allies, despite efforts to eliminate trafficking. The only countries that have ever had funding withheld are those that the United States has strained relations with for other reasons, for example, Belize which suspects that funds were kept from it only because of its good relations with Venezuela, a country which that the United States has had poor relations with for some time. Women’s organizations also complained of the tier one status of many European countries which have legalized prostitution, claiming that their status was unduly high based upon political alliances rather than their true efforts in human trafficking. An effective and notable system exists in Brazil’s “dirty list,” containing the names of any people or companies that use slave labor, publicizing the behavior and withholding government funds, grants and credits.

Resolving the trafficking problem will require cooperation between origin and destination countries. Coordination could resolve immigration issues that perpetuate the need to seek the services of illegal smugglers.

These countries could work in unison to protect people who are traveling for work, help people find jobs overseas, and make sure that migrant workers have a clear understanding of the realities of working abroad and the risks of human trafficking.

Successful Efforts

The most effective way to eliminate slave produced goods is at the source of production. If Americans boycotted goods after learning that they were produced with slave-labor, innocent producers would be harmed more than those using slave labor. Legitimate producers already experience difficulties in competing with the prices of competitors with slaves or those who receive government subsidies, and therefore a boycott could drive them out of business, while those who use slave labor could easily move the victims to a new type of work. The Supreme Court held, in the Slave Trade Cases of 1864, that it is illegal for any U.S. company to profit from slavery, without regard for where the slavery occurred. The Court allowed circumstantial evidence to prove involvement. The Court found that states had the right to confiscate any item if the business owners “don’t keep [their] operations so clear and so distinct in their character, as to repel the imputation of prohibited purpose,” including anything, such as cars or buildings, used in the distribution of these prohibited goods. This and other similar laws, however, are left unenforced and, if enforced, would prove detrimental to many U.S. businesses.

One of the most progressive industries to tackle the issue of slave labor usage in the production of their raw materials is the chocolate industry, which created the Harkin-Engel Protocol. The Protocol is a cooperation between big and small countries of nearly all of the chocolate makers in the United States and Europe. The participants agreed to devise a detailed plan for the future, creating a joint international foundation, and establishing “credible, mutually acceptable, voluntary, industry-wide standards of public certification, consistent with federal law” that cocoa was not being grown with the use of slave labor. The process of

enacting these changes, however, proved difficult, facing problems of dividing the expenses incurred and soliciting cooperation of the local governments to inspect the conditions of producers in their countries. Despite the difficulties, over ten million dollars have been spent on anti-slavery actions that would not have been without the Protocol. The Protocol evidences a way in which companies in the supply chain can provide a responsible plan to monitor foreign labor, while providing consumers with purchasing choices in documenting products that originate with fair trade groups.

Another effective system has been RugMark, branding handmade rugs produced by companies in India, Nepal, and Pakistan who do not employ slave labor in an industry that is notorious for child and slave laborers who are subjected to extremely harsh conditions. The system has become so well-known that consumers verify the presence of the RugMark brand and, without such a brand, consumers know that the product has been created using slave-labor.

In the United States, these systems not only prevent companies from enabling human rights violations but also ensure compliance with our laws that, if enforced, could have serious consequences for these companies. The “hot goods” law allows any U.S. labor inspection to seize all goods that have “any part of ingredient thereof” involved with labor exploitation. Unfortunately, this law is just one example of the many laws that are unenforced because of the difficulty in determining with certainty if slave labor was used at any point in production, especially when the production occurs overseas. However, if companies refused to purchase from suppliers who did not comply with systems such as RugMark, which would presumably be subsidized by anti-slavery organizations and governments, the norm would slowly change from using slave labor to paid labor. In his book, *Ending Slavery*, Kevin Bales suggests establishing a government unit that would bring companies in each industry together to cooperate in monitoring and cleaning up the product chains rather than risk sanctions and seizures on their own. While cooperation within industries would be the ideal and

most efficient solution to eliminating the use of slave-labor, companies will undoubtedly resist the large expenses that they will incur in this process, unless faced with larger consequences for non-compliance. This, however, will never happen until the laws are actively enforced and companies truly are confronted with seizures and fines for violations. The laws on the books provide comfort that our country truly cares about the plight of these victims and is taking measures to eliminate the exploitation, but a deeper analysis shows the empty nature of the law and the despicable motive of greed that lies behind the lack of enforcement. On the positive side, however, in having the laws already enacted and fairly comprehensive, an important phase in tackling this epidemic is already complete.

Conclusion

Although all people will agree that the exploitation of human beings is an evil that must be eradicated, the hidden nature of human trafficking allows the activities to go relatively uninhibited both in the United States and internationally. With many corrupt law enforcement and border control agents internationally, the practice will continue until a strong stance is taken by the public to change policies and strictly enforce existing laws. The United States has the ability to make a large impact in this arena on an international scale, through aid to countries willing to change and policies to convince others of the necessity behind a change in their laws and enforcement. To eliminate the problem, the solution must be tailored to end both the supply and the demand, both inherently linked to one another. While efforts have been taken, sparsely throughout history and with recent comprehensive attention, efforts focused on human trafficking pails in comparison to many other epidemics. Although I do not pretend to have the expertise to rank our national and international problems in order of importance, human trafficking is a severe human rights violation and perpetuates many other serious world problems, such as poverty, the HIV/AIDS epidemic, economic disparities, as well as others, and therefore

should never be treated as a low priority. Because of the hidden nature of the activities of traffickers and their victims, a large portion of the American public does not have knowledge of or concern about human trafficking despite its prevalence in our everyday lives. The lack of knowledge indicates both a problem with its visibility and the reason for this problem; without the concern of the American public, no issue can receive large amounts of funding or be a priority on the national agenda. The first and most important step in addressing this human rights violation is to unmask the practice and expose the public to the realities of the situation that these victims face, possibly even in their own neighborhoods.